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 27, 2023

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

Delaware	**001-40444**	**86-1740840**
(State or other jurisdiction of incorporation)	**(Commission File Number)**	**(IRS Employer Identification No.)**

2860 Jetport Road, Kinston, NC	**28504**
(Address of principal executive offices)	**(Zip Code)**

252-208-7715
Registrant's telephone number, including area code

EG Acquisition Corp.
375 Park Avenue, 24th Floor
New York, NY 10152
(Former name or former address, if changed since last report.)

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

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

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

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

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

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Class A Common Stock	FLYX	NYSE American LLC
Redeemable warrants, each whole warrant exercisable for one share of Class A Common Stock at an exercise price of $11.50 per share	FLYX WS	NYSE American LLC

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. ☐

Introductory Note

As used in this Current Report on Form 8-K, unless otherwise stated or the context clearly indicates otherwise, the terms the "Company," "Registrant," "we," "us" and "our" refer to the entity formerly named EG Acquisition Corp., after giving effect to the Business Combination (as defined below), and as renamed flyExclusive, Inc. ("PubCo").

On December 27, 2023 (the "Closing Date"), EG Acquisition Corp., a Delaware corporation ("EGA"), completed the previously announced business combination pursuant to that certain Equity Purchase Agreement, dated as of October 17, 2022 (as amended on April 21, 2023, the "Equity Purchase Agreement"), with LGM Enterprises, LLC, a North Carolina limited liability company ("LGM") and the parent company of Exclusive Jets, LLC d/b/a "flyExclusive" ("flyExclusive"), the existing equityholders of LGM (the "Existing Equityholders"), EG Sponsor LLC, a Delaware limited liability company ("Sponsor") and Thomas James Segrave, Jr. ("Segrave") in his capacity as Existing Equityholder Representative.

As contemplated by the Equity Purchase Agreement and described in the section titled "Proposal No. 1 — The Transaction Proposal" beginning on page 147 of the definitive proxy statement (the "Proxy Statement"), filed by EGA on November 13, 2023, with the Securities and Exchange Commission (the "SEC"), on the Closing Date the following occurred:

(i) EGA amended and restated its Amended and Restated Certificate of Incorporation (the "Second A&R Certificate of Incorporation"), dated as of May 25, 2021, as amended on May 25, 2023, to, among other things, (a) change the name of EGA to "flyExclusive, Inc.," (b) convert all then-outstanding shares of class B common stock, par value $0.0001 per share, of EGA ("EGA Class B Common Stock") held by Sponsor (the "Founder Shares") into shares of class A common stock, par value $0.0001 per share ("EGA Class A Common Stock"), immediately prior to the Business Combination, which then were reclassified into class A common stock, par value $0.0001 per share, of PubCo (the "PubCo Class A Common Stock") at the closing of the Business Combination (the "Closing"), and (c) authorize the issuance of a noneconomic class B common stock, par value $0.0001 per share, of PubCo (the "PubCo Class B Common Stock," and, together with the PubCo Class A Common Stock, the "PubCo Common Stock");

(ii) EGA replaced the bylaws of EGA (the "Existing Bylaws"), with the bylaws of PubCo (the "PubCo Bylaws");

(iii) the Existing Equityholders, PubCo and LGM entered into the A&R Operating Agreement, which, among other things, (a) restructured the capitalization of LGM to (1) issue to PubCo the number of units of ownership interest in LGM which entitle the holder thereof to the distributions, allocations, and other rights under the A&R Operating Agreement (the "LGM Common Units") equal to the number of outstanding shares of EGA Class A Common Stock immediately after giving effect to the Business Combination (taking into account any redemption of EGA Class A Common Stock, the Warrant Exchange (as defined below) and the conversion of the Bridge Notes (as defined below) to PubCo Class A Common Stock), and (2) reclassify the existing common units of LGM held by Existing Equityholders into LGM Common Units, and (b) appointed PubCo as the managing member of LGM;

(iv) As consideration for issuing LGM Common Units to PubCo, PubCo contributed (or, in the case of the Bridge Note proceeds received by LGM, was deemed to have contributed) $98,753,336.88 (the "Contribution Amount") to LGM. Immediately after the contribution of the Contribution Amount, LGM paid $6,230,014.89 in transaction expenses by wire transfer of immediately available funds on behalf of LGM and EGA to those persons to whom such amounts are owed; and

(v) each warrant to purchase one share EGA Class A Common Stock (each, a "EGA Warrant") that was issued and outstanding immediately prior to the Closing Date became a warrant to purchase one share of PubCo Class A Common Stock (each, a "PubCo Warrant").

The transactions referred to in clauses (i) through (v), collectively, are referred to herein as the "Business Combination".

As a result of the Business Combination, the Company is organized in an umbrellapartnership-C corporation ("Up-C") structure in which substantially all of the operating assets of LGM's business are held by LGM, and the Company's only assets are its equity interests in LGM.

As of the open of trading on December 28, 2023, the PubCo Class A Common Stock and PubCo Warrants began trading on The NYSE American LLC ("NYSE American") as "FLYX" and "FLYX WS," respectively.

Certain terms used in this Current Report on Form 8-K have the same meaning as set forth in the Proxy Statement. This Current Report on Form 8-K contains summaries of the material terms of various agreements executed in connection with the transactions described herein. The summaries of these agreements are subject to, and are qualified in their entirety by, reference to these agreements, which are filed as exhibits hereto and incorporated herein by reference.

Immediately following the Business Combination, the Company's ownership was as follows:

- EGA's former public stockholders own 2.2% of the Company's outstanding common stock, all of which consists of PubCo Class A Common Stock, and represents approximately 2.2% of the voting power of the Company;

- The Sponsor and Existing Equityholders own approximately 85.3% of the Company's outstanding PubCo Common Stock, consisting of the Sponsor's 5,625,000 shares of PubCo Class A Common Stock and the Existing Equityholders' 59,930,000 shares of PubCo Class B Common Stock (which are exchangeable for PubCo Class A Common Stock), which collectively represent approximately 85.3% of the voting power of the Company; and

- The former holders of the Bridge Notes own approximately 12.4% of the Company's outstanding PubCo Common Stock, consisting of 9,550,274 shares of PubCo Class A Common Stock.

See Exhibit 99.2, Note 1 (Basis of Pro Forma Presentation) for further information regarding the pro forma ownership of the Company as of the closing of the Business Combination.

Item 1.01. Entry into a Material Definitive Agreement.

Stockholders' Agreement

On December 27, 2023, in connection with the completion of the Business Combination and as contemplated by the Equity Purchase Agreement, the Company, the Existing Equityholders and Sponsor entered into a stockholders' agreement (the "Stockholders' Agreement"). The material terms of the Stockholders' Agreement are described in the section of the Proxy Statement beginning on page 169 titled "Proposal No. 1 — The Transaction Proposal — Related Agreements — Stockholders' Agreement." Such description is qualified in its entirety by the full text of the Stockholders' Agreement, which is included as Exhibit 10.1 to this Current Report on Form 8-K (this "Report") and is incorporated herein by reference.

A&R Registration Rights Agreement

On December 27, 2023, in connection with the completion of the Business Combination and as contemplated by the Equity Purchase Agreement, the Company, Sponsor and the other parties listed under "New Holders" on the signature page of the amended and restated registration rights agreement (the "A&R Registration Rights Agreement") entered into the A&R Registration Rights Agreement. The material terms of the A&R Registration Rights Agreement are described in the section of the Proxy Statement beginning on page 169 titled "Proposal No. 1 — The Transactional Proposal — Related Agreements —Registration Rights Agreement." Such description is qualified in its entirety by the text of the A&R Registration Rights Agreement, which is included as Exhibit 10.2 to this Report and is incorporated herein by reference.

Tax Receivable Agreement

On December 27, 2023, in connection with the completion of the Business Combination and as contemplated by the Equity Purchase Agreement, the Company, LGM, the Existing Equityholders and Thomas James Segrave, Jr., as the TRA Holder Representative, entered into a tax receivable agreement (the "Tax Receivable Agreement"). The material terms of the Tax Receivable Agreement are described in the section of the Proxy Statement beginning on page 167 titled "Proposal No. 1 — The Transactional Proposal — Related Agreements — Tax Receivable Agreement." Such description is qualified in its entirety by the text of the Tax Receivable Agreement, which is included as Exhibit 10.3 to this Report and is incorporated herein by reference.

A&R Operating Agreement

On December 27, 2023, in connection with the completion of the Business Combination and as contemplated by the Equity Purchase Agreement, the Company (as the managing member of LGM), LGM and the Existing Equityholders entered into the A&R Operating Agreement, which, among other things, (i) restructured the capitalization of LGM, and (ii) appointed the Company as the managing member of LGM. The material terms of the A&R Operating Agreement are described in the section of the Proxy Statement beginning on page 167 titled "Proposal No. 1 — The Business Combination Proposal — Related Agreements — A&R Operating Agreement of LGM." Such description is qualified in its entirety by the text of the A&R Operating Agreement, which is included as Exhibit 10.4 to this Report and is incorporated herein by reference.

Bridge Notes

As previously reported, in connection with the execution of the Equity Purchase Agreement, on October 17, 2022, LGM entered into a senior subordinated convertible note with an investor and, for certain limited provisions thereof, EGA, pursuant to which LGM borrowed an aggregate principal amount of $50,000,000 at a rate of 10% per annum, payable in kind in additional shares of the Company upon the Closing. On October 28, 2022, LGM also entered into an incremental amendment (the "Incremental Amendment") with the ETG Omni LLC and EnTrust Magnolia Partners LP (together with EnTrust Emerald (Cayman) LP, the "Bridge Note Lenders") on the same terms for an aggregate principal amount of $35,000,000 (together with the subordinated convertible note discussed in this paragraph, the "Bridge Notes"), bringing the total principal amount of the Bridge Notes to $85,000,000 in the aggregate.

On December 27, 2023, in connection with the completion of the Business Combination and as contemplated by the Equity Purchase Agreement, the Bridge Notes automatically converted into the 9,550,274 shares of PubCo Class A Common Stock. The foregoing description of the Bridge Notes does not purport to be complete and is qualified in its entirety by the terms and conditions of the Bridge Notes, a form of which is attached as Exhibit 10.1 to the Current Report of Form 8-K filed by the Company on October 18, 2022 and is incorporated herein by reference.

Senior Secured Note

As previously reported, on December 1, 2023, LGM entered into a senior secured note (the "Senior Note") with FlyExclusive Jet Share, LLC, a North Carolina limited liability company and wholly-owned subsidiary of LGM ("Jet Share"), as a guarantor (together with LGM, the "Obligors"), ETG FE LLC, a Cayman Islands limited liability company, which is managed by EnTrust Global Partners LLC, which is an affiliate of the Sponsor, as the initial holder of the Senior Note, any additional noteholders party to the Senior Note from time to time, Kroll Agency Services Limited, a company incorporated under the laws of England and Wales, as administrative agent, and Kroll Trustee Services Limited, a company incorporated under the laws of England and Wales, as collateral agent. The initial principal amount of the Senior Note is $15,714,286.

Interest on the Senior Note accrues daily at a rate of fourteen percent (14.00%) per annum (the "Interest Rate") and will be payable in arrears: (a) on the last day of each calendar month, with the first such payment being due on January 31, 2024 and such payments continuing until payment in full occurs in accordance with the terms of the Senior Note; and (b) on the date on which payment in full occurs. The Senior Note also includes an upfront cash fee, paid by LGM, and a back-end cash fee, payable by LGM at maturity of the Senior Note.

Under the Senior Note, LGM can make voluntary prepayments, subject to a make-whole fee equal to the Interest Rate multiplied by the prepayment amount and calculated from the date of prepayment to December 1, 2024 (the "Make-Whole Fee"). However, no such Make-Whole Fee will be applied to certain prepayments resulting from the disposition

of certain property, including the aircraft constituting collateral for the Senior Note obligations or fractional shares in such aircraft. The Senior Note contains certain covenants limiting, among other things, LGM's or Jet Share's ability to sell or otherwise transfer to any third party any of their ownership of the collateral securing the Note, or LGM's or Jet Share's ability to incur certain other debt or incur certain liens. The payment and performance of the obligations of the Note are secured on a first lien basis by the membership interests of Jet Share and a mortgage and security agreement with Jet Share for specified aircraft held by Jet Share.

The Senior Note also provides for certain events of default, including, among other things, any change of control of LGM or Jet Share (other than on account of the Business Combination), a failure to pay any amounts due under the Senior Note, a breach of any representation or warranty made by an Obligor, a failure to comply with the covenants set forth in the Senior Note and certain security documents entered into by the Obligors or any material inaccuracy of the representations in such documents, the occurrence of any event of default or similar event under any agreement(s) evidencing or relating to debt of any Obligor or any subsidiary, which debt has an aggregate outstanding principal amount in excess of $2,500,000, and certain events of insolvency/reorganization/liquidation of an Obligor.

The Senior Note will mature on December 1, 2024, at which time, the outstanding principal amount, the back-end cash fee and all accrued and unpaid interest will be due.

The foregoing description of the Senior Note does not purport to be complete and is qualified in its entirety by the terms and conditions of the Senior Note, a form of which is attached hereto as Exhibit 10.6 and is incorporated herein by reference.

Indemnification Agreements

In connection with the Closing, the Company entered into indemnification agreements with each of its directors and officers. Each indemnification agreement provides for customary indemnification and advancement by the Company of certain expenses and costs relating to claims, suits or proceedings arising from service to the Company or, at its request, service to other entities, as officers or directors to the fullest extent permitted by applicable law. The foregoing description of the indemnification agreements does not purport to be complete and is qualified in its entirety by the terms and conditions of the indemnification agreements, a form of which is attached hereto as Exhibit 10.7 and is incorporated herein by reference.

Item 2.01. Completion of Acquisition or Disposition of Assets.

The information set forth in the "Introductory Note" above is incorporated into this Item 2.01 by reference. EGA held a special meeting of stockholders on December 18, 2023 to approve, among other things, the Business Combination (the "Special Meeting"). The stockholders approved the Business Combination at the Special Meeting and the Business Combination was completed on December 27, 2023.

Consideration Payable to EGA's Stockholders in the Business Combination

In connection with the Business Combination, holders of 2,924,907 shares of EGA Class A Common Stock exercised their right to redeem those shares for cash at an approximate price of $10.91 per share, for an aggregate of approximately $31,899,137.65, which was paid to such holders on the Closing Date.

Upon completion of the Business Combination, 1,000 shares of EGA Class B Common Stock held by Sponsor converted into shares of EGA Class A Common Stock immediately prior to the Business Combination, which then converted into 1,000 shares of PubCo Class A Common Stock at the Closing.

Consideration Payable to the Existing Equityholders in the Business Combination

In connection with the Business Combination, the Existing Equityholders received 60,000,000 shares ofnon-economic, voting PubCo Class B Common Stock, coupled with their 60,000,000 LGM Common Units. As previously reported, at the closing of the Business Combination, Jim Segrave, an Existing Equityholder, transferred to a third party investor (in connection with a non-redemption agreement) (the "Non-Redemption Agreement") an aggregate of 70,000 shares of PubCo Class A Common Stock, which were issued upon the conversion of 70,000 LGM Common

Units that were issued to Mr. Segrave in connection with the consummation of the Business Combination. Mr. Segrave also forfeited 70,000 shares of PubCo Class B Common Stock in connection therewith. As a resulting, following the Business Combination, the Existing Equityholders hold 59,930,000 LGM Common Units and 59,930,000 shares of PubCo Class B Common Stock.

The material terms and conditions of the Equity Purchase Agreement are described in the section entitled "Proposal No. 1 — The Transaction Proposal" beginning on page 147 of the Proxy Statement, which are incorporated herein by reference.

Company Securities Outstanding Following the Business Combination

On the Closing Date, all of EGA's remaining outstanding units separated into their component parts of one share of EGA Class A Common Stock and one third of one EGA Warrant to purchase one share of EGA Class A Common Stock. Immediately after the Business Combination, after giving effect to the Non-Redemption Agreement and the Warrant Exchange (as defined below), there were 16,924,976 shares of PubCo Class A Common Stock, PubCo Warrants to purchase 5,805,544 shares of PubCo Class A Common Stock, Private Placement Warrants to purchase 4,333,333 shares of PubCo Class A Common Stock and 59,930,000 shares of PubCo Class B Common Stock issued and outstanding, and 59,930,000 LGM Common Units issued and outstanding (excluding LGM Common Units held by the Company).

FORM 10 INFORMATION

Forward-Looking Statements

Some of the information contained in this Current Report on Form 8-K, or incorporated herein by reference, contains forward-looking statements. When contained in this Current Report on Form 8-K, and incorporated herein by reference, the words "believe," "project," "expect," "anticipate," "estimate," "intend," "strategy," "future," "opportunity," "plan," "may," "should," "will," "would," "will be," "will continue," "will likely result," and similar expressions and variations of these words or similar expressions (or the negative versions of such words or expressions) are intended to identify forward-looking statements. These forward-looking statements are not guarantees of future performance, conditions or results, and involve a number of known and unknown risks, uncertainties, assumptions and other important factors, many of which are outside the Company's management's control, that could cause actual results or outcomes to differ materially from those discussed in the forward-looking statements. These forward-looking statements are based on information available as of the date of this Current Report on Form 8-K, and current expectations, forecasts and assumptions, and involve a number of judgments, risks and uncertainties. Accordingly, forward-looking statements should not be relied upon as representing our views as of any subsequent date, and the Company does not undertake any obligation to update forward-looking statements to reflect events or circumstances after the date they were made, whether as a result of new information, future events or otherwise, except as may be required under applicable securities laws.

As a result of a number of known and unknown risks and uncertainties, the Company's actual results or performance may be materially different from those expressed or implied by these forward-looking statements. These risks and uncertainties include, but are not limited to:

- risks that the Business Combination disrupts current plans and operations of LGM and potential difficulties in LGM employee retention as a result of the Business Combination;
- costs related to being a public company;
- the ability to recognize the anticipated benefits of the Business Combination;
- limited liquidity and trading of the Company's securities;
- the outcome of any legal proceedings, including any legal proceedings related to the Equity Purchase Agreement or the Business Combination;
- the ability to maintain the listing of the EGA's securities on a national securities exchange;
- that the price of our securities may be volatile due to a variety of factors, including changes in the competitive and highly regulated industries in which we operate, variations in operating performance across competitors, changes in laws and regulations affecting our business and any changes in our capital structure;

- the risks associated with our indebtedness including the Senior Note and its potential impact on our business and financial condition;
- the ability to implement business plans, forecasts, and other expectations after the completion of the Business Combination, and identify and realize additional opportunities;
- the risk of downturns in the aviation industry, including due to increases in fuel costs including in light of the war in Ukraine, the Israel and Hamas conflict in Gaza and other global political and economic issues;
- a changing regulatory landscape in the highly competitive aviation industry;
- risks associated with the overall economy, including recent and expected future increases in interest rates and the potential for recession; and
- other risks and uncertainties indicated in the Proxy Statement, including those set forth under the section entitled "Risk Factors."

Should one or more of these risks or uncertainties materialize, or should any of the underlying assumptions prove incorrect, actual results may vary in material respects from those expressed or implied by these forward-looking statements. Forward-looking statements speak only as of the date they are made. Readers are cautioned not to put undue reliance on forward-looking statements, and we assume no obligation and do not intend to update or revise these forward-looking statements, whether as a result of new information, future events, or otherwise.

Business

The information set forth in the section entitled "Other Information about LGM" beginning on page 234 of the Proxy Statement is incorporated herein by reference.

Risk Factors

The information set forth in the section entitled "Risk Factors" beginning on page 65 of the Proxy Statement is incorporated herein by reference.

Financial Information

The audited financial statements of EGA as of December 31, 2022 and 2021 and for each of the two years in the period ended December 31, 2022 are set forth in the Proxy Statement beginning on page F-2 and are incorporated herein by reference.

The unaudited financial statements of EGA as of September 30, 2023 and for the three and nine months ended September 30, 2023 and 2022 are set forth in the EGA Quarterly Report on Form 10-Q for the quarter ended September 30, 2023 filed with the SEC on November 17, 2023 and are incorporated herein by reference.

The audited financial statements of LGM as of December 31, 2022 and 2021 and for each of the two years in the period ended December 31, 2022 are set forth in the Proxy Statement beginning on page F-55 and are incorporated herein by reference.

The unaudited financial statements of LGM as of September 30, 2023 and for nine months ended September 30, 2023 and 2022 are set forth in Exhibit 99.1 hereto and are incorporated by reference herein.

The unaudited pro forma condensed combined financial information as of and for the nine months ended September 30, 2023 are set forth in Exhibit 99.2 hereto and are incorporated by reference herein.

Management's Discussion and Analysis of Financial Condition and Results of Operations and Quantitative and Qualitative Disclosures About Market Risk

The Management's Discussion and Analysis of Financial Condition and Results of Operations of EGA for the three and nine months ended September 30, 2023 and 2022 is set forth in the EGA Quarterly Report on Form 10-Q for the quarter ended September 30, 2023 filed with the SEC on November 17, 2023 and is incorporated herein by reference.

The Management's Discussion and Analysis of Financial Condition and Results of Operations of LGM for the nine months ended September 30, 2023 and 2022 is set forth below.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS OF LGM

You should read the following discussion and analysis of our financial condition and results of operations in conjunction with our consolidated financial statements and the related notes thereto included elsewhere in this prospectus. This discussion contains forward-looking statements that involve risk, assumptions and uncertainties, such as statements of our plans, objectives, expectations, intentions and forecasts. Our actual results could differ materially from those discussed in these forward-looking statements as a result of several factors, including those set forth under the section of this prospectus titled "Risk Factors" and elsewhere in this prospectus. Please refer to the section of this prospectus titled "Cautionary Note Regarding Forward-Looking Statements." Unless the context otherwise requires, references in this "Management's Discussion and Analysis of Financial Condition and Results of Operations" section to "flyExclusive," "we," "us," "our," and "the Company" are intended to mean the business and operations of LGM Enterprises, LLC and its consolidated subsidiaries for all periods discussed.

Overview of Our Business

FlyExclusive is a premier owner and operator of curated private aviation experiences dedicated to surpassing passenger expectations for quality, convenience, and safety. Our mission is to be the world's most vertically integrated private aviation company through capital-efficient program growth, an industry-leading pricing model, optimal dispatch availability, in-house training, and a controlled premium customer experience on modernized aircraft. As of September 30, 2023, we had 100 aircraft in our owned and leased fleet that includes light, midsize, super-midsize, and large jets. As one of the nation's largest Citation operators, flyExclusive has curated a versatile fleet of Citation CJ3 / CJ3+, Citation Excel / XLS / XLS+, Citation Encore / Encore+, Citation Sovereign, and Citation X aircraft. Gulfstream jets round out our Company fleet of large aircraft. We have a long track record of success and growth across a full range of industry services. Our core competitive advantage is the purpose-built, in-house control of decisions and processes needed to operate a successful private aviation company through a range of market environments.

We have a diversified and evolving business model generating charter revenue through our jet club membership program, our guaranteed revenue program ("GRP"), our fractional program, and our maintenance, repair, and overhaul ("MRO") program. Our chief operating decision maker, our chief executive officer, reviews our financial information presented on a consolidated basis, and accordingly, we operate under one reportable segment, which is charter aviation services.

Jet club revenue is generated from flight operations as well as membership fees. Jet club members are guaranteed access to our fleet of light, midsize and super-midsize aircraft. New members pay a minimum deposit of $100 thousand up to a maximum of $500 thousand depending on their level of membership. Membership levels determine the daily rate a member is charged for future flights. Membership and incidental fees are also applied against a member's account. The initial and all subsequent deposits to replenish the member's account are non-refundable.

GRP revenue is derived from contracts with wholesale customers whereby the customer commits to utilize a specified minimum number of hours per quarter in exchange for guaranteed access to aircraft. Each aircraft requires a deposit that is recorded on the balance sheet. Revenue is billed weekly and guaranteed based on contract rates for light, midsize, and super-midsize aircraft. Contract terms allow us to bill for ancillary services based on the circumstances of a flight. Rates are assessed each quarter to account for changes in fuel cost.

Fractional ownership members purchase a fractional ownership interest in an aircraft for a contractual term of up to five years, which grants the member access to our light, midsize and super mid-size fleets. Fractional members pay daily and hourly rates for each flight. The first stage of the fractional revenue stream is the pre-owner stage where the member signs a letter of intent and interim use agreement, which may be before the aircraft is available. At this time, the member pays two deposits, one deposit is towards the purchase of the fractional interest and the second deposit is to have the ability to use the fleet in the interim period prior to owning the fractional interest. Upon completion of enrollment in the program, fractional members who purchase new aircraft obtain ownership when the aircraft is delivered, expected to be approximately one year from when the aircraft is ordered from the manufacturer. Fractional members have the ability to advance ownership if they purchase an interest in one of our pre-owned fractional aircraft. Once the transfer of interest in the aircraft is complete, the member becomes a fractional owner in the aircraft. With the transfer of interest, flyExclusive is still able to utilize these aircraft to service other channels, providing us with another capital-light way to grow our fleet.

Our MRO program services include 24/7 maintenance and interior and exterior refurbishment services to third parties in addition to maintaining our own fleet. MRO revenue is recognized over time based on the cost of inventory consumed and labor hours worked for each service provided. Any billing for MRO services that exceeds revenue earned to date is included in deferred revenue on the consolidated balance sheets.

Key Factors Affecting Results of Operations

We believe that the following factors have affected our financial condition and results of operations and are expected to continue to have a significant effect:

Economic Conditions

If demand for private aviation services were to decrease, this could result in slower jet club growth, members declining to renew their memberships and reduced interest in the fractional and partnership programs, all of which could have a material adverse effect on our business, financial condition and results of operations. In addition, our customers may consider private air travel through our products and services to be a luxury item, especially when compared to commercial air travel or not traveling by air at all. As a result, any general downturn in economic, business and financial conditions which has an adverse effect on our customers' spending habits could cause them to travel less frequently and, to the extent they travel, to travel using commercial air carriers or other means considered to be more economical than our products and services. In addition, in cases where significant hours of private flight are needed, many of the companies and high-net-worth individuals to whom we provide products and services have the financial ability to purchase their own aircraft or operate their own corporate flight department should they elect to do so.

Competition

Many of the markets in which we operate are competitive as a result of the expansion of existing private aircraft operators, expanding private aircraft ownership and alternatives such as luxury commercial airline service. We compete against a number of private aviation operators with different business models, and local and regional private charter operators. Factors that affect competition in our industry include price, reliability, safety, regulations, professional reputation, aircraft availability, equipment and quality, consistency and ease of service, willingness and ability to serve specific airports or regions and investment requirements. Our competitors might capture a share of our present or potential customer base, which could adversely affect our business, financial condition and results of operations.

Pilot Availability and Attrition

In recent years, we have experienced significant volatility in our attrition, including volatility resulting from training delays, pilot wage and bonus increases at other industry participants and the growth of cargo, low-cost and ultra-low-cost airlines. In prior periods, these factors, at times, caused our pilot attrition rates to be higher than our ability to hire and retain replacement pilots. If our attrition rates are higher than our ability to hire and retain replacement pilots, our operations and financial results could be materially and adversely affected.

Wheels Up ("WUP") Termination

On June 30, 2023, we served WUP a Notice of Termination of the parties' Fleet Guaranteed Revenue Program Agreement, dated November 1, 2021 (the "GRP Agreement"). As a result of the termination, we do not believe that the GRP program will generate revenue following the date of the GRP Agreement's termination, which will have a material impact on the financial statements for the year ending December 31, 2023. For some time prior to the termination of the GRP Agreement we were planning, for the strategic reasons of avoiding excessive reliance on a single customer and shifting towards focusing on wholesale and contractual retail customers, to scale down business with WUP, and we had already reflected scaled down revenue accordingly in our publicly disclosed projections, with GRP revenue expected to total only 1.5% of total forecasted revenue for fiscal year 2024. However,

the termination of the GRP Agreement will have a material impact on the financial statements beyond 2023 until we are able to successfully effectuate this planned strategic shift and replace the revenue lost from the termination of the GRP Agreement. Additionally, as of June 27, 2023, WUP accounted for $15.7 million in receivables, which was a significant majority of total receivables at that time. When the agreement with WUP was terminated on June 30, 2023 the receivable balances were eliminated, as allowable under relevant accounting standards, by being applied against existing deposits held under the agreement. Please see the section entitled "*Risk Factors — Risks Relating to LGM - On June 30, 2023, we terminated our agreement with Wheels Up that accounted for a significant portion of our total revenues the past two years. Such termination could have an adverse effect on our business, results of operations and financial condition if we fail to materially replace the revenue derived from Wheels Up moving forward as expected*" and Note 17 *"Commitments and Contingencies"* of the notes to the consolidated financial statements included elsewhere in this prospectus, for more information on the WUP termination.

Business Impact of COVID-19

In March 2020, the COVID-19 outbreak was declared a pandemic by the World Health Organization. During the first half of 2020, in order to minimize the adverse impact of the COVID-19 pandemic on our operating costs and cash flows we took a number of temporary actions, including offering voluntary furloughs to our employees, implementing a mandatory reduction in all work schedules and delaying certain planned initiatives and internal investments. Since that time, we have reduced or eliminated the majority of these temporary actions. However, as a result of the increased rate of COVID-19 spread during a portion of the fourth quarter of 2021 and into the first quarter of 2022, flight volumes were negatively impacted, primarily due to a combination of customer cancellations, access to third-party supply and reduced crew availability resulting from COVID-19 exposure. These negative impacts could increase again at any time. Moving forward, however, we believe that COVID-19 pandemic has led to a shift in consumer prioritization of wellness and safety, with private aviation viewed increasingly by those in the addressable market as a health-conscious decision rather than a discretionary luxury. We believe this will translate into an increase in flight demand over time.

CARES Act

On March 27, 2020, the CARES Act was signed into law. The CARES Act provided the airline industry with up to (i) $25.0 billion in grants with assurances the support is to be used exclusively for employee salaries, wages and benefits, and (ii) $25.0 billion in secured loans.

We applied to the Treasury for assistance under the Payroll Support Program and the Paycheck Protection Program as established by the CARES Act. We were awarded $23.6 million to support ongoing operations, all of which has been received.

The CARES Act support payments were conditioned, including certain restrictions on executive and other employee compensation and severance through April 1, 2023, and certain ongoing reporting obligations through April 1, 2023. While we believe that we are fully compliant with all requirements of the CARES Act and the Payroll Support Program Agreements, including the requirement to use the awards only for payment of certain employment costs (i.e. wages, salaries and benefits), if we were found to be not in compliance with such requirements, the Treasury has sole discretion to impose any remedy it deems appropriate, including requiring full repayment of the awards with appropriate interest. The imposition of any such remedy could have a material and adverse effect on our financial condition.

The CARES Act also provides an Employee Retention Credit ("ERC") program. The goal of the ERC program is to encourage employers to retain and continue paying employees during periods of pandemic-related reduction in business volume even if those employees are not actually working, and therefore, are not providing a service to the employer. Under the Act, eligible employers could take credits up to 70% of qualified wages with a limit of $7 thousand per employee per quarter for the first three quarters of calendar year 2021. In order to qualify for the ERC in 2021, organizations generally have to experience a more than 20% decrease in gross receipts in the quarter compared to the same quarter in calendar year 2019 or its operations are fully or partially suspended during a calendar quarter due to "orders from an appropriate governmental authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes)" due to COVID-19. The credit is taken against our share of Social Security Tax when our payroll provider files, or subsequently amends the applicable quarterly employer tax filings.

As of September 30, 2023, we had applied for $9.5 million and received $9.0 million of ERC. Our legal counsel has issued a legal opinion that we, more likely than not, qualified for the ERC. However, it remains uncertain whether we meet the qualifications required to receive the ERC. Therefore, the balance was included in accrued expenses and other current liabilities in the consolidated balance sheets should we be required to potentially repay the ERC.

Non-GAAP Financial Measures

In addition to our results of operations below, we report certain key financial measures that are not required by, or presented in accordance with, GAAP.

These non-GAAP financial measures are an addition, and not a substitute for or superior to, measures of financial performance prepared in accordance with GAAP and should not be considered as an alternative to any performance measures derived in accordance with GAAP. We believe that these non-GAAP financial measures of financial results provide useful supplemental information to investors about us. However, there are a number of limitations related to the use of these non-GAAP financial measures and their nearest GAAP equivalents, including that they exclude significant expenses that are required by GAAP to be recorded in our financial measures. In addition, other companies may calculate non-GAAP financial measures differently or may use other measures to calculate their financial performance, and therefore, our non-GAAP financial measures may not be directly comparable to similarly titled measures of other companies.

Adjusted EBITDA

We calculate Adjusted EBITDA as net income (loss) adjusted for (i) interest income (expense), (ii) depreciation and amortization, (iii) public company readiness expenses, and (iv) gain on forgiveness of CARES Act Loan.

We include Adjusted EBITDA as a supplemental measure for assessing operating performance in conjunction with related GAAP amounts and for the following:

- Strategic internal planning, annual budgeting, allocating resources and making operating decisions.
- Historical period-to-period comparisons of our business, as it removes the effect of certainnon-cash expenses and expenses and revenue unrelated to our core ongoing business.

The following table reconciles Adjusted EBITDA to net income (loss), the most directly comparable GAAP measure (in thousands):

	Nine Months Ended September 30,		Year Ended December 31,	
	2023	2022	2022	2021
Net income (loss)	$(30,451)	$ 8,951	$ (4,152)	$ 2,242
Add (deduct):				
Interest income	(2,989)	(553)	(782)	(597)
Interest expense	15,601	4,342	8,291	4,218
Depreciation and amortization	20,176	16,823	23,114	17,353
Public company readiness expenses[1]	7,506	—	1,660	—
Gain on forgiveness of CARES Act Loan	(339)	—	—	(11,153)
Adjusted EBITDA	$ 9,504	$29,563	$ 28,131	$ 12,063

(1) Includes costs primarily associated with compliance and consulting in advance of transitioning to a public company.

Key Operating Metrics

In addition to financial measures, we regularly review certain key operating metrics to evaluate our business, determine the allocation of resources and make decisions regarding business strategies. We believe that these metrics can be useful for understanding the underlying trends in our business.

The following table summarizes our key operating metrics:

	As of September 30,		As of December 31,	
	2023	2022	2022	2021
Ending aircraft on certificate	100	90	91	78

	Nine months ended September 30,		Years Ended December 31,	
	2023	2022	2022	2021
Members contributing to revenues*	836	604	684	405
Active members*	747	578	670	393
Average aircraft on certificate	94	85	90	70
Aircraft contributing to revenues	98	89	91	78
Total flight hours**	40,561	43,126	58.207	47,922
Total hours per aircraft***	431.1	506.6	646.0	687.4
Members per aircraft*	8.5	6.8	7.5	5.2

* Members contributing to revenues are defined as the number of contractual retail members - club, fractional, and partnership members - that contributed to revenues during the reporting period. GRP customers do not represent contractual retail, and thus are not considered “members”.

** LGM’s historical flight hours for the last two fiscal years and subsequent interim period, without flight hours derived from GRP are as follows: 44,336 hours for the year ended December 31, 2021, 37,971 hours for the year ended December 31, 2022, 28,581 hours for the nine months ended September 30, 2022 and 32,706 hours for the nine months ended September 30, 2023.

*** LGM’s historical hours per aircraft for the last two fiscal years and subsequent interim period, without flight hours derived from GRP are as follows: 636.0 hours per aircraft for the year ended December 31, 2021, 421.4 hours per aircraft for the year ended December 31, 2022, 335.7 hours per aircraft for the nine months ended September 30, 2022 and 347.6 hours per aircraft for the nine months ended September 30, 2023.

Members contributing to revenues

We define members contributing to revenues as the number of club, fractional, and partnership members that contributed to revenues during the reporting period. We believe that membership growth is strategically correlated to aircraft additions, and the evolution of our business from non-contractual wholesale customers prior to 2020 to contractually committed members provides greater revenue visibility. Due to the nature of our business, we have periods of time in which not every member utilizes our services.

Active Members

We define active members as members that have taken at least one flight during the reporting period.

Average aircraft on certificate

We define average aircraft on certificate as the average number of airworthy aircraft in our fleet as certified by the Federal Aviation Administration ("FAA") deeming the aircraft operational. We believe that our growth has been fueled by a disciplined, strategic approach to adding aircraft, either via ownership in whole or in part or via lease from a third party. The time between the purchase or lease of an aircraft and the aircraft's certification is critical because revenue cannot be earned on the aircraft until it is certified. Thus, we use average aircraft on certificate as a key operating metric within a given reporting period.

Ending aircraft on certificate

We define ending aircraft on certificate as the number of airworthy aircraft in our fleet as certified by the FAA at the end of a given reporting period. We use ending aircraft on certificate to measure fleet growth in comparison to historical periods.

Aircraft contributing to revenues

We define aircraft contributing to revenues as the number of aircraft on certificate that completed a customer flight leg during the reporting period. Aircraft contributing to revenues during a given reporting period is lower than the number of aircraft on certificate due to unavailable aircraft resulting from maintenance or refurbishment.

Total flight hours

We define total flight hours as the actual flight time from the moment of aircraftlift-off at the departure airport until it touches ground at the end of a flight. We believe total flight hours are a useful metric to measure the usage of our programs and the scale of our fleet and revenue growth.

Total hours per aircraft

We define total hours per aircraft as the total flight hours divided by the average number of aircraft on our operating certificates during the year. We use total hours per aircraft to assess operational efficiency as it pertains to aircraft utilization and mitigation of downtime, which can result from maintenance and crew availability.

Members per aircraft

We define members per aircraft as members contributing to revenues divided by aircraft contributing to revenues. We use members per aircraft to control the customer experience through the management of our customer to aircraft ratio. In the third quarter of 2023, 99.2% of our customers were fulfilled on our fleet without the high-cost of reliance of third parties to meet demand. An optimal customer to aircraft ratio allows us to gain a competitive advantage by having sufficient aircraft available to meet member demand and be flexible to backfill unused aircraft for wholesale use.

Components of Results of Our Operations

The key components of our results of operations include:

Revenue

We derive revenue from charter flights, which include our jet club, GRP and fractional programs, and from our MRO services.

Customers prepay us in advance for member flights based on contractual rates depending on the type of flight. We then recognize revenue from these prepayments upon departure of a flight.

Jet club members pay an initialnon-refundable flight deposit where the amount of the flight deposit impacts the contractual rates paid. We recognize this kind of revenue and membership fees monthly as the Company stands ready to provide flight services as requested by the customer, thereby satisfying our related performance obligation.

Revenue for flights and related services is recognized when such services are provided to the customers. Fluctuations in revenue during any given period in the flights and related services portion of our jet club program are directly correlated to customer demand.

We derive GRP revenue from contracts with wholesale customers whereby the customer commits to purchase a specified minimum number of hours per quarter in exchange for guaranteed access to specific aircraft. The customer pays daily and hourly rates depending upon aircraft type as well as other incidental fees. Although the customer is committed to a minimum number of flight hours per aircraft and a minimum number of aircraft, actual GRP revenue is highly variable as the customer controls the timing, frequency and total volume of usage, sometimes resulting in significant revenue above the contractual minimum. We recognize the monthly minimum as revenue ratably over time and any variable consideration generated from flight services above the minimum in the period of performance.

We recognize fractional revenue from the sales of fractional ownership interests in aircraft over the five-year term of the agreement. In certain contracts the customer can require us to repurchase the interest after a fixed period of time but prior to the contractual termination date of the contract. This is accounted for as a right of return. The consideration from the fractional ownership interest, as adjusted for any customer right of return, is recognized over the term of the contract on a straight-line basis. Variable consideration generated from flight services is recognized in the period of performance.

MRO services are comprised of a single performance obligation for aircraft maintenance services such as modifications, repairs and inspections. MRO revenue is recognized over time based on the cost of inventory consumed and labor hours worked for each service provided. Any billing for MRO services that exceeds revenue earned to date is included in deferred revenue on the consolidated balance sheets.

Costs and expenses

Cost of revenue

Cost of revenue primarily consists of direct expenses incurred to provide flight services and facilitate operations, including aircraft lease costs, fuel, payroll expenses including wages and employee benefits for employees directly providing and facilitating flight services, crew travel, insurance, maintenance, subscriptions, and third-party flight costs.

Selling, general and administrative

Selling, general and administrative expense primarily consists ofnon-flight related employee compensation wages and benefits in our finance, executive, human resources, legal and other administrative functions, employee training, third-party professional fees, corporate travel, advertising, and corporate related lease expenses.

Depreciation and amortization

Depreciation and amortization expense primarily consists of depreciation of capitalized aircraft. Depreciation and amortization expense also includes amortization of capitalized software development costs.

Other income (expense)

Interest income

Interest income consists of interest earned on municipal bond funds and treasury bills.

Interest expense

Interest expense primarily consists of interest paid or payable and the amortization of debt discounts and deferred financing costs on our loans.

Gain on forgiveness of CARES Act Loan

Consists of amounts related to loan forgiveness granted under the Payroll Protection Program and Payroll Support Program.

Gain (loss) on aircraft sold

Consists of aircraft sales in excess (gain) or below (loss) their net book value.

Gain on leased right-of-use asset

Consists of gains resulting fromright-of-use asset impairments or lease terminations prior to the end of the lease term, net of any similar losses.

Change in fair value of derivative liability

Change in fair value of derivative liability reflects thenon-cash change in the fair value of our embedded derivatives attributed to our convertible notes.

Other income

Other income consists of dividend income, realized gain/loss on sales of investment securities, and state tax payments.

Results of Operations

Results of Our Operations for the Nine Months Ended September 30, 2023 Compared to the Nine Months Ended September 30, 2022

The following table sets forth our results of operations for the nine months ended September 30, 2023 and 2022 (in thousands, except percentages):

	Nine Months Ended September 30,		Change in	
	2023	2022	$	%
Revenue	$ 239,397	$ 237,629	$ 1,768	1%
Costs and expenses:				
Cost of revenue	193,564	186,262	7,302	4%
Selling, general and administrative	51,957	36,082	15,875	44%
Depreciation and amortization	20,176	16,823	3,353	20%
Total costs and expenses	265,697	239,167	26,530	11%
Loss from operations	(26,300)	(1,538)	(24,762)	1,610%
Other income (expense):				
Interest income	2,989	553	2,436	441%
Interest expense	(15,601)	(4,342)	(11,259)	259%
Gain on aircraft sold	12,435	14,321	(1,886)	(13)%
Change in fair value of derivative liability	(3,577)	—	(3,577)	(100)%
Cares Act grant	339	—	339	100%
Other expense	(736)	(43)	(693)	1,612%
Total other income (expense)	(4,151)	10,489	(14,640)	(140)%
Net (loss) income	(30,451)	8,951	(39,402)	(440)%
Net loss attributable to noncontrolling interest	(6,762)	(6,632)	(130)	2%
Net income (loss) attributable to LGM Enterprises, LLC	$ (23,689)	$ 15,583	$(39,272)	(252)%

Revenue

(In thousands)	Nine Months Ended September 30, 2023	Nine Months Ended September 30, 2022	Change Amount	Change %
Jet club and charter	$ 166,168	$ 145,329	$ 20,839	14%
Guaranteed revenue program	66,916	91,413	(24,497)	(27)%
Fractional ownership	3,281	78	3,203	4,106%
Maintenance, repair, and overhaul	3,032	809	2,223	275%
Total revenue	$ 239,397	$ 237,629	$ 1,768	1%

Jet club and charter revenue increased by $20.8 million, or 14%, to $166.2 million for the nine months ended September 30, 2023 as compared to the nine months ended September 30, 2022, 81.5% of the increase in jet club and charter revenue was attributable to an increase in flight hours, while an increase in effective hourly rates contributed to 18.5% of the increase during the nine months ended September 30, 2023 compared to the nine months ended September 30, 2022.

GRP revenue decreased by $24.5 million, or 27%, to $66.9 million for the nine months ended September 30, 2023 as compared to the nine months ended September 30, 2022. The decrease was due to the termination of the WUP agreement that occurred on June 30, 2023, resulting in no GRP revenue during the third quarter of 2023. Due to the termination of the GRP Agreement with WUP, our sole GRP customer, we do not expect GRP generated revenue beyond the nine months ended September 30, 2023.

Fractional ownership revenue increased by $3.2 million for the nine months ended September 30, 2023 as compared to the nine months ended September 30, 2022 as the fractional ownership program was not introduced until the second quarter of 2022 and generated an immaterial amount of revenue through the nine months ended September 30, 2022.

Maintenance, repair, and overhaul revenue increased by $2.2 million for the nine months ended September 30, 2023 as compared to the nine months ended September 30, 2022 as the MRO program was launched in the third quarter of 2021, but the Company did not start performing substantial services for outside customers until the second half of 2022.

We expect our revenue to increase over time as a result of adding aircraft to our fleet and forecasted membership growth.

Costs and expenses

Cost of revenue

Cost of revenue increased by $7.3 million, or 4%, for the nine months ended September 30, 2023 compared to the nine months ended September 30, 2022, primarily due to:

- An increase of $9.8 million for salaries & wage related expense;
- An increase of $5.6 million for aircraft repair & maintenance;
- An increase of $2.8 million for aircraft lease expense;
- An increase of $1.2 million for affiliate lift expense;

- A decrease of $10.6 million for cost of fuel mainly due to a national decrease in fuel prices, which was slightly offset by an overall increase in our aircraft usage for the nine months ended September 30, 2023 as compared to the nine months ended September 30, 2022;
- A decrease of $0.5 million for engine program expense;
- A decrease of $0.5 million for insurance expense; and
- A decrease of $0.4 million for ground expenses.

The remaining fluctuations were not individually significant.

Selling, general and administrative

Selling, general and administrative expenses increased by $15.9 million, or 44%, for the nine months ended September 30, 2023 compared to the nine months ended September 30, 2022. The increase in selling, general and administrative expenses was primarily attributable to:

- $11.6 million increase in professional fees, advertising, and marketing costs;
- $3.3 million increase in personnel-related expenses, as we expanded our headcount to serve our growing customer base; and
- $1.0 million in software costs.

The remaining fluctuations were not individually significant.

Depreciation and amortization

Depreciation and amortization expenses increased by $3.4 million, or 20%, for the nine months ended September 30, 2023 compared to the nine months ended September 30, 2022. The increase was primarily due to an increase in depreciation expense resulting from newly purchased aircraft.

Other Income (Expense)

Gain on forgiveness of CARES Act Loan

Gain on forgiveness of CARES Act Loan reflects payroll protection program forgiveness. We did not access those programs in 2022 to support the operations of our business, whereas they resulted in $0.3 million in grant income during the nine months ended September 30, 2023. We do not expect significant grant income in the future.

Interest income

Interest income increased by $2.4 million, or 441%, for the nine months ended September 30, 2023 compared to the nine months ended September 30, 2022, primarily as a result of an increase in interest income on treasury bills.

Interest expense

Interest expense increased by $11.3 million, or 259%, for the nine months ended September 30, 2023 compared to the nine months ended September 30, 2022. This increase in interest expense was primarily attributable to an increase in the outstanding principal balance on notes payable, and an increase in the interest rate on our variable rate loans.

Gain (loss) on aircraft sold

Gain on aircraft sold decreased by $1.9 million, or 13%, as a result of the favorable environment for selling aircraft for the nine months ended September 30, 2022 as compared to the nine months ended September 30, 2023.

Change in fair value of derivative liability

Change in fair value of derivative liability changed by $3.6 million for the nine months ended September 30, 2023 compared to the nine months ended September 30, 2022 due to the identification and measurement of an embedded derivative related to our convertible notes in 2023. There was no comparable activity in 2022.

Other expense

Other expense changed by $0.7 million, or 1,612%, for the nine months ended September 30, 2023 compared to the nine months ended September 30, 2022, primarily as a result of a $0.5 million increase in state taxes, $0.1 million increase on realized losses related to marketable securities and $0.1 million increase in customer refunds.

Results of Our Operations for the Year Ended December 31, 2022 Compared to the Year Ended December 31, 2021

The following table sets forth our results of operations for the year ended December 31, 2022 and 2021 (in thousands, except percentages):

	Years Ended December 31,		Change in	
	2022	2021	$	%
Revenue	$ 320,042	$ 208,277	$111,765	54%
Costs and expenses:				
Cost of revenue	255,441	159,238	96,203	60%
Selling, general and administrative	53,794	34,390	19,404	56%
Depreciation and amortization	23,114	17,353	5,761	33%
Total costs and expenses	332,349	210,981	121,368	58%
Loss from operations	(12,307)	(2,704)	(9,603)	(355)%
Other income (expense):				
Gain on forgiveness of CARES Act Loan	—	11,153	(11,153)	(100)%
Interest expense	(8,291)	(4,218)	(4,073)	(97)%
Gain (loss) on aircraft sold	15,333	(2,297)	17,630	768%
Gain on leased right-of-use asset	143	1	142	14,200%
Change in fair value of derivative liability	470	—	470	100%
Other income	500	307	193	63%
Total other income (expense)	8,155	4,946	3,209	65%
Net (loss) income	(4,152)	2,242	(6,394)	(285)%
Net loss attributable to noncontrolling interest	(10,200)	(5,844)	(4,356)	(75)%
Net income attributable to LGM Enterprises, LLC	$ 6,048	$ 8,086	$ (2,038)	(25)%

Revenue

	Year Ended December 31,		Change	
(In thousands)	2022	2021	Amount	%
Jet club and charter	$194,874	$187,317	$ 7,557	4%
Guaranteed revenue program	123,104	20,960	102,144	487%
Fractional ownership	508	—	508	100%
Maintenance, repair, and overhaul	1,556	—	1,556	100%
Total revenue	$320,042	$208,277	$111,765	54%

Jet club and charter revenue increased by $7.6 million, or 4%, to $194.9 million for the year ended December 31, 2022 as compared to the year ended December 31, 2021. The increase in revenue was wholly attributable to increases in effective hourly rates. An increase in jet club flight hours was offset by a decrease in charter flight hours, which resulted from the Company shifting these flight hours to the GRP program.

GRP revenue increased by $102.1 million, or 487%, to $123.1 million for the year ended December 31, 2022 as compared to the year ended December 31, 2021 as the GRP was launched in November 2021.

Fractional ownership revenue increased by $0.5 million for the year ended December 31, 2022 as compared to the year ended December 31, 2021 as the fractional ownership program was not introduced until the second quarter of 2022. No comparable activity in 2021.

Maintenance, repair, and overhaul revenue increased by $1.6 million for the year ended December 31, 2022 as compared to the year ended December 31, 2021 as the MRO program was launched in the third quarter of 2021, but the Company did not start performing services until 2022. No comparable activity in 2021.

We expect our revenue to increase over time as a result of adding aircraft to our fleet and forecasted membership growth.

Costs and expenses

Cost of revenue

Cost of revenue increased by $96.2 million, or 60%, for the year ended December 31, 2022 compared to the year ended December 31, 2021 primarily due to:

- An increase of $37.3 million for cost of fuel mainly due to a national increase in fuel prices as well as an overall increase in our aircraft usage for the year ended December 31, 2022 compared to the year ended December 31, 2021;
- An increase of $29.4 million for salaries & wage related expense;
- An increase of $14.8 million for aircraft repair & maintenance;
- An increase of $4.0 million for engine program expense;
- An increase of $3.2 million for aircraft lease expense;
- An increase of $2.7 million for aircraft ground fees;
- An increase of $2.0 million for aircraft information technology & WIFI expense;
- An increase of $1.9 million for non-employee related insurance expense; and

The remaining fluctuations were not individually significant.

Selling, general and administrative

Selling, general and administrative expenses increased by $19.4 million, or 56%, for the year ended December 31, 2022 compared to the year ended December 31, 2021. The increase in selling, general and administrative expenses was primarily attributable to:

- $7.6 million increase in personnel-related expenses, as we expanded our headcount to serve our growing customer base;
- $3.8 million increase in professional fees, advertising, and marketing costs;
- $2.5 million increase in healthcare claims;
- $1.6 million increase in training, hiring, and recruiting expenses; and
- $1.0 million in software costs.

The remaining increases were not individually significant.

Depreciation and amortization

Depreciation and amortization expenses increased by $5.8 million, or 33%, for the year ended December 31, 2022 compared to the year ended December 31, 2021. The increase was primarily due to an increase in depreciation expense resulting from newly purchased aircraft.

Other Income (Expense)

Gain on forgiveness of CARES Act Loan

Gain on forgiveness of CARES Act Loan reflects government assistance received under the CARES Act programs, including the payroll protection program forgiveness and the payroll support program. We did not access those programs in 2022 to support the operations of our business, whereas they resulted in $11.2 million in grant income in 2021. We do not expect significant grant income in the future.

Interest expense

Interest expense increased by $4.1 million, or 97%, for the year ended December 31, 2022 compared to the year ended December 31, 2021. This increase in interest expense was primarily attributable to an increase in the outstanding principal balance on notes payable, and an increase in the interest rate on our variable rate loans.

Gain (loss) on aircraft sold

Gain on aircraft sold increased by $17.6 million, as a result of the continued favorable environment for selling aircraft for the year ended December 31, 2022 as compared to the year ended December 31, 2021.

Gain on leased right-of-use asset

Gain on leased right-of-use asset increased by $0.1 million for the year ended December 31, 2022 compared to the year ended December 31, 2021. This increase is the result of a right-of-use asset termination that occurred during the year ended December 31, 2022 that resulted in a $0.1 million gain.

Change in fair value of derivative liability

Change in fair value of derivative liability increased by $0.5 million for the year ended December 31, 2022 compared to the year ended December 31, 2021 due to the identification and measurement of an embedded derivative related to our convertible notes in 2022. No comparable activity in 2021.

Other income

Other income increased by $0.2 million, or 63%, for the year ended December 31, 2022 compared to the year ended December 31, 2021 primarily as a result of a $0.3 million increase for interest and dividend income earned on municipal bond funds and a $0.3 million decrease in state tax payments. These increases were partially offset by a $0.4 million decrease on realized gains related to marketable securities for the year ended December 31, 2022 compared to the year ended December 31, 2021.

Liquidity and Capital Resources

Sources and Uses of Liquidity

Our principal sources of liquidity have historically consisted of financing activities, including proceeds from equity of the owner, notes payable, and operating activities, primarily from the increase in deferred revenue associated with prepaid flights. As of September 30, 2023 we had $10.3 million of cash and cash equivalents, $71.1 million in short-term investments in securities and $2.4 million available borrowing capacity under the term loan. As of September 30, 2023, we had $3.5 million of available borrowing capacity under the revolving line of credit. Our cash equivalents primarily consist of liquid money market funds, and our investments primarily consist of fixed-income securities including corporate bonds, government bonds, municipal issues, and U.S. treasury bills.

We have consistently maintained a working capital deficit, in which our current liabilities exceed our current assets. We believe that this is common within the private aviation industry and is due to the nature of our deferred revenue, primarily related to prepaid flights, which are performance obligations generally for future flights. Our primary needs for liquidity are to fund working capital, debt service requirements, lease and purchase obligations, capital expenditures, and for general corporate purposes. Our cash needs vary from period to period, primarily based on the timing and costs of aircraft engine overhauls, repairs, and maintenance and the timing of any aircraft purchases.

We believe factors that could affect our liquidity include our rate of revenue growth, changes in demand for our services, competitive pricing pressures, other growth initiatives, our ability to keep increases in operating expenses in line with growth in revenues, and overall economic conditions. To the extent that our current liquidity is insufficient to fund future activities, we would need to raise additional funds. In the future, we may attempt to raise additional capital through the sale of equity securities or through debt financing arrangements. If we raise additional funds by issuing equity securities, the ownership of existing shareholders will be diluted. The incurrence of additional debt financing would result in debt service obligations, and any such debt could include operating and financing covenants that could restrict our operations. In the event that additional funds are required from outside sources, we might not be able to raise it on terms acceptable to us or at all.

We believe that our existing cash on hand, cash generated from operations and available borrowings under our term loan will enable us to secure refinancing as needed to meet our obligations as they become due within the next 12 months. If we are not able to refinance, our liquidity and business would be materially adversely impacted.

Cash Requirements

Our material cash requirements include the following contractual and other obligations:

Short Term Notes Payable

We have entered into multiple short-term loan agreements with various lenders for the purpose of financing the purchase of aircraft. The loan agreements have varying interest rates, maturity dates and-lender imposed restrictions.

Credit Facility

In August 2018, we entered into a term loan agreement with a maximum borrowing capacity of $12.3 million. We have since entered into amended term loan agreements which have raised the maximum borrowing capacity to $32.3 million as of September 30, 2023.

The current iteration of the term loan agreement matures September 2024 and allows the option to elect an interest rate equal to the SOFR-Based Rate or the Prime-Based Rate.

Convertible Notes

In connection with the Equity Purchase Agreement, we issued an aggregate principal amount of $50.0 million of the Bridge Notes to an investor, which facility had the ability to increase to $85.0 million. In October 2022, we requested and received the additional $35.0 million from two other investors, bringing the total aggregate principal amount to $85.0 million.

The Bridge Notes accrue interest daily at annual rate of 10% prior to the occurrence of the termination of the Equity Purchase Agreement (the "De-SPAC Termination Event") and 15% after the De-SPAC Termination Event. Before the De-SPAC Termination Event, interest is payable in kind, with accrued interest added to the outstanding principal balance and deemed to be paid. In the event of a De-SPAC Termination Event, the outstanding principal

amount, plus payable in-kind interest, becomes payable in a monthly amount equal to outstanding obligation divided by 24 months. The maturity date is the earlier of a) the Closing Date and b) the two-year anniversary of the first De-SPAC Termination Event that occurs subsequent to October 17, 2022.

Credit Facility (Revolving Line of Credit)

In March 2023, the Company entered into a revolving uncommitted line of credit loan (the "Master Note"). The Master Note provides a line of credit of up to $60.0 million. At the Company's option, the annual interest rate on term loans drawn from the Master Note is equal to either the Prime-Based Rate, defined as the greater of 1.25% or the prime rate minus 1.88%, or the Daily Simple SOFR-Based Rate, defined as the greater of 1.25% or the Daily Simple SOFR plus 1.25%. The maturity date of the Master Note is March 9, 2024.

In October 2023, the Company drew down an additional $3.0 million of principal under the Master Note with the selected interest option of SOFR plus 1.25%.

Senior Secured Notes

In December 2023, we issued $15.7 million in principal amount of senior secured notes due in December 2024 in a private offering. The notes were issued with a stated rate of 14% and interest is payable monthly in arrears. The senior secured notes will mature one year from closing date, in which the full principal amount will be due, along with any accrued unpaid interest. The Company will use the proceeds from the issuance to fund aircraft purchases.

Long-Term Loan Agreement

In connection with the acquisition of a new aircraft in November 2023, we entered into a long-term promissory note agreement with a principal amount of $7.6 million. The note bears a fixed interest rate of 9.45% and has a maturity date ten years from the note agreement date. The note was fully repaid in December 2023.

See Note 13 "*Debt*" to our financial statements included elsewhere in this filing for further information of our debt arrangements.

Leases

We have entered into various lease arrangements for vehicles, hangars, office space and aircraft. In addition to leases of aircraft, we are obligated to pay into aircraft reserve programs.

The duration of our leases varies from two to 30 years and the leases are generally non-cancellable operating leases. Our vehicle leases are typically month-to-month and are classified as short-term leases.

See Note 11 "*Leases*" to our financial statements included elsewhere in this filing for further detail of our lease arrangements.

Capital Expenditures

We currently anticipate that cash required for capital expenditures for the next 12 months is approximately $165.8 million, which includes accounts payable of $21.9 million, accrued expenses and other current liabilities of $28.8 million, short-term notes payable of $14.3 million, short-term debt contractual principal payments due of $84.8 million and non-cancellable lease payments of $16.0 million. We plan to refinance contractual principal payments that comprise the short-term debt liability as they become due. As stated above, we have maintained a positive relationship with our debtholders and have not historically had any difficulty refinancing our debt obligations. Based on our historical experience and the fact that we have not suffered any decline in creditworthiness, we expect that our cash on hand and cash earnings will enable us to secure the necessary refinancing. The accounts payable, accrued expenses, and lease liabilities will be settled using a combination of cash generated by operations, sale of investments and incremental borrowing activity, if necessary.

Our future capital requirements and the adequacy of available funds will depend on many factors, including those set forth in the section titled *"Risk Factors—Risks Related to Our Business and Industry."*

Cash Flows

The following table summarizes our cash flows for the periods indicated (in thousands):

	Nine months ended September 30,		Years Ended December 31,	
	2023	2022	2022	2021
Net cash (used in) provided by:				
Operating activities	$ 3,617	$ 33,800	$ 45,639	$ 57,212
Investing activities	(44,113)	(73,625)	(167,266)	(70,793)
Financing activities	27,582	36,758	123,675	21,208
Net (decrease) increase in cash and cash equivalents	$(12,914)	$ (3,067)	$ 2,048	$ 7,627

Cash Flow from Operating Activities

Net cash provided by operating activities for the nine months ended September 30, 2023 was $3.6 million, resulting from a $20.2 million cash inflow in depreciation and amortization, a $0.6 million change in amortization of contract costs, a $12.5 million change in non-cash lease expense, a $5.1 million net change in non-cash interest expense, a $4.4 million cash inflow from net changes in operating assets and liabilities, a $3.6 million loss on change in the fair value of the derivative liability and a $0.2 million loss on investment in equity securities, partially offset by our net loss of $30.5 million and a $12.4 million gain on the sale of property and equipment. The $4.4 million cash inflow provided by operating assets and liabilities is primarily due to a $23.7 million cash inflow from deferred revenue, $13.4 million cash inflow from accounts receivable, a $6.9 million cash inflow from other non-current liabilities, a $5.8 million cash inflow from other current liabilities, a $1.4 million cash inflow to related parties, a $0.9 million cash inflow from other receivable, a $0.9 million cash inflow from accounts payable and a $0.8 million cash inflow from prepaid expenses and other current assets, partially offset by a $37.5 million cash outflow from customer deposits, a $11.1 million cash outflow from right-of-use-assets and a $0.8 million cash outflow from aircraft inventory. We will continue to evaluate our capital requirements for both short-term and long-term liquidity needs, which could be affected by various risks and uncertainties, including, but not limited to, the effects of rising interest rates, rising aircraft fuel prices, and other risks detailed in the section entitled "*Risk Factors — Risks Relating to LGM.*"

Net cash provided by operating activities for the nine months ended September 30, 2022 was $33.8 million, resulting from our net income of $9.0 million, a $16.8 million cash inflow from depreciation and amortization, a $0.5 million change in amortization of contract costs, a $9.8 million change in non-cash lease expense, a $11.7 million cash inflow from net changes in operating assets and liabilities and a $0.3 million cash inflow from non-cash interest expense, partially offset by a $14.3 million gain on the sale of property. The $11.7 million cash inflow provided from operating assets and liabilities is primary due to a $12.5 million cash inflow from customer deposits, a $18.2 million cash inflow from deferred revenue, $4.6 million cash inflow from accounts payable, a $4.5 million cash inflow from other current liabilities and a $2.4 million cash inflow from other non-current liabilities, partially offset by a $13.1 million cash outflow from accounts receivable and related party receivables, a $9.5 million cash outflow from right-of-use assets, a $5.6 million cash outflow from prepaid expenses and other current assets, a $1.0 million cash outflow from other receivables, a $1.0 million cash outflow from aircraft inventory and a $0.3 million cash outflow from other assets.

Net cash provided by operating activities for the year ended December 31, 2022 was $45.6 million resulting from a $36.8 million cash inflow from depreciation and amortization, including amortization of contract costs and right-of-use assets, and a $26.2 million cash inflow from net changes from operating assets and liabilities partially offset by a $15.3 million gain on sale of property and equipment and our net loss of $4.2 million. The $26.2 million cash inflow provided from operating assets and liabilities is primarily due to a $27.8 million cash inflow from deferred revenue, a $12.5 million cash inflow from customer deposits, and a $4.4 million cash inflow from accounts payable and accrued expenses due to the differences and timing of disbursements during 2022 compared to 2021, partially offset by a $12.8 million net cash outflow from our operating leases and a $6.3 million cash outflow from accounts receivable.

Net cash provided by operating activities for the year ended December 31, 2021 was $57.2 million resulting from our net income of $2.2 million, a $28.4 million cash inflow from depreciation and amortization, including amortization of contract costs and right-of-use assets, and a $24.1 million cash inflow from net changes from operating assets and liabilities. The $24.1 million cash inflow provided from operating assets and liabilities is primarily due to a $25.0 million cash inflow from customer deposits, a $10.9 million cash inflow from accounts

payable and accrued expenses due to the differences and timing of disbursements during 2021 compared to 2020, and a $7.9 million cash inflow from deferred revenue. This is partially offset by a $11.2 million gain on forgiveness of the CARES Act Loans and a $10.0 million net cash outflow from our operating leases.

Cash Flow from Investing Activities

Net cash used in investing activities for the nine months ended September 30, 2023 was $44.1 million, primarily due to purchases of investments of $68.8 million, purchases of property and equipment of $67.0 million, purchases of engine overhauls of $14.5 million and capitalized development costs of $0.6 million. Partially offsetting the increase in net cash used in investing activities were proceeds from the sale of investments of $68.7 million and proceeds from the sale of property and equipment of $38.1 million.

Net cash used in investing activities for the nine months ended September 30, 2022 was $73.6 million, primarily due to purchases of property and equipment of $99.2 million, purchases of engine overhauls of $16.2 million, purchases of investments of $3.4 million and capitalized development costs of $0.4 million. Partially offsetting the increase in net cash used in investing activities were proceeds from the sale of property and equipment of $42.8 million and proceeds from the sale of investments of $2.7 million.

Net cash used in investing activities for the year ended December 31, 2022 was $167.3 million primarily due to purchases of property and equipment of $146.0 million, purchases of investments of $70.5 million, and purchases of engine overhauls of $21.1 million. Partially offsetting the increase in net cash used in investing activities were proceeds from sales of property and equipment of $60.5 million and proceeds from sales of investments of $10.2 million.

Net cash used in investing activities for the year ended December 31, 2021 was $70.8 million. Purchases of property and equipment of $64.3 million, purchases of engine overhauls of $14.4 million, and purchases of investments of $10.3 million were partially offset by proceeds from sales of property and equipment of $19.8 million.

Cash Flow from Financing Activities

Net cash provided by financing activities for the nine months ended September 30, 2023 was $27.6 million, resulting primarily from proceeds from debt of $97.8 million to fund purchases of property and equipment, investments, and engine overhauls and proceeds from the issuance of notes receivable of $0.2 million. Partially offsetting the increase in net cash provided by financing activities were net cash distributions of $36.2 million, repayments of debt of $32.5 million, payments of deferred financing costs of $1.5 million and payments of debt issuance costs of $0.2 million.

Net cash provided by financing activities for the nine months ended September 30, 2022 was $36.8 million, primarily resulting from proceeds from debt of $64.6 million to fund purchases of property and equipment, investments, and engine overhauls, net cash contribution of $0.3 million and proceeds from the issuance of notes receivable of $0.2 million. Partially offsetting the increase in net cash provided by financing activities were repayments of debt of $28.0 million and repayments of debt issuance costs of $0.4 million.

Net cash provided by financing activities for December 31, 2022 was $123.7 million primarily resulting from proceeds from debt of $88.2 million, proceeds from issuance of convertible notes of $85.0 million, and net cash contributions of $2.4 million, partially offset by repayments of debt of $52.0 million.

Net cash provided by financing activities for December 31, 2021 was $21.2 million primarily resulting from proceeds from debt of $43.3 million, proceeds from CARES Act Grant of $11.2 million, and proceeds from notes receivable to non-controlling interest of $2.8 million, partially offset by repayments of debt of $35.3 million.

Contractual Obligations, Commitments and Contingencies

Our principal commitments consist of contractual cash obligations under our borrowings with banks, and operating leases for certain controlled aircraft, corporate headquarters, and operational facilities, including aircraft hangars. Our obligations under our borrowing arrangements are described in Note 13 "*Debt*" and for further information on our leases, see Note 11 *"Leases"* of the accompanying consolidated financial statements included elsewhere in this proxy statement.

From time to time, we are involved in various litigation matters arising in the ordinary course of business. We believe that we have meritorious arguments in our current litigation matters and that any outcome, either individually or in the aggregate, will not be material to our financial position or results of operations.

Critical Accounting Policies and Estimates

Our management's discussion and analysis of our financial condition and results of our operations is based on our consolidated financial statements and accompanying notes, which have been prepared in accordance with GAAP. Certain amounts included in or affecting the consolidated financial statements presented in this proxy statement and related disclosure must be estimated, requiring management to make assumptions with respect to values or conditions which cannot be known with certainty at the time the consolidated financial statements are prepared. Management believes that the accounting policies set forth below comprise the most important "critical accounting policies" for the company. A "critical accounting policy" is one which is both important to the portrayal of our financial condition and results of operations and that involves difficult, subjective, or complex judgments, often as a result of the need to make estimates about the effect of matters that are inherently uncertain. Management evaluates such policies on an ongoing basis, based upon historical results and experience, consultation with experts and other methods that management considers reasonable in the particular circumstances under which the judgments and estimates are made, as well as management's forecasts as to the manner in which such circumstances may change in the future. We have reviewed our critical accounting estimates with the audit committee of our Board of Directors.

Revenue Recognition

Revenue is recognized when the promised services are performed and in an amount that reflects the consideration we expect to be entitled to in exchange for those services using the following steps:

- 1) identification of the contract, or contracts, with a customer.
- 2) identification of performance obligations in the contract.
- 3) determination of the transaction price.
- 4) allocation of the transaction price to the performance obligations in the contract; and,
- 5) recognition of revenue when or as the performance obligations are satisfied.

Determining the transaction price may require significant judgement and is determined based on the consideration we expect to be entitled to in exchange for transferring services to the customer, excluding amounts collected on behalf of third parties such as sales taxes.

During the nine months ended September 30, 2023 and 2022, we earned revenue primarily from the programs below:

Jet Club Membership

Jet Club members are guaranteed access to our fleet of light, midsize and super-midsize aircraft in exchange for a monthly fee. New members pay a minimum deposit of $100 thousand up to a maximum of $500 thousand depending on their level of membership. Membership levels are available to members, which determines the daily rates a member is charged for future flights. Incidental fees are also applied against a member's account. The initial and any subsequent deposits are non-refundable and must be used for the monthly membership fee or for future flight

services. These customer deposits are included in deferred revenue on the condensed consolidated balance sheets until used by the customer. The membership services performance obligation is satisfied over time on a monthly basis. Revenue for flights and related services is recognized when such services are provided to the customer at a point in time.

Guaranteed Revenue Program

We launched a guaranteed revenue program with a single customer on November 1, 2021. Under this program, we served as anon-demand charter air carrier and guaranteed the services of a specified fleet of aircraft as directed by the customer. We required a deposit of $1,250 per reserved aircraft. These deposits were included within other non-current liabilities on the condensed consolidated balance sheets. The customer was charged hourly rates for flight services depending on aircraft type in addition to incidental fees. The customer was committed to a minimum number of flight hours per aircraft and a minimum number of aircraft. Revenue was recognized using the right-to-invoice practical expedient. The guaranteed minimum was enforceable and billable on a quarterly basis. The term of the agreement was for a minimum of 28 months, which included a drawdown period of 10 months if the agreement was terminated, which we did on June 30, 2023. See “Legal Proceedings” for more information on the termination and subsequent litigation.

Fractional Ownership

The fractional revenue stream involves a customer purchasing a fractional ownership interest in an aircraft for a contractual term of up to five years. Customers have the right to flight and membership services from a fleet of aircraft, including the aircraft they have fractionally purchased. Customers are charged for flight services as incurred based on agreed upon daily and hourly rates in addition to the upfront fractional ownership purchase price. At the end of the contractual term, we have the unilateral right to repurchase the fractional interest. In certain contracts the customer can require us to repurchase their ownership interest after a fixed period of time but prior to the contractual termination date of the contract. The repurchase price, whether at the contractual termination date or at the specified earlier date, is calculated as follows: 1) the fair market value of the aircraft at the time of repurchase, 2) multiplied by the fractional ownership percentage, 3) less a remarketing fee. At the time of repurchase, all fractional ownership interests revert to us, and all rights to flight and membership services are relinquished. We assessed whether these repurchase agreements results in a lease contract under the scope of ASC 842 but determined that they are revenue contracts under the scope of ASC 606 since the repurchase price is lower than the original selling price, and the customer does not have a significant economic incentive to exercise the put option. Further, the fractional ownership sales are accounted for as containing a right of return and the resulting liability is included within other non-current liabilities on the condensed consolidated balance sheet. The consideration from the fractional ownership interest, as adjusted for any related customer right of return, is included in deferred revenue on the condensed consolidated balance sheets and recognized over the term of the contract on a straight-line basis as the membership services are provided. Variable consideration generated from flight services is recognized in the period of performance.

Maintenance Repair and Overhaul

We separately provide maintenance and repair services for aircraft owners and operators at certain facilities. MRO ground services are comprised of a single performance obligation for aircraft maintenance services such as modifications, repairs and inspections. MRO revenue is recognized over time based on the cost of inventory consumed and labor hours worked for each service provided. Any billing for MRO services that exceeds revenue earned to date is included in deferred revenue on the condensed consolidated balance sheets.

Fair Value Measurements

Certain assets and liabilities are carried at fair value under U.S. GAAP. Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. Valuation techniques used to measure fair value must maximize the use of observable inputs and minimize the use of unobservable inputs. Financial assets and liabilities carried at fair value are to be classified and disclosed in one of the following three levels of the fair value hierarchy, of which the first two are considered observable and the last is considered unobservable:

Level 1 — Quoted prices in active markets for identical assets or liabilities.

Level 2— Observable inputs (other than Level 1 quoted prices), such as quoted prices in active markets for similar assets or liabilities, quoted prices in markets that are not active for identical or similar assets or liabilities, or other inputs that are observable or can be corroborated by observable market data.

Level 3 — Unobservable inputs that are supported by little or no market activity that are significant to determining the fair value of the assets or liabilities, including pricing models, discounted cash flow methodologies and similar techniques.

The Company's cash equivalents and investments in securities are carried at fair value in Level 1 or Level 2, determined according to the fair value hierarchy described above. The carrying values of the Company's accounts receivable, other receivables, inventory, accounts payable and accrued expenses and other current liabilities approximate their fair values due to the short-term nature of these instruments.

The Company's convertible note, as discussed in Note 13 *"Debt"*, contains an embedded derivative feature that was required to be bifurcated and remeasured to fair value at each reporting period based on significant inputs not observable in the market, and is classified as a Level 3 measurement according to the fair value hierarchy described above. The carrying amounts of the Company's convertible notes approximate their fair values as the interest rates of the convertible notes are based on prevailing market rates.

See Note 3 "*Fair Value Measurements"* for further discussion on the Company's assets and liabilities carried at fair value.

Convertible Note and Embedded Derivative Feature

We elected to account for our convertible note at its carrying value, which we believe approximates fair value as the interest rate of the convertible note is based on prevailing market rates. Our convertible note contains a conversion feature that was identified as an embedded derivative feature that was required to be bifurcated and remeasured to fair value at each reporting period, with changes in the fair value of the embedded derivative liability recognized as a component of other income (expense).

The fair value of the embedded conversion derivative feature was estimated using the Monte Carlo Simulation ("MCS"), where the value of the embedded derivative was estimated using Level 3 inputs. The MCS analysis contains inherent assumptions related to expected stock price, volatility, estimated de-SPAC date, risk-free interest rate, estimated market yield and the probability of a successful transaction. Due to the use of significant unobservable inputs, the overall fair value measurement of the embedded derivative is classified as Level 3. If any of the assumptions used in the MCS changes significantly, the embedded derivative may differ materially from that recorded in the current period.

Impairment of Long-Lived Assets

Long-lived assets include aircraft, property and equipment, finite-lived intangible assets, and operating leaseright-of-use assets. We review the carrying value of long-lived assets for impairment when events or circumstances indicate that the carrying value might not be recoverable based on the estimated undiscounted future cash flows expected to result from the use and eventual disposition of the asset. The circumstances that would indicate potential impairment may include, but are not limited to, a significant change in the manner in which an asset is being used or losses associated with the use of an asset. We review long-lived assets for impairment at the individual asset or the asset group level for which the lowest level of independent cash flows can be identified and measured. If the carrying amount of a long-lived asset or asset group is determined not to be recoverable, an impairment loss is recognized and a write-down to fair value is recorded.

Leases

ASU 2016-02, *Leases (Topic 842)*, as amended, was adopted on January 1, 2019 utilizing a modified retrospective approach. We adopted the package of practical expedients available at transition that retained the lease classification and initial direct costs for any leases that existed prior to adoption of the standard. Contracts entered into prior to adoption were not reassessed for leases or embedded leases. Upon adoption, we did not use hindsight in

determining lease term and impairment. For lease and non-lease components, we have elected to account for both as a single lease component. We have elected the practical expedient not to recognize leases with an initial term of 12 months or less on our consolidated balance sheets and lease expense is recognized on a straight-line basis over the term of the short-term lease. Variable lease payments are recognized as lease expense as they are incurred.

We determine if an arrangement is a lease at inception on an individual contract basis. Operating leases are included in operating lease right-of-use assets, operating lease liabilities, current, and operating lease liabilities, non-current on the consolidated balance sheets. Operating lease right-of-use assets represent the right to use an underlying asset for the lease term and operating lease liabilities represent the obligation to make lease payments arising from the lease. Operating lease right-of-use assets and operating lease liabilities are recognized at commencement date based on the present value of the future minimum lease payments over the lease term. As most of our leases do not provide an explicit borrowing rate, management uses our incremental borrowing rate based on information available at the commencement date, or at the date of transition for leases transitioned to Topic 842 in determining the present value of the lease payments.

The operating lease right-of-use assets and operating lease liabilities include any lease payments made, including any variable amounts that are based on an index or rate, and exclude lease incentives. Variability that is not due to an index or rate, such as payments made based on hourly rates, are excluded from the lease liability. Leases sometimes include options to extend or terminate the lease. Renewal option periods are included within the lease term and the associated payments are recognized in the measurement of the operating right-of-use asset and operating lease liability when they are at our discretion and considered reasonably certain of being exercised. Lease expense for lease payments is recognized on a straight-line basis over the lease term.

Recently Issued/Adopted Accounting Standards

Refer to the section titled "Recently Issued Accounting Standards Not Yet Adopted" in Note 2 "*Summary of Significant Accounting Policies*" of the notes to the consolidated financial statements included elsewhere in this prospectus for more information.

Quantitative and Qualitative Disclosures About Market Risk

In the ordinary course of operating our business, we are exposed to market risks. Market risk represents the risk of loss that may impact our financial position or results of operations due to adverse changes in financial market prices and rates. Our principal market risks are related to interest rates and aircraft fuel costs.

Interest Rates

We are subject to market risk associated with changing interest rates on certain of our borrowings, which are variable rate debt. Interest rates applicable to our variable rate debt could potentially rise and increase the amount of interest expense incurred. Through September 30, 2023, we had not purchased any derivative instruments to protect against the effects of changes in interest rates.

As of September 30, 2023, we had $102.9 million of variable rate debt, excluding VIE debt, including current maturities. The variable rate debt balance as of September 30, 2023 excluded VIE related borrowings. A hypothetical 100-basis points increase in market interest rates for the period would have resulted in approximately $0.2 million of additional interest expense in our consolidated results of operations for the nine months ended September 30, 2023.

We also hold a portfolio of fixed income available for sale securities that are interest rate sensitive. These investments are subject to decreases in value as a result of increases in interest rates. As a result, for the nine months ended September 30, 2023, we had aggregate unrealized losses of $335 thousand, which is included in other comprehensive income. Should we not be able to assert our intent and ability to hold the securities until recovery, we will have to recognize losses on these investments in earnings.

Aircraft Fuel

We are subject to market risk associated with changes in the price and availability of aircraft fuel. Aircraft fuel expense for the nine months ended September 30, 2023 represented approximately 27% of our total cost of revenue. A hypothetical 10.0% increase in the average price per gallon of aircraft fuel would have increased fuel expense by approximately $5.2 million for the nine months ended September 30, 2023. Through September 30, 2023, we had not purchased any derivative instruments to protect against the effects of changes in fuel, although we are somewhat protected from increases because our variable agreements allow for rate adjustments for changes in fuel prices. See "Risk Factors — Risks Relating to LGM — Risks Relating to Our Business and Industry — Significant increases in fuel costs could have a material adverse effect on our business, financial condition and results of operations" for additional information.

JOBS Act Accounting Election

In April 2012, the JOBS Act was signed into law. The JOBS Act contains provisions that, among other things, reduce certain reporting requirements for an "emerging growth company." We have elected to use this extended transition period for complying with new or revised accounting standards that have different effective dates for public and private companies until the earlier of the date that we (i) are no longer an emerging growth company or (ii) affirmatively and irrevocably opt out of the extended transition period provided in the JOBS Act. As a result, our audited financial statements may not be comparable to companies that comply with the new or revised accounting pronouncements as of public company effective dates.

We have chosen to rely on the other exemptions and reduced reporting requirements provided by the JOBS Act. Subject to certain conditions set forth in the JOBS Act, as an "emerging growth company" we are not required to, among other things, (i) provide an auditor's attestation report on our system of internal control over financial reporting pursuant to Section 404 of SOX, (ii) provide all of the compensation disclosure that may be required of non-emerging growth public companies, (iii) comply with any requirement that may be adopted by the Public Company Accounting Oversight Board (United States) regarding mandatory audit firm rotation or a supplement to the auditor's report providing additional information about the audit and the consolidated financial statements (auditor discussion and analysis) and (iv) disclose certain executive compensation-related items, such as the correlation between executive compensation and performance and comparisons of the chief executive officer's compensation to median employee compensation. We may remain an "emerging growth company" until the last day of the fiscal year following the fifth anniversary of the completion of this offering. However, if certain events occur prior to the end of such five-year period, including if we become a "large accelerated filer," our annual gross revenue equals or exceeds $1.07 billion or we issue more than $1.0 billion of non-convertible debt in any three-year period, we will cease to be an "emerging growth company" prior to the end of such five-year period.

Description of Property

LGM's operations are centered at flyExclusive's corporate headquarters in Kinston, North Carolina. Located within the North Carolina Global TransPark (NCGTP), flyExclusive leases approximately 145,000 square feet of office and hangar space from the NCGTP's 2,500-acre multimodal industrial park, which boasts an 11,500-foot runway. Kinston is within two hours of approximately 70% of flyExclusive flights.

Security Ownership of Certain Beneficial Owners and Management

The following table sets forth information regarding beneficial ownership of PubCo Common Stock as of December 27, 2023, following the consummation of the Business Combination by:

- each person known by us to be the beneficial owner of more than 5% of outstanding shares of PubCo Common Stock;
- each of our executive officers and directors that beneficially owns our shares of common stock; and
- all our executive officers and directors as a group.

Beneficial ownership is determined according to the rules of the SEC, which generally provide that a person has beneficial ownership of a security if he, she or it possesses sole or shared voting or investment power over that security, including options and warrants that are currently exercisable or exercisable within 60 days. Voting power represents the combined voting power of shares of PubCo Class A Common Stock and shares of PubCo Class B Common Stock owned beneficially by such person. On all matters to be voted upon, holders of shares of PubCo Class A Common Stock and PubCo Class B Common Stock will vote together as a single class on all matters submitted to the stockholders for their vote or approval. Holders of PubCo Class A Common Stock and PubCo Class B Common Stock are entitled to one vote per share on all matters submitted to the stockholders for their vote or approval. Currently, all of the shares of PubCo Class B Common Stock are convertible into shares of PubCo Class A Common Stock on a one-for-one basis.

The ownership percentages in the table below are calculated based on (i) 16,924,976 outstanding shares of PubCo Class A Common Stock, (ii) 59,930,000 outstanding shares of PubCo Class B Common Stock, (iii) 59,930,000 outstanding LGM Common Units, (iv) 5,805,544 outstanding EGA Public Warrants, and (v) 4,333,333 outstanding Private Placement Warrants, in each case as of December 27, 2023. As explained in footnote (2) below, for purposes of determining the percentage of PubCo Class A Common Stock beneficially owned by each holder, the table assumes that all LGM Common Units, Public Warrants and Private Placement Warrants are exercised or exchanged for one share of PubCo Class A Common Stock and that such shares are deemed issued and outstanding and included in the denominator for all holders (to avoid a distorted and potentially misleading presentation of percentage share ownership by holder). The shares of PubCo Class A Common Stock beneficially owned by Jim Segrave are subject to a one-year lock-up period subject to the terms and conditions of the Stockholders' Agreement. The 5,625,000 shares of PubCo Class A Common Stock beneficially owned by EG Sponsor LLC (representing the former Founder Shares) are subject to a three-year lock-up period subject to the terms of the letter agreement executed in connection with the initial public offering of EG Acquisition Corp.

The number of shares owned by each of the 5% owners, executive officers and directors in the table below is based on information available to the Company as of December 27, 2023. There are no known arrangements which may at a subsequent date result in a change in control of the Company.

	PubCo Class A Common Stock[1] [2]		PubCo Class B Common Stock		Combined Voting Power
Name and Address of Beneficial Owner	**Number**	**%**	**Number**	**%**	
Executive Officers and Directors [3]					
Jim Segrave[4]	59,930,000	68.89%	59,930,000	100%	68.89%
Mike Guina	—	—	—	—	—
Billy Barnard	—	—	—	—	—
Gary Fegel	—	—	—	—	—
Gregg Hymowitz[5]	18,285,045	21.02%	—	—	21.02%
Mike Fox	—	—	—	—	—
Peter Hopper	—	—	—	—	—
Frank Holding, Jr.	—	—	—	—	—
Tom Segrave	—	—	—	—	—
All Executive Officers and Directors as a Group (9 individuals) [6]	78,215,045	89.91%	59,930,000	100%	89.91%
Principal Holders of PubCo Class A Common Stock					
EG Sponsor LLC[6]	9,958,333	11.45%	—	—	11.45%
EnTrust Emerald (Cayman) LP[7]	5,517,808	6.34%	—	—	6.34%
ETG Omni LLC[8]	2,808,904	3.23%	—	—	3.23%
EnTrust Magnolia Partners LP[9]	1,123,562	1.29%	—	—	1.29%

(1) Includes 10,138,877 shares of PubCo Class A Common Stock issuable upon the exercise of the 5,805,544 outstanding EGA Public Warrants and 4,333,333 Private Placement Warrants as if such warrants were exercised on December 27, 2023.

(2) For purposes of determining the percentage of PubCo Class A Common Stock beneficially owned by each holder, the table assumes that all LGM Common Unit, Public Warrants and Private Placement Warrants are exercised or exchanged for one share of PubCo Class A Common Stock and that such shares are deemed issued and outstanding and included in the denominator for all holders (to avoid a distorted and potentially misleading presentation of percentage share ownership by holder).

(3) Unless otherwise noted, the business address of each of the directors and executive officers listed (other than Gregg Hymowitz) is c/o flyExclusive, Inc., 2860 Jetport Road, Kinston, NC 28504 and the business address of Gregg Hymowitz and each of the entities listed is c/o EnTrust Global, 375 Park Avenue, 24th Floor, New York, NY 10152.

(4) PubCo Class A Common Stock holdings consist of 60,000,000 LGM Common Units, which are exchangeable on aone-for-one basis of PubCo Class A Common Stock.

(5) Represents shares beneficially owned by Sponsor, EnTrust Emerald (Cayman) LP and ETG Omni LLC. See footnotes (6), (7) and (8) below.

(6) Represents (i) 5,625,000 shares of PubCo Class A Common Stock held by the Sponsor consisting of 1,000 Founder Shares (classified before the consummation of the Business Combination as shares of EGA Class B Common Stock which have converted into shares of PubCo Class A Common Stock on a one-for-one basis upon the closing of the Business Combination), and 5,624,000 Founder Shares that were previously converted into shares of PubCo Class A Common Stock in May 2023, and (ii) 4,333,333 Private Placement Warrants held by the Sponsor. EnTrust Global Management GP LLC is the managing member of the Sponsor and as such has voting and investment discretion with respect to the PubCo Class A Common Stock held of record by the Sponsor and may be deemed to have shared beneficial ownership (along with EnTrust Global Management GP LLC, GH Onshore GP LLC and our Sponsor) of the PubCo Class A Common Stock held directly by the Sponsor. Gregg Hymowitz is the sole and managing member of GH Onshore GP LLC, which is the managing member of EnTrust Global Management GP LLC, and as a result, may be deemed to have shared beneficial ownership of the common stock held directly by the Sponsor. Each of EnTrust Global Management GP LLC, GH Onshore GP LLC and Gregg Hymowitz disclaims beneficial ownership of such securities except to the extent of its or his pecuniary interest therein. An affiliate of GMF Capital has an approximately 50% membership interest in the Sponsor. Each such person disclaims any beneficial ownership of the reported shares other than to the extent of any pecuniary interest they may have therein, directly or indirectly.

(7) Represents 5,517,808 shares of PubCo Class A Common Stock held by EnTrust Emerald (Cayman) LP upon conversion of the Bridge Notes upon the closing of the Business Combination. Gregg Hymowitz serves as the Founder and Chief Executive Officer of EnTrust Global, an affiliate of which serves as the general partner of EnTrust Emerald (Cayman) LP, and may be deemed to be the beneficial owner of such shares held by EnTrust Emerald (Cayman) LP. Each such person disclaims any beneficial ownership of the reported shares other than to the extent of any pecuniary interest they may have therein, directly or indirectly.

(8) Represents 2,808,904 shares of PubCo Class A Common Stock held by ETG Omni LLC upon conversion of the Bridge Notes upon the closing of the Business Combination. Gregg Hymowitz serves as the Founder and Chief Executive Officer of EnTrust Global, an affiliate of which serves as the general partner of ETG Omni LLC, and may be deemed to be the beneficial owner of such shares held by ETG Omni LLC. Each such person disclaims any beneficial ownership of the reported shares other than to the extent of any pecuniary interest they may have therein, directly or indirectly.

(9) Represents 1,123,562 shares of PubCo Class A Common Stock held by EnTrust Magnolia Partners LP upon conversion of the Bridge Notes upon the closing of the Business Combination, for which FE Manager LLC (which is not an affiliate of PubCo) has sole voting and dispositive power.

Directors and Executive Officers

Information with respect to the Company's directors and executive officers immediately after the Closing is set forth in the section entitled "PubCo Management After the Business Combination" beginning on page 279 in the Proxy Statement and Item 5.02 of this Current Report on Form 8-K and is incorporated herein by reference. There are no family relationships among any of our executive officers or directors, except Thomas James Segrave, Jr. and Thomas J. Segrave, Sr.

Each of Thomas James Segrave, Jr., Gary Fegel, Michael S. Fox, Frank B. Holding, Jr., Gregg S. Hymowitz, Peter B. Hopper and Thomas J. Segrave, Sr. were elected to serve as directors of the Company.

Mr. Segrave, Jr. was appointed as Chairman of the board of directors. The size of the board is seven members. In accordance with the Second A&R Certificate of Incorporation of the Company, each director will serve until the 2024 annual meeting of stockholders of PubCo or until such directors' successors have been duly elected and qualified, or until such directors' earlier death, resignation, retirement or removal.

The Board appointed Messrs. Fox, Holding and Hopper to serve on the Audit and Risk Committee, with Mr. Fox serving as its chairman. The Board appointed Messrs. Holding, Hopper and Segrave, Sr. to serve on the Compensation Committee, with Mr. Hopper serving as its chairman. The Board appointed Messrs. Segrave, Jr., Holding, Hopper and Segrave, Sr. to serve on the Nominating and Corporate Governance Committee, with Mr. Holding serving as its chairman.

In connection with the completion of the Business Combination, Mr. Segrave, Jr. was appointed to serve as the Company's Chief Executive Officer, Billy Barnard was appointed to serve as Interim Chief Financial Officer and Michael Guina was appointed to serve as Chief Operating Officer.

Executive Compensation

The information set forth in the section entitled "Executive and Director Compensation of LGM" beginning on page 282 of the Proxy Statement, which includes the executive compensation information of LGM is incorporated herein by reference.

LGM entered into an executive employment agreement with Mr. Segrave, Jr., effective April 1, 2023, with an initial term of five years. Pursuant to his employment agreement, Mr. Segrave, Jr. receives an annual base salary of $8,500,000, which is subject to annual review by the PubCo board of directors (the "PubCo Board") to determine whether an increase (but not decrease) is warranted. Mr. Segrave, Jr. is eligible to receive an annual cash bonus of up to 100% of his base salary, as determined by the PubCo Board in its sole discretion, based on the achievement during the applicable year of (i) objectives for LGM as a whole established by the PubCo Board at the beginning of the applicable year and (ii) objectives for Mr. Segrave, Jr. agreed by the PubCo Board and Mr. Segrave, Jr. at the beginning of the applicable year. Mr. Segrave, Jr. must be employed by LGM through December 31 of the applicable year to earn the annual bonus for such year, which bonus (if any) will be paid no later than the following March 15. Mr. Segrave, Jr. is also eligible to participate in all employee benefit plans that LGM makes available to its senior executives from time to time. The foregoing description of Mr. Seagrove, Jr.'s executive employment agreement does not purport to be complete and is qualified in its entirety by the terms and conditions of the executive employment agreement, a form of which is attached hereto as Exhibit 10.8 and is incorporated herein by reference.

LGM entered into an executive employment agreement with Mr. Guina, effective April 21, 2023, with an initial term of two years. Pursuant to his employment agreement, Mr. Guina receives an annual base salary of $360,000, which is subject to annual review by LGM's CEO to determine whether an increase is warranted. Mr. Guina is eligible to receive an annual cash bonus of up to 50% of his base salary, as determined by LGM's CEO in his sole discretion, based on the achievement, during the applicable year of (i) objectives for LGM as a whole established by the LGM CEO at the beginning of the year and (ii) objectives for Mr. Guina, agreed by the LGM CEO and Mr. Guina at the beginning of the applicable year. Mr. Guina must be employed by LGM through December 31 of the applicable year to earn the annual bonus for such year, which bonus (if any) will be paid no later than the following March 15. Mr. Guina is also eligible to participate in all employee benefit plans that LGM makes available to its senior executives from time to time. In addition, Mr. Guina's employment agreement subjects him to customary provisions regarding invention assignment and use of LGM's confidential information. The foregoing description of Mr. Guina's executive employment agreement does not purport to be complete and is qualified in its entirety by the terms and conditions of the executive employment agreement, a form of which is attached hereto as Exhibit 10.9 and is incorporated herein by reference.

Certain Relationships and Related Transactions

The information set forth in the sections entitled "Certain Relationships and Related Party Transactions— EGA's Related Party Transactions" beginning on page 291, as supplemented in the Proxy Statement Supplement on Schedule 14A filed on December 1, 2023, and "Certain Relationships and Related Party Transactions — LGM's Related Party Transactions" beginning on page 295 are incorporated herein by reference.

Director Independence

By virtue of the combined voting power of the Existing Equityholders of more than 50% of the total voting power of the shares of capital stock of PubCo outstanding as of the Closing, PubCo qualifies as a "controlled company" within the meaning of the corporate governance standards of the NYSE. Under these rules, a listed company of which more than 50% of the voting power is held by an individual, group or another company is a "controlled company" and may elect not to comply with certain corporate governance requirements, including the requirements that (i) a majority of the PubCo Board consist of independent directors, (ii) we have a compensation committee composed entirely of independent directors and (iii) we have a nominating/corporate governance committee composed entirely of independent directors.

We are relying on all three of these exemptions. As a result, our Board does not consist of a majority of independent directors, we do not have a compensation committee consisting entirely of independent directors, and we do not have a nominating/corporate governance committee that is composed entirely of independent directors. Going forward, we may also rely on the other exemptions so long as we qualify as a "controlled company." Due to our reliance on these exemptions, holders of PubCo Class A Common Stock do not have the same protections afforded to stockholders of companies that are subject to all of the corporate governance requirements of the NYSE.

Legal Proceedings

The information set forth in the section entitled "Other Information about LGM—Legal Proceedings" on page 242 of the Proxy Statement is incorporated herein by reference.

Market Price of and Dividends on the Registrant's Common Equity and Related Stockholder Matters

Market Information

Prior to the Closing Date, the EGA's publicly traded units, EGA Class A Common Stock and EGA Warrants were listed on NYSE under the symbols "EGGFU," "EGGF," and "EGGFW," respectively. Upon the Closing, the PubCo Class A Common Stock and PubCo Warrants are listed on NYSE under the symbols "FLYX" and "FLYX WS," respectively. EGA's publicly traded units automatically separated into their component securities upon the Closing, and as a result, no longer trade as a separate security and were delisted from NYSE.

As of December 27, 2023, following the completion of the Business Combination, there were 5,805,544 PubCo Warrants and 60,000,000 LGM Common Units (excluding LGM Common Units held by the Company) outstanding, which are convertible into 60,000,000 shares of PubCo Class A Common Stock.

Holders of the Company

As of December 27, 2023, following the completion of the Business Combination, there were 11 holders of record of PubCo Class A Common Stock and 2 holders of record of PubCo Warrants. However, because many of the shares of PubCo Class A Common Stock and the PubCo Warrants are held by brokers and other institutions on behalf of stockholders, the Company believes there are substantially more beneficial holders of PubCo Class A Common Stock and PubCo Warrants than record holders.

Dividends of the Company

EGA has never paid any cash dividends on EGA Class A Common Stock. The payment of cash dividends by PubCo in the future will be dependent upon revenues and earnings, if any, capital requirements and general financial condition subsequent to completion of the Business Combination. The payment of any cash dividends subsequent to the Business Combination will be within the discretion of the Company's board of directors and the board of directors will consider whether or not to institute a dividend policy. The board of directors currently anticipates the Company will retain all earnings of the Company, if any, for use in the Company's business and operations and, accordingly, the board of directors does not anticipate declaring any dividends in the foreseeable future.

Equity Compensation Plan Information

The following table provides information as of December 27, 2023 about our common stock that may be issued upon the exercise of options, stock appreciation rights, restricted stock awards, restricted stock unit awards and dividend equivalent rights under our equity compensation plans.

	Number of securities to be issued upon exercise of outstanding options and rights (a)	Weighted-average exercise price of outstanding options and rights (b)	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected under column (a))(c)
Equity compensation plans approved by security holders	—	$ —	6,000,000
Equity compensation plans not approved by security holders	—	$ —	—
Total	—	—	6,000,000

Recent Sales of Unregistered Securities

The information set forth under Item 3.02 of this Current Report on Form8-K is incorporated herein by reference.

Description of Registrant's Securities

Pursuant to the Second A&R Certificate of Incorporation, there are 325,000,000 shares authorized, of which 200,000,000 shares will be shares of PubCo Class A Common Stock, 100,000,000 shares will be shares of PubCo Class B Common Stock and 25,000,000 shares will be shares of undesignated preferred stock, par value $0.0001 per share.

The information set forth in the section entitled "Description of PubCo Securities" beginning on page 312 of the Proxy Statement is incorporated herein by reference.

Indemnification of Directors and Officers

In connection with the Closing, the Company entered into indemnification agreements with each of its directors and officers. Each indemnification agreement provides for customary indemnification and advancement by the Company of certain expenses and costs relating to claims, suits or proceedings arising from service to the Company or, at its request, service to other entities, as officers or directors to the fullest extent permitted by applicable law. The foregoing description of the indemnification agreements does not purport to be complete and is qualified in its entirety by the terms and conditions of the indemnification agreements, a form of which is attached hereto as Exhibit 10.7 and is incorporated herein by reference.

Further information about the indemnification of the Company's directors and officers is set forth in the section entitled "Description of PubCo Securities — Limitations on Liability and Indemnification of Officers and Directors" on page 320 of the Proxy Statement and is incorporated herein by reference.

Financial Statements, Supplementary Data and Exhibits

The information set forth under Item 9.01 of this Current Report on Form8-K is incorporated herein by reference.

Item 2.02. Results of Operations and Financial Condition

Reference is made to the disclosure set forth under Item 9.01 of this Current Report on Form8-K concerning the financial statements of LGM and the disclosure contained above in Management's Discussion and Analysis of Financial Condition and Results of Operations of LGM, which are incorporated in this Item 2.02 by reference.

Item 3.01 Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standard; Transfer of Listing.

On the Closing Date, all of EGA's outstanding units separated into their component parts of one share of EGA Class A Common Stock and one third of one EGA Warrant to purchase one share of EGA Class A Common Stock and EGA's units ceased trading on NYSE.

Item 3.02 Unregistered Sales of Equity Securities.

In connection with the execution of the Equity Purchase Agreement, on October 17, 2022, LGM entered into a senior subordinated convertible note with an investor and, for certain limited provisions thereof, EGA, pursuant to which LGM borrowed an aggregate principal amount of $50,000,000 at a rate of 10% per annum, payable in kind in additional shares of the Company upon the Closing of the Business Combination. On October 28, 2022, LGM also entered into an Incremental Amendment with the ETG Omni LLC and EnTrust Magnolia Partners LP (together with EnTrust Emerald (Cayman) LP, the "Bridge Note Lenders") on the same terms for an aggregate principal amount of $35,000,000 (together with the subordinated convertible note discussed in this paragraph, the "Bridge Notes"), bringing the total principal amount of the Bridge Notes to $85,000,000 in the aggregate.

On December 27, 2023, in connection with the completion of the Business Combination and as contemplated by the Equity Purchase Agreement, the Bridge Notes automatically converted into the 9,550,274 shares of PubCo Class A Common Stock. The foregoing description of the Bridge Notes does not purport to be complete and is qualified in its entirety by the terms and conditions of the Bridge Notes, a form of which is attached as Exhibit 10.1 to the Current Report of Form 8-K filed by the Company on October 18, 2022 and is incorporated herein by reference.

As previously reported, on December 26, 2023 and December 27, 2023, the Company and certain holders (the "Warrant Holders") of EGA Public Warrants entered into a Warrant Exchange Agreements (the "Warrant Exchange Agreements"), which were privately negotiated with the holders party thereto. The EGA Public Warrants were previously issued pursuant to the Company's public offering registered under the Securities Act of 1933, as amended (the "Securities Act"), pursuant to a prospectus dated May 25, 2021. Pursuant to the Warrant Exchange Agreements, the Warrant Holders agreed to exchange each of its EGA Public Warrants for shares of the Company's Class A Common Stock. As a result of the warrant exchange under the Warrant Exchange Agreements (the "Warrant Exchange"), a total of 1,694,456 EGA Public Warrants were exchanged for 372,780 shares of Class A Common Stock. The foregoing summary of the Warrant Exchange Agreements does not purport to be complete and is qualified in its entirety by reference to the form of Warrant Exchange Agreement attached as Exhibit 10.2 to the Current Report of Form 8-K filed by the Company on December 27, 2023 and is incorporated herein by reference.

Item 3.03 Material Modification to Rights of Security Holders.

On the Closing Date, in connection with the completion of the Business Combination, the Company adopted the Second A&R Certificate of Incorporation and PubCo Bylaws. Pursuant to the Second A&R Certificate of Incorporation, there are 325,000,000 shares authorized, of which 200,000,000 shares are shares of PubCo Class A Common Stock, 100,000,000 shares are shares of PubCo Class B Common Stock and 25,000,000 shares are shares of undesignated preferred stock. The disclosure set forth in the sections titled "Description of EGA Securities" and "Description of PubCo Securities" beginning on pages 297 and 312, respectively, in the Proxy Statement is incorporated herein by reference.

The foregoing description of the Second A&R Certificate of Incorporation and PubCo Bylaws does not purport to be complete and is qualified in its entirety by the terms of the Second A&R Certificate of Incorporation and PubCo Bylaws, which are attached hereto as Exhibits 3.1 and 3.2, respectively, and are incorporated herein by reference.

The material terms of each of the Second A&R Certificate of Incorporation and the PubCo Bylaws and the general effect upon the rights of holders of the Company's capital stock are included in the Proxy Statement under the sections titled "Proposal No. 1 — The Transaction Proposal — Related Agreements — A&R PubCo Charter," "Proposal No. 1 — The Transaction Proposal — Related Agreements — Anti-Takeover Effects of the A&R PubCo Charter and the PubCo Bylaws" and "Description of PubCo Securities" beginning on pages 163, 165 and 312 of the Proxy Statement, respectively, which are incorporated herein by reference.

Item 4.01. Changes in Registrant's Certifying Accountant.

On December 27, 2023, the Board approved the engagement of Elliott Davis, PLLC ("Elliott Davis") as the independent registered public accounting firm to audit the Company's consolidated financial statements for the year ending December 31, 2023. Accordingly, Marcum LLP ("Marcum"), EGA's independent registered public accounting firm prior to the Business Combination, was informed that it would be dismissed and replaced by Elliott Davis as the Company's independent registered public accounting firm.

Marcum's report on the Company's balance sheets as of December 31, 2022 and 2021, the related consolidated statements of income, stockholders' deficit and cash flows for the year ended December 31, 2022 and for the period from January 28, 2021 (inception) through December 31, 2021 and the related notes (collectively, the "EGA financial statements") did not contain any adverse opinion or disclaimer of opinion, nor were they qualified or modified as to uncertainty, audit scope or accounting principles, except for the substantial doubt about the Company's ability to continue as a going concern.

During the period from January 28, 2021 (inception), through December 31, 2022, and subsequent interim periods through December 27, 2023, there were no disagreements between EGA and Marcum on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of Marcum, would have caused Marcum to make reference to the subject matter of the disagreement in connection with its report covering such period.

During the period from January 28, 2021 (inception) through December 31, 2022, and the interim period through December 27, 2023, neither the Company or anyone acting on its behalf consulted Elliott Davis with respect to either (i) the application of accounting principles to a specified transaction, either completed or proposed; or the type of audit opinion that might be rendered on the Company's financial statements, and no written report or oral advice was provided to the Company by Elliott Davis that Elliott Davis concluded was an important factor considered by the Company in reaching a decision as to the accounting, auditing or financial reporting issue; or (ii) any matter that was either the subject of a disagreement, as that term is described in Item 304(a)(1)(iv) of Regulation S-K under the Exchange Act and the related instructions to Item 304 of Regulation S-K under the Exchange Act, or a reportable event, as that term is defined in Item 304(a)(1)(v) of Regulation S-K under the Exchange Act.

The Company has provided Marcum with a copy of the disclosures made by the Company in response to this Item 4.01 and has requested that Marcum furnish the Company with a letter addressed to the SEC stating whether it agrees with the statements made by the Company in response to this Item 4.01 and, if not, stating the respects in which it does not agree. A letter from Marcum is included as Exhibit 16.1 to this Current Report.

Item 5.01. Changes in Control of Registrant.

The information set forth under in the sections titled "Proposal No. 1 — The Transaction Proposal" beginning on page 147 of the Proxy Statement and "Introductory Note" and Item 2.01 in this Current Report on Form 8-K is incorporated herein by reference.

There are no known arrangements which may at a subsequent date result in a change in control of the Company.

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

Election of Directors and Appointment of Officers

Information with respect to the Company's directors and executive officers immediately after the Closing is set forth in the section entitled "PubCo Management After the Business Combination" beginning on page 279 in the Proxy Statement and Item 5.02 of this Current Report on Form 8-K and is incorporated herein by reference.

On December 27, 2023, at the Special Meeting, each of Thomas James Segrave, Jr., Gary Fegel, Michael S. Fox, Frank B. Holding, Jr., Gregg S. Hymowitz, Peter B. Hopper and Thomas J. Segrave, Sr. were elected by the stockholders to serve as directors of the Company, with Mr. Segrave, Jr. appointed as chairman of the board, in each case, effective upon the completion of the Business Combination. Biographical information with respect to such directors is set forth in the section entitled "PubCo Management After the Business Combination" beginning on page 279 of the Proxy Statement and is incorporated herein by reference.

On December 27, 2023, Mr. Segrave, Jr. was appointed to serve as the Company's Chief Executive Officer (and as the Company's "principal executive officer" for SEC filing purposes), Billy Barnard was appointed to serve as Interim Chief Financial Officer (and as the Company's "principal financial officer" and "principal accounting officer" for SEC filing purposes), and Michael Guina was appointed to serve as Chief Operating Officer. Biographical information for these individuals is set forth in the section entitled "PubCo Management After the Business Combination" beginning on page 279 of the Proxy Statement and is incorporated by reference herein.

Departure of Directors and Certain Officers

In connection with the Business Combination, effective upon the Closing Date, each of Sophia Park Mullen, Louise Curbishley, Linda Hall Daschle, Jonathan Silver, Noorsurainah Tengah resigned as directors of the Company, and Thomas James Segrave, Jr. replaced Gary Fegel as chairman of the board of directors, although Mr. Fegel will continue as a director of the Company. Effective upon the Closing Date, each of Gregg S. Hymowitz and Sophia Park Mullen resigned as executive officers of the Company.

2023 Equity Incentive Plan

On December 27, 2023, the PubCo 2023 Equity Incentive Plan (the "2023 Plan") became effective. The 2023 Plan was approved by EGA's stockholders at the Special Meeting on December 7, 2023. The purpose of the 2023 Plan is to attract, motivate, and retain employees and other service providers, to further align participants' interests with those of our stockholders, and to provide participants incentive compensation opportunities that are competitive with those offered by other companies in the same industry and locations as ours. The 2023 Plan provides for grants of stock-based compensation awards, including without limitation, form of stock options, stock appreciation rights, restricted stock, restricted stock units, dividend equivalent rights, or other stock awards to our employees, consultants, and directors, or collectively, participants. The 2023 Plan is administered by the PubCo Board or a committee designated by the PubCo Board constituted in a manner that permits grants of awards to our officers or directors and related transactions to be exempt from Section 16(b) of the Exchange Act. The plan administrator has the full authority to select recipients of the grants, determine the type, terms and conditions of each award (including any vesting schedule), establish additional terms, conditions, rules, or procedures to accommodate rules or laws of applicable non-U.S. jurisdictions, adjust awards, and to take any other action deemed appropriate; however, no action may be taken that is inconsistent with the terms of the 2023 Plan.

The Company has reserved a total of 6,000,000 shares of PubCo Class A Company Common Stock for issuance pursuant to the 2023 Plan and the maximum number of shares that may be issued pursuant to the exercise of incentive stock options granted under the 2023 Plan is 6,000,000, in each case, subject to certain adjustments set forth therein.

The information set forth in the section entitled "Proposal No. 5 — The PubCo Equity Incentive Plan Proposal" beginning on page 205 of the Proxy Statement is incorporated herein by reference. The foregoing description of the 2023 Plan and the information incorporated by reference in the preceding sentence does not purport to be complete and is qualified in its entirety by the terms and conditions of the 2023 Plan, which is incorporated by reference to this Current Report on Form 8-K as Exhibit 10.10.

2023 Employee Stock Purchase Plan

The PubCo 2023 Employee Stock Plan (the "ESPP") was approved by EGA's stockholders at the Special Meeting. The purpose of the ESPP is to provide eligible employees with a convenient means of acquiring an equity interest in the Company through payroll deductions, to enhance such employees' sense of participation in the affairs of the Company, and to provide an incentive for continued employment.

The ESPP is generally be administered by our Compensation Committee, unless the PubCo Board determines to administer the ESPP itself. The administrator has full power and authority to interpret the provisions of the ESPP, determine eligibility and adjudicate all disputes arising under the ESPP, determine the terms and conditions of any right to purchase shares under the ESPP, establish rules and appoint agents for proper administration of the ESPP, amend outstanding rights to purchase shares under the ESPP, and generally make any other determination or take any other action the administrator deems necessary or desirable. The Company will pay all reasonable expenses incurred in connection with the administration of the ESPP.

The Company has reserved a total of 1,500,000 shares of PubCo Class A Company Common Stock for issuance pursuant to the ESPP, subject to certain adjustments set forth therein.

The information set forth in the section entitled "Proposal No. 6 — PubCo ESPP Proposal" beginning on page 214 of the Proxy Statement is incorporated herein by reference. The foregoing description of the ESPP and the

information incorporated by reference in the preceding sentence does not purport to be complete and is qualified in its entirety by the terms and conditions of the ESPP, which is incorporated by reference to this Current Report on Form 8-K as Exhibit 10.11.

Compensatory Arrangements for Directors and Executive Officers

On December 27, 2023, in connection with the completion of the Business Combination, the Company assumed the employment agreements that LGM entered into with certain of its executive officers: Jim Segrave and Mike Guina, summarized in the section entitled "Executive and Director Compensation of LGM - Employment Agreements with our Named Executive Offers" beginning on page 284 in the Proxy Statement and forms of which are attached hereto as Exhibit 10.8 and 10.9, respectively and are incorporated herein by reference. Further information with respect to the Company's directors and executive officers immediately after the Closing is set forth in the section entitled "Compensation of Executive Officers and Directors after the Business Combination" beginning on page 286 in the Proxy Statement and Item 5.02 of this Current Report on Form 8-K and is incorporated herein by reference.

The Company intends to develop an executive compensation program that is designed to align compensation with PubCo's business objectives and the creation of shareholder value, while enabling PubCo to attract, retain, incentivize and reward individuals who contribute to the long-term success of PubCo.

Item 5.06. Change in Shell Company Status.

As a result of the Business Combination, EGA ceased being a shell company. The material terms of the Business Combination are described in the section entitled "Proposal No. 1 — The Transaction Proposal" beginning on page 147 of the Proxy Statement, in the information set forth under "Introductory Note" and in the information set forth under Item 2.01 in this Current Report on Form 8-K, each of which is incorporated herein by reference.

Item 9.01. Financial Statement and Exhibits.

(a) Financial statements of businesses acquired

The unaudited financial statements of LGM as of and for the nine months ended September 30, 2023 and 2022 are set forth in Exhibit 99.1 hereto and are incorporated herein by reference. LGM's audited financial statements are set forth in the Proxy Statement beginning on page F-55 and are incorporated herein by reference.

(b) Pro Forma Financial Information

The information set forth in Exhibit 99.2 to this Current Report on Form 8-K, which includes the unaudited pro forma condensed combined financial information of the Company as of and for the nine months ended September 30, 2023, is incorporated herein by reference. The unaudited pro forma condensed combined financial information as set forth in the Proxy Statement beginning on page 115 are incorporated herein by reference.

(d) Exhibits.

Exhibit No.	Document
2.1*	Equity Purchase Agreement, dated as of October 17, 2022, by and among LGM Enterprises LLC, EGA Acquisition Corp., EG Sponsor LLC, the Existing Equityholder Representative and the Existing Equityholders listed on Annex A thereto (incorporated by reference to the Registrant's Current Report on Form 8-K, filed with the SEC on October 18, 2022).
2.2	Amendment No. 1 to Equity Purchase Agreement, dated as of April 21, 2023, by and among LGM Enterprises, LLC, EG Acquisition Corp. and the LGM Existing Equityholders listed on Annex A of the Equity Purchase Agreement (incorporated by reference to the Registrant's Current Report on Form 8-K, filed with the SEC on April 21, 2023).
3.1	Second Amended and Restated Certificate of Incorporation of EG Acquisition Corp.
3.2	Bylaws of flyExclusive, Inc.
4.1	Warrant Agreement, dated May 25, 2021, between EG Acquisition Corp. and Continental Stock Transfer & Trust Company, as warrant agent (incorporated by reference to the Registrant's Current Report on Form 8-K, filed with the SEC on June 1, 2021).
10.1	Stockholders' Agreement, dated as of December 27, 2023 by and among EG Acquisition Corp., Thomas James Segrave, Jr., the Existing Equityholders listed therein and EG Sponsor LLC.
10.2	Amended and Restated Registration Rights Agreement, dated as of December 27, 2023, by and among EG Acquisition Corp., EG Sponsor LLC, EnTrust Emerald (Cayman) LP, ETG FE LLC, ETG Omni LLC, EnTrust Magnolia Partners LP, and other parties thereto.
10.3	Tax Receivable Agreement, dated as of December 27, 2023, by and among EG Acquisition Corp., LGM Enterprises, LLC, Thomas James Segrave, Jr., as TRA Holder Representative, and the TRA Holders named therein.
10.4	Amended and Restated Operating Agreement of LGM Enterprises, LLC.
10.5*	Senior Subordinated Convertible Note, dated as of October 17, 2022, by and among LGM Enterprises, LLC, as the Borrower, Entrust Emerald (Cayman) LP, as the Initial Noteholder, any noteholders party thereto from time to time and EG Acquisition Corp. (incorporated by reference to the Registrant's Current Report on Form 8-K, filed with the SEC on October 18, 2022).
10.6*	Senior Secured Note, dated December 1, 2023, by and among LGM Enterprises LLC, FlyExclusive Jet Share, LLC, ETG FE LLC, Kroll Agency Services Limited, as administrative agent and Kroll Trustee Services Limited, as collateral agent.
10.7†	Form of Director and Officer Indemnification Agreement.
10.8†	Executive Employment Agreement by and between LGM Enterprises, LLC and Thomas James Segrave, Jr., effective April 1, 2023.
10.9†	Executive Employment Agreement by and between LGM Enterprises, LLC and Michael Guina, effective April 21, 2023.
10.10†	flyExclusive Inc. 2023 Equity Incentive Plan.
10.11†	flyExclusive Inc. Employee Stock Purchase Plan.
10.12	Master Note between Exclusive Jets, LLC as Borrower, and The Northern Trust Company as Lender, dated as of March 15, 2023.
10.13	Sublease Agreement, dated January 1, 2021, by and between Kinston Jet Center, LLC and Exclusive Jets, LLC.
10.14	Form of Letter Agreement among the Registrant, EG Sponsor LLC and each of the executive officers and directors of the Registrant (incorporated by reference to the Registrant's amendment to its Registration Statement on Form S-1/A, filed with the SEC on May 11, 2021).
10.15	Form of Non-Redemption Agreement, dated December 26, 2023, by and among the Company, LGM, Mr. Segrave and an unaffiliated third party investor (incorporated by reference to the Registrant's Current Report on Form 8-K, filed with the SEC on December 27, 2023).
10.16*	Form of Warrant Exchange Agreement, dated December 26, 2023, by and between the Company and various Holders (incorporated by reference to the Registrant's Current Report on Form 8-K, filed with the SEC on December 27, 2023).
16.1	Letter from Marcum LLP to the Securities and Exchange Commission, dated January 3, 2024.

21.1	List of Subsidiaries.
99.1	Unaudited financial statements of LGM Enterprises, LLC as of September 30, 2023 and for the nine months ended September 30, 2023 and 2022.
99.2	Unaudited pro forma condensed combined financial information of the Company as of and for the nine months ended September 30, 2023.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

* Certain schedules and exhibits to this Exhibit have been omitted pursuant to Item 601(a)(5), Item 601(b)(10)(iv) or 601(b)(2), as applicable, of Regulation S-K. The Registrant agrees to furnish supplemental copies of all omitted exhibits and schedules to the Securities and Exchange Commission upon its request.

† Indicates a management contract or compensatory plan.

SIGNATURE

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

Dated: January 3, 2024

FLYEXCLUSIVE, INC.

By: /s/ Thomas James Segrave, Jr.
Name: Thomas James Segrave, Jr.
Title: Chief Executive Officer and Chairman

Exhibit 3.1

SECOND AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
of
EG ACQUISITION CORP.
(Pursuant to Section 242 and 245 of
the General Corporation Law of the State of Delaware)
December 27, 2023

EG Acquisition Corp., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies as follows:

1. The name of the Corporation is EG Acquisition Corp. The Corporation was incorporated under the same name by the filing of its original certificate of incorporation of the Corporation with the Secretary of State of the State of Delaware on January 28, 2021.

2. This Second Amended and Restated Certificate of Incorporation (this "Amended Certificate of Incorporation") amends, integrates and restates in its entirety the Corporation's certificate of incorporation as currently in effect as follows, and has been duly adopted in accordance with the provisions of Sections 228, 242 and 245 of the General Corporation Law of the State of Delaware (as from time to time in effect, the "General Corporation Law").

3. The text of the certificate of incorporation of the Corporation, as heretofore amended, is hereby amended and restated by this Amended Certificate of Incorporation to read in its entirety as set forth in EXHIBIT A attached hereto.

IN WITNESS WHEREOF, EG Acquisition Corp. has caused this Amended Certificate of Incorporation to be signed by a duly authorized officer of the Corporation, on December 27, 2023.

EG ACQUISITION CORP.,
a Delaware corporation

By: /s/ Thomas James Segrave, Jr.
Name: Thomas James Segrave, Jr.
Title: Chief Executive Officer

EXHIBIT A

SECOND AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
FLYEXCLUSIVE, INC.

1. Name. The name of the corporation is flyExclusive, Inc. (the "Corporation").

2. Address; Registered Office and Agent. The address of the Corporation's registered office in the State of Delaware is 251 Little Falls Drive, Wilmington, New Castle County, Delaware, 19808, and the name of the Corporation's registered agent at such address is Corporation Service Company.

3. Purpose. The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware (the "General Corporation Law") as it now exists or may hereafter be amended and supplemented.

4. Number of Shares.

4.1 The total number of shares of all classes of stock that the Corporation shall have authority to issue is 325,000,000 shares, consisting of:

(a) 200,000,000 shares of Class A common stock, with the par value of $0.0001 per share (the "Class A Common Stock"),

(b) 100,000,000 shares of Class B common stock, with the par value of $0.0001 per share (the "Class B Common Stock" and together with the Class A Common Stock and the Class B Common Stock, the "Common Stock"); and

(c) 25,000,000 shares of Preferred Stock, with the par value of $0.0001 per share ("Preferred Stock").

Upon the filing of this Amended Certificate of Incorporation (the "Effective Time"), each share of Class B Common Stock, par value $0.0001 per share of the Corporation issued and outstanding immediately prior to the Effective Time shall, automatically without any further action by the Corporation or any stockholder, be reclassified into one fully paid and nonassessable share of Class A Common Stock.

4.2 The number of authorized shares of any class of the Common Stock may be increased or decreased, in each case by (in addition to any vote of the holders of Preferred Stock that may be required by the terms of this Amended Certificate of Incorporation) the affirmative vote of the holders of a majority of the total voting power of the outstanding shares of capital stock of the Corporation entitled to vote thereon, voting together as a single class, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law, and no vote of the holders of any class of the Common Stock voting separately as a class will be required therefor. Notwithstanding the immediately preceding sentence, the number of authorized shares of any particular class may not be decreased below the number of shares of such class then outstanding, plus:

(a) in the case of Class A Common Stock, the number of shares of Class A Common Stock issuable (x) assuming the exchange of all outstanding common units of the OpCo (the "Common Units") for Class A Common Stock, as a result of Redemptions pursuant to the applicable provisions of Article 11 of the OpCo Operating Agreement (including for this purpose any Common Units issuable upon the exercise of any options, warrants or similar rights to acquire Common Units) and (y) in connection with the exercise of all outstanding options, warrants, exchange rights (other than Redemptions pursuant to clause (x)), conversion rights or similar rights for Class A Common Stock; and

(b) in the case of Class B Common Stock, the number of shares of Class B Common Stock issuable in connection with the exercise of all outstanding options, warrants, exchange rights, conversion rights or similar rights for Class B Common Stock.

5. Classes of Shares. The designation, relative rights, power and preferences, qualifications, restrictions and limitations of the shares of each class of stock are as follows.

5.1 Common Stock.

(a) Voting Rights.

(i) (A) Each share of Class A Common Stock will entitle the record holder thereof to one vote on all matters on which stockholders generally are entitled to vote; and (B) each share of Class B Common Stock will entitle the record holder thereof to one vote on all matters on which stockholders generally are entitled to vote on all matters on which stockholders generally are entitled to vote, except that, in each case, to the fullest extent permitted by law; provided, however, that, except as otherwise required by law, holders of Common Stock shall not be entitled to vote on any amendment to this Amended Certificate of Incorporation (including any certificate of designation filed with respect to any series of Preferred Stock) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together as a class with the holders of one or more other such series, to vote thereon by law or pursuant to this Amended Certificate of Incorporation (including any certificate of designation filed with respect to any series of Preferred Stock).

(ii) Except as otherwise required in this Amended Certificate of Incorporation or by applicable law, the holders of Common Stock will vote together as a single class on all matters.

(b) Dividends; Stock Splits or Combinations.

(i) Subject to applicable law and the rights, if any, of the holders of any class or series of stock having a preference senior to or the right to participate with the Class A Common Stock with respect to the payment of dividends, dividends of cash or property may be declared and paid on the Class A Common Stock out of the assets of the Corporation that are by law available therefor, at the times and in the amounts as the Board in its discretion may determine.

(ii) Except as provided in Section 5.1(b)(iii) with respect to stock dividends, dividends of cash or property may not be declared or paid on the Class B Common Stock.

(iii) In no event will any stock dividend, stock split, reverse stock split, combination of stock, reclassification or recapitalization (each, a "Stock Adjustment") be declared or made on any class of Common Stock unless a corresponding Stock Adjustment for all other classes of Common Stock at the time outstanding is made in the same proportion and the same manner (unless the holders of shares representing a majority of the voting power of any such other class of Common Stock (voting separately as a single class) waive such requirement in advance and in writing, in which event no such Stock Adjustment need be made for such other class of Common Stock). Notwithstanding the foregoing, the Corporation shall be entitled to (A) declare a stock dividend on the Class A Common Stock only in the event that such stock dividend is made in connection with the issuance of Common Units by OpCo to the Corporation in exchange for additional capital contributions made by the Corporation to OpCo and (B) declare a stock split or stock dividend in connection with the repurchase of shares of Class A Common Stock such that after giving effect to such repurchase and subsequent stock split or stock dividend there shall be outstanding an equal number of shares of Class A Common Stock as were outstanding prior to such repurchase and subsequent stock split or stock dividend, in each case (A) and (B), without any corresponding Stock Adjustment to the other classes of Common Stock. Stock dividends with respect to each class of Common Stock may only be paid with shares of stock of the same class of Common Stock.

(c) Liquidation. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, after payment or provision for payment of the debts and other liabilities of the Corporation and of the preferential and other amounts, if any, the holders of all outstanding shares of Common Stock will be entitled to receive, *pari passu*, an amount per share equal to the par value thereof, and thereafter the holders of all outstanding shares of Class A Common Stock will be entitled to receive the remaining assets of the Corporation available for distribution ratably in proportion to the number of shares of Class A Common Stock held by such holders. The holders of shares of Class B Common Stock, as such, will not be entitled to receive, with respect to such shares, any assets of the Corporation in excess of the par value thereof, in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

(d) Restriction on Issuance of Class B Common Stock. No shares of Class B Common Stock may be issued by the Corporation except to a holder of Common Units, such that after such issuance of Class B Common Stock such holder of Common Units holds an identical number of Common Units, as applicable, and shares of Class B Common Stock.

(e) Restriction on Transfer of Class B Common Stock. A holder of Class B Common Stock may transfer or assign shares of Class B Common Stock (or any legal or beneficial interest in such shares) (directly or indirectly, including by operation of law) only to a Permitted Transferee of such holder, and only if such holder also simultaneously transfers an equal number of such holder's Common Units to such Permitted Transferee in compliance with the OpCo Operating Agreement. Any purported transfer of shares of Class B Common Stock in violation of the preceding sentence shall be null and void and shall not be recognized by the Corporation, the Corporation's transfer agent or the Secretary of the Corporation.

5.2 Preferred Stock. The Preferred Stock may be issued from time to time in one or more series. The Board is hereby expressly authorized to provide for the issue of all or any of the shares of the Preferred Stock in one or more series, and to fix the number of shares and to determine or alter for each such series, such voting powers, full or limited, or no voting powers, and such designation, preferences, and relative, participating, optional, or other rights and such qualifications, limitations, or restrictions thereof, as shall be stated and expressed in the resolution or resolutions adopted by the Board providing for the issuance of such shares and as may be permitted by the DGCL. The Board is also expressly authorized to increase or decrease the number of shares of any series subsequent to the issuance of shares of that series, but not below the number of shares of such series then outstanding. In case the number of shares of any series shall be decreased in accordance with the foregoing sentence, the shares constituting such decrease shall resume the status that they had prior to the adoption of the resolution originally fixing the number of shares of such series. The number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the voting power of the stock of the Corporation entitled to vote thereon, without a separate vote of the holders of the Preferred Stock, or of any series thereof, unless a vote of any such holders is required pursuant to the terms of any certificate of designation filed with respect to any series of Preferred Stock.

6. Certain Provisions Related to Redemption Rights.

6.1 Reservation of Shares of Class A Common Stock for Redemptions. The Corporation will at all times reserve and keep available out of its authorized and unissued shares of Class A Common Stock, for the purposes of effecting any exchanges pursuant to the applicable provisions of Article 11 of the OpCo Operating Agreement, the number of shares of Class A Common Stock that are issuable in connection with the exchange of all outstanding Common Units as a result of any Redemption or Direct Exchange pursuant to the applicable provisions of Article 11 of the OpCo Operating Agreement (including for this purpose any Common Units issuable upon the exercise of any options, warrants or similar rights to acquire Common Units), as applicable (without regard to any restrictions on Redemption contained therein and assuming no Redemptions for cash). The Corporation covenants that all the shares of Class A Common Stock that are issued upon any such Redemption or exchange of such Common Units will, upon issuance, be validly issued, fully paid and non-assessable.

6.2 Retirement of Class B Common Stock. In the event that a share of Class A Common Stock is issued as a result of any Redemption or Direct Exchange of a Common Unit outstanding as of the effective date of the OpCo Operating Agreement, pursuant to the applicable provisions of Article 11 of the OpCo Operating Agreement, a share of Class B Common Stock held by the holder of such Common Unit in its sole discretion will automatically and without further action on the part of the Corporation or the holder thereof be transferred to the Corporation for no consideration and thereupon the Corporation shall promptly take all necessary action to cause such share to be retired, and such share thereafter may not be reissued by the Corporation.

6.3 Taxes. The issuance of shares of Class A Common Stock pursuant to the applicable provisions of Article 11 of the OpCo Operating Agreement will be made without charge to the applicable holder of Common Units receiving such shares in redemption or exchange for Common Units for any transfer taxes, stamp taxes or duties or other similar tax in respect of the issuance.

7. Board of Directors; Committees.

7.1 Number of Directors. The business and affairs of the Corporation shall be managed by, or under the direction of, the Board. Unless and except to the extent that the by-laws of the Corporation (as such By-laws may be amended from time to time, the "By-laws") shall so require, the election of the directors of the Corporation (the "Directors") need not be by written ballot. Except as otherwise provided for the number of authorized Directors may be fixed from time to time by the Board (subject to the Stockholders' Agreement if then in effect).

7.2 Vacancies and Newly Created Directorships. Subject to obtaining any required stockholder votes or consents under the Stockholders' Agreement (or complying with any stockholders' designation rights under the Stockholders' Agreement) and subject to any limitation imposed by law and the rights of any series of Preferred Stock, newly created directorships resulting from any increase in the authorized number of Directors or any vacancies on the Board resulting from death, resignation, retirement, disqualification, removal from office or other cause shall be filled solely by the affirmative vote of the remaining Directors then in office, even if less than a quorum of the Board. Any Director so chosen shall hold office until the next election of the Directors in which such Director is included and until his or her successor shall be duly elected and qualified or until such Director's earlier death, disqualification, resignation or removal. No decrease in the number of Directors shall shorten the term of any Director then in office.

7.3 Removal of Directors. Subject to obtaining any required stockholder votes or consents under the Stockholders' Agreement and subject to any limitation imposed by law and the rights of any series of Preferred Stock, any Director or the entire Board may be removed from office at any time, with or without cause and only by the affirmative vote of the holders of a majority of the total voting power of the outstanding shares of capital stock of the Corporation entitled to vote generally in the election of Directors, voting together as a single class.

8. General Corporation Law; Section 203 and Business Combinations. The Corporation hereby expressly elects not to be governed by Section 203 of the General Corporation Law.

9. Limitation of Liability.

9.1 A Director or officer of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a Director or officer, as applicable, except for liability of (i) a Director or officer for any breach of the Director's or officer's duty of loyalty to the Corporation or its stockholders, (ii) a Director or officer for acts or omissions not in good faith or which involve, intentional misconduct or a knowing violation of law, (iii) a Director under Section 174 of the DGCL, or (iv) a Director or officer for any transaction from which the Director or officer derived an improper personal benefit, or (v) an officer in any action by or in the right of the Corporation. If applicable law is amended after approval by the stockholders of this Section 9 to authorize corporate action further eliminating or limiting the personal liability of Directors or officers, then the liability of a Director or officer to the Corporation shall be eliminated or limited to the fullest extent permitted by applicable law as so amended.

9.2 To the fullest extent permitted by applicable law, the Corporation is authorized to provide indemnification of (and advancement of expenses to) Directors, officers and agents of the Corporation (and any other persons to which applicable law permits the Corporation to provide indemnification) through Bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested Directors or otherwise in accordance with such applicable law.

9.3 Any repeal or modification of this Section 9 shall only be prospective and shall not adversely affect the rights or protections or increase the liability of any officer or Director of the Corporation under this Section 9 in effect at the time of the alleged occurrence of any act or omission to act giving rise to liability or indemnification and occurring prior to such appeal or modification.

10. Director and Officer Indemnification and Advancement of Expenses.

10.1 To the fullest extent permitted by applicable law, as the same exists or may hereafter be amended, the Corporation shall indemnify and hold harmless each person who is or was made a party or is threatened to be made a party to or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "proceeding") by reason of the fact that he or she is or was a director or officer of the Corporation or any predecessor of the Corporation or, while a director or officer of the Corporation or any predecessor of the Corporation, is or was serving at the request of the Corporation or any predecessor of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, other enterprise or nonprofit entity, including service with respect to an employee benefit plan (an "indemnitee"), whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent, or in any other capacity while serving as a director, officer, employee or agent, against all liability and loss suffered and expenses (including, without limitation, attorneys' fees, judgments, fines, ERISA excise taxes and penalties and amounts paid in settlement) reasonably incurred by such indemnitee in connection with such proceeding. The Corporation shall to the fullest extent not prohibited by applicable law pay the expenses (including attorneys' fees) incurred by an indemnitee in defending or otherwise participating in any proceeding in advance of its final disposition; provided, however, that, to the extent required by applicable law, such payment of expenses in advance of the final disposition of the proceeding shall be made only upon receipt of an undertaking, by or on behalf of the indemnitee, to repay all amounts so advanced if it shall ultimately be determined that the indemnitee is not entitled to be indemnified under this Section 10 or otherwise. The rights to indemnification and advancement of expenses conferred by this Section 10 shall be contract rights and such rights shall continue as to an indemnitee who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators. Notwithstanding the foregoing provisions of this Section 10.1, except for proceedings to enforce rights to indemnification and advancement of expenses, the Corporation shall indemnify and advance expenses to an indemnitee in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof) was authorized by the Board.

10.2 The rights to indemnification and advancement of expenses conferred on any indemnitee by this Section 10 shall not be exclusive of any other rights that any indemnitee may have or hereafter acquire under law, this Amended and Restated Certificate, the By-laws, an agreement, vote of stockholders or disinterested directors, or otherwise.

10.3 Any repeal or amendment of this Section 10 by the stockholders of the Corporation or by changes in law, or the adoption of any other provision of this Amended and Restated Certificate inconsistent with this Section 10, shall, unless otherwise required by law, be prospective only (except to the extent such amendment or change in law permits the Corporation to provide broader indemnification rights on a retroactive basis than permitted prior thereto), and shall not in any way diminish or adversely affect any right or protection existing at the time of such repeal or amendment or adoption of such inconsistent provision in respect of any proceeding (regardless of when such proceeding is first threatened, commenced or completed) arising out of, or related to, any act or omission occurring prior to such repeal or amendment or adoption of such inconsistent provision.

10.4 This Section 10 shall not limit the right of the Corporation, to the extent and in the manner authorized or permitted by law, to indemnify and to advance expenses to persons other than indemnitees.

11. Adoption, Amendment or Repeal of By-laws.

11.1 In furtherance and not in limitation of the powers conferred by law, subject to the Stockholders' Agreement (for so long as it remains in effect), the Board is expressly authorized to make, alter, amend or repeal the By-laws subject to the power of the stockholders of the Corporation entitled to vote with respect thereto to make, alter, amend or repeal the By-laws.

11.2 The stockholders of the Corporation also shall have the power to adopt, amend or repeal the By-laws. Notwithstanding the foregoing, any adoption, amendment or repeal of the By-laws of the Corporation may only be done in accordance with the certificate of incorporation, the Stockholders' Agreement and the General Corporation Law.

12. Adoption, Amendment and Repeal of Certificate. Subject to the Stockholders' Agreement (for so long as it remains in effect) and subject to any limitation imposed by law and the rights of any series of Preferred Stock, the Corporation reserves the right to amend, alter, change or repeal any provision contained in this Amended Certificate of Incorporation, in the manner now or hereafter prescribed by the General Corporation Law, and all rights, preferences and privileges of whatsoever nature conferred upon stockholders, Directors or any other Persons whomsoever by and pursuant to this Amended Certificate of Incorporation in its present form or as hereafter amended, are granted and held subject to this reservation.

13. Severability. If any provision or provisions of this Amended Certificate of Incorporation shall be held to be invalid, illegal or unenforceable as applied to any circumstance for any reason whatsoever: (i) the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Amended Certificate of Incorporation (including, without limitation, each portion of any paragraph of this Amended Certificate of Incorporation containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and (ii) to the fullest extent possible, the provisions of this Amended Certificate of Incorporation (including, without limitation, each such portion of any paragraph of this Amended Certificate of Incorporation containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to permit the Corporation to protect its Directors, officers, employees and agents from personal liability in respect of their good faith service to or for the benefit of the Corporation to the fullest extent permitted by law.

14. Forum Selection.

14.1 Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any Director or officer or other employee of the Corporation to the Corporation or the Corporation's stockholders, creditors or other constituents, (iii) any action asserting a claim against the Corporation or any Director or officer or other employee of the Corporation arising pursuant to any provision of the General Corporation Law of the State of Delaware or this Certificate of Incorporation or the By-laws (as each may be amended from time to time), (iv) any action asserting a claim against the Corporation or any Director or officer or other employee of the Corporation governed by the internal affairs doctrine; or (v) any action asserting an "internal corporate claim" as that term is defined in Section 115 of the General Corporation Law of the State of Delaware, in all cases to the fullest extent permitted by law and subject to the court's having personal jurisdiction over the indispensable parties named as defendants provided, that, if and only if the Court of Chancery of the State of Delaware dismisses any such action for lack of subject matter jurisdiction, such action may be brought in another state court sitting in the State of Delaware (or, if no state court located within the State of Delaware has jurisdiction, the federal district court for the District of Delaware).

14.2 Unless the Corporation consents in writing to the selection of an alternative forum, the federal district courts of the United States of America shall, to the fullest extent permitted by law, be the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act of 1933, as amended.

15. Restrictions on Ownership.

15.1 At no time shall more than 25% of the voting interest of the Corporation be owned or controlled by persons who are not "citizens of the United States" (as defined in Title 49, United States Code, Section 40102 and administrative interpretations thereof issued by the Department of Transportation or its predecessor or successors, or as the same may be from time to time amended) ("Non-Citizens"). In the event that Non-Citizens shall own (beneficially or of record) or have voting control over any shares of capital stock of the Corporation, the voting rights of such persons shall be subject to automatic suspension to the extent required to ensure that the Corporation remains a "citizen of the United States," as defined immediately above. The By-laws shall contain provisions to implement this Section 15, including, without limitation, provisions restricting or prohibiting transfer of shares of voting stock to Non-Citizens and provisions restricting or removing voting rights as to shares of voting stock owned or controlled by Non-Citizens. Any determination as to ownership, control or citizenship made by the Board shall be conclusive and binding as between the Corporation and any stockholder for purposes of this Section 15.

15.2 Each certificate, notice or other representative document for capital stock of the Corporation with voting rights (including each such certificate, notice or representative document for capital stock issued upon any permitted transfer of capital stock) shall contain a legend in substantially the following form:

"THE SECURITIES OF FLYEXCLUSIVE, INC. REPRESENTED BY THIS CERTIFICATE, NOTICE OR DOCUMENT ARE SUBJECT TO VOTING RESTRICTIONS WITH RESPECT TO CERTAIN SECURITIES HELD BY PERSONS OR ENTITIES THAT FAIL TO QUALIFY AS "CITIZENS OF THE UNITED STATES" AS DEFINED IN SECTION 40102(A)(15) OF TITLE 49 OF THE UNITED STATES CODE, AS AMENDED, IN ANY SIMILAR LEGISLATION OF THE UNITED STATES ENACTED IN SUBSTITUTION OR REPLACEMENT THEREFOR, AND AS INTERPRETED BY THE DEPARTMENT OF TRANSPORTATION, ITS PREDECESSORS AND SUCCESSORS, FROM TIME TO TIME. SUCH VOTING RESTRICTIONS ARE CONTAINED IN THE CERTIFICATE OF INCORPORATION AND THE BY-LAWS OF FLYEXCLUSIVE, INC. AS THE SAME MAY BE AMENDED OR RESTATED FROM TIME TO TIME. A COMPLETE AND CORRECT COPY OF THE CERTIFICATE OF INCORPORATION AND THE BY-LAWS SHALL BE FURNISHED FREE OF CHARGE TO THE HOLDER OF THE SECURITIES REPRESENTED HEREBY UPON WRITTEN REQUEST TO THE SECRETARY OF THE CORPORATION."

16. Definitions. As used in this Amended Certificate of Incorporation, unless the context otherwise requires or as set forth in another Article or Section of this Amended Certificate of Incorporation, the term:

(a) "Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with such Person; provided, that (i) neither the Corporation nor any of its subsidiaries will be deemed an Affiliate of any stockholder of the Corporation or any of such stockholders' Affiliates and (ii) no stockholder of the Corporation will be deemed an Affiliate of any other stockholder of the Corporation, in each case, solely by reason of any investment in the Corporation or any rights conferred on such stockholder pursuant to the Stockholders' Agreement (including any representatives of such stockholder serving on the Board).

(b) "Amended Certificate of Incorporation" means this Second Amended and Restated Certificate of Incorporation.

(c) "Board" means the board of directors of the Corporation.

(d) "By-laws" is defined in Section 7.1.

(e) "Class A Common Stock" is defined in Section 4.1.

(f) "Class B Common Stock" is defined in Section 4.1.

(g) "Common Stock" is defined in Section 4.1.

(h) "Common Unit" means a Common Unit of OpCo.

(i) "control" (including the terms "controlling" and "controlled"), with respect to the relationship between or among two or more Persons, means the possession, directly or indirectly, of the power to direct or cause the direction of the affairs or management of such subject Person, whether through the ownership of voting securities, as trustee or executor, by contract or otherwise.

(j) "Corporation" is defined in the introductory paragraph.

(k) "DGCL" is defined as the Delaware General Corporation Law.

(l) "Direct Exchange" has the meaning set forth in the OpCo Operating Agreement.

(m) "Director" is defined in Section 7.1.

(n) "General Corporation Law" is defined in the recitals.

(o) "OpCo" means LGM Enterprises, LLC, a North Carolina limited liability company, or any successor thereto.

(p) "OpCo Operating Agreement" means the Amended and Restated Limited Liability Company Operating Agreement of OpCo, dated as of December 27, 2023, as the same may be amended, restated, supplemented and/or otherwise modified, from time to time.

(q) "Permitted Transfer" has the meaning set forth in the OpCo Operating Agreement.

(r) "Person" means any individual, general partnership, limited partnership, limited liability company, corporation, trust, business trust, joint stock company, joint venture, unincorporated association, cooperative or association or any other legal entity or organization of whatever nature, and shall include any successor (by merger or otherwise) of such entity.

(s) "Preferred Stock" has the meaning set forth in Section 4.1(c).

(t) "Redemption" has the meaning set forth in the OpCo Operating Agreement.

(u) "Share Settlement" has the meaning set forth in the OpCo Operating Agreement.

(v) "Stock Adjustment" is defined in Section 5.1(b)(iii).

(w) "Stockholders' Agreement" means the Stockholders' Agreement, dated as of December 27, 2023, by and among the Managing Member (as defined therein) and the other parties thereto or that may become parties thereto from time to time, as the same may be amended, restated, supplemented and/or otherwise modified, from time to time.

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BYLAWS
OF
FLYEXCLUSIVE, INC.

I. CORPORATE OFFICES

1.1 Registered Office

The registered office of flyExclusive, Inc. (the "Corporation") is 251 Little Falls Drive, Wilmington, New Castle County, Delaware, 19808. The name of the registered agent of the Corporation at such location is Corporation Service Company.

1.2 Other Offices

The board of directors (the "Board") may at any time establish other offices at any place or places where the Corporation is qualified to do business.

II. MEETINGS OF STOCKHOLDERS

2.1 Place of Meetings

Meetings of stockholders shall be held at any place, within or outside the State of Delaware, designated by the Board. The Board may, in its sole discretion, determine that a meeting shall not be held at any place, but may instead be held solely by means of remote communication as authorized by Section 211 of the Delaware General Corporation Law (the "DGCL").

If authorized by the Board in its sole discretion, and subject to such guidelines and procedures as the Board may adopt, stockholders and proxyholders not physically present at a meeting of stockholders may, by means of remote communication, participate in a meeting of stockholders, be deemed present in person and vote at a meeting of stockholders whether such meeting is to be held at a designated place or solely by means of remote communication, provided that (a) the Corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a stockholder or proxyholder, (b) the Corporation shall implement reasonable measures to provide such stockholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the stockholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings, and (c) if any stockholder or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the Corporation.

2.2 Annual Meeting

The annual meeting of stockholders shall be held each year on a date and at a time designated by the Board. In the absence of such designation, the annual meeting of stockholders shall be held on the third Monday in April in each year at 1:00 p.m. However, if such day falls on a legal holiday, then the meeting shall be held at the same time and place on the next succeeding full business day. At the meeting, directors shall be elected and any other proper business may be transacted.

2.3 Special Meeting

Special meetings of the stockholders may be called, at any time for any purpose or purposes, by the Board or by such person or persons as may be authorized by the certificate of incorporation (the "Certificate of

Incorporation") or these bylaws (the "Bylaws"), or by such person or persons duly designated by the Board whose powers and authority, as expressly provided in a resolution of the Board, include the power to call such meetings, but such special meetings may not be called by any other person or persons.

2.4 Advance Notice Procedures for Business Brought before a Meeting.

(a) At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (i) specified in a notice of meeting given by or at the direction of the Board, (ii) if not specified in a notice of meeting, otherwise brought before the meeting by the Board or the chairperson of the meeting, or (iii) otherwise properly brought before the meeting by a stockholder present in person who (A) (1) was a stockholder of the Corporation both at the time of giving the notice provided for in this Section 2.4 and at the time of the meeting, (2) is entitled to vote at the meeting and (3) has complied with this Section 2.4 or (B) properly made such proposal in accordance with Rule 14a-8 under the Securities Exchange Act of 1934, as amended and the rules and regulations thereunder (as so amended and inclusive of such rules and regulations, the "Exchange Act"), which proposal has been included in the proxy statement for the annual meeting. The foregoing clause (iii) shall be the exclusive means for a stockholder to propose business to be brought before an annual meeting of the stockholders. The only matters that may be brought before a special meeting are the matters specified in the Corporation's notice of meeting given by or at the direction of the Person calling the meeting pursuant to the Certificate of Incorporation and Section 2.3 of these Bylaws.

(b) For purposes of this Section 2.4 and Section 2.5 of these Bylaws, as applicable, "present in person" shall mean that the stockholder proposing that the business be brought before the annual or special meeting of the Corporation, or, if the proposing stockholder is not an individual, a qualified representative of such proposing stockholder, appear at such annual meeting, and a "qualified representative" of such proposing stockholder shall be (i) any person who is authorized in writing by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders or (ii) if such proposing stockholder is (A) a general or limited partnership, any general partner or Person who functions as a general partner of the general or limited partnership or who controls the general or limited partnership, (B) a corporation or a limited liability company, any officer or Person who functions as an officer of the corporation or limited liability company or any officer, director, general partner or Person who functions as an officer, director or general partner of any entity ultimately in control of the corporation or limited liability company or (C) a trust, any trustee of such trust. This Section 2.4 shall apply to any business that may be brought before an annual or special meeting of stockholders other than nominations for election to the Board at an annual meeting, which shall be governed by Section 2.5 of these Bylaws. Stockholders seeking to nominate persons for election to the Board must comply with Section 2.5 of these Bylaws, and this Section 2.4 shall not be applicable to nominations for election to the Board except as expressly provided in Section 2.5 of these Bylaws.

(c) Without qualification, for business to be properly brought before an annual meeting by a stockholder pursuant to Section 2.4(d)(iii), (i) the stockholder must provide Timely Notice (as defined below) thereof in writing and in proper form to the Secretary of the Corporation (the "Secretary"), (ii) the stockholder must provide any updates or supplements to such notice at the times and in the forms required by this Section 2.4 and (iii) the proposed business must constitute a proper matter for stockholder action. To be timely, a stockholder's notice must be delivered to, or mailed and received at, the principal executive offices of the Corporation not less than ninety (90) days nor more than one hundred twenty (120) days prior to the one-year anniversary of the preceding year's annual meeting (which, in the case of the first annual meeting of stockholders following the closing of the Corporation's initial underwritten public offering of common stock, the preceding year's annual meeting date shall be deemed to be June 5, 2021); *provided, however*, that if the date of the annual meeting is more than thirty (30) days before or more than sixty (60) days after such anniversary date, notice by the stockholder to be timely must be so delivered, or mailed and received, not later than the ninetieth (90th) day prior to such annual meeting or, if later, the tenth (10th) day following the day on which public disclosure of the date of such annual meeting

was first made (such notice within such time periods, "Timely Notice"). In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period or extend a time period for the giving of Timely Notice as described above.

(d) To be in proper form for purposes of this Section 2.4, a stockholder's notice to the Secretary shall set forth:

(i) As to each Proposing Person (as defined below), (A) the name and address of such Proposing Person (including, if applicable, the name and address that appear on the Corporation's books and records); and (B) the number of shares of each class or series of stock of the Corporation that are, directly or indirectly, owned of record or beneficially owned (within the meaning of Rule 13d-3 under the Exchange Act) by such Proposing Person, except that such Proposing Person shall in all events be deemed to beneficially own any shares of any class or series of stock of the Corporation as to which such Proposing Person has a right to acquire beneficial ownership at any time in the future (the disclosures to be made pursuant to the foregoing clauses (A) and (B) are referred to as "Stockholder Information");

(ii) As to each Proposing Person, (A) the full notional amount of any securities that, directly or indirectly, underlie any "derivative security" (as such term is defined in Rule 16a-1(c) under the Exchange Act) that constitutes a "call equivalent position" (as such term is defined in Rule 16a-1(b) under the Exchange Act) ("Synthetic Equity Position") and that is, directly or indirectly, held or maintained by such Proposing Person with respect to any shares of any class or series of stock of the Corporation; *provided* that, for the purposes of the definition of "Synthetic Equity Position," the term "derivative security" shall also include any security or instrument that would not otherwise constitute a "derivative security" as a result of any feature that would make any conversion, exercise or similar right or privilege of such security or instrument becoming determinable only at some future date or upon the happening of a future occurrence, in which case the determination of the amount of securities into which such security or instrument would be convertible or exercisable shall be made assuming that such security or instrument is immediately convertible or exercisable at the time of such determination; and, *provided*, *further*, that any Proposing Person satisfying the requirements of Rule 13d-1(b)(1) under the Exchange Act (other than a Proposing Person that so satisfies Rule 13d-1(b)(1) under the Exchange Act solely by reason of Rule 13d-1(b)(1)(ii)(E)) shall not be deemed to hold or maintain the notional amount of any securities that underlie a Synthetic Equity Position held by such Proposing Person as a hedge with respect to a bona fide derivatives trade or position of such Proposing Person arising in the ordinary course of such Proposing Person's business as a derivatives dealer, (B) any rights to dividends on the shares of any class or series of stock of the Corporation owned beneficially by such Proposing Person that are separated or separable from the underlying shares of the Corporation, (C) any material pending or threatened legal proceeding in which such Proposing Person is a party or material participant involving the Corporation or any of its officers or directors, or any Affiliate of the Corporation, (D) any other material relationship between such Proposing Person, on the one hand, and the Corporation or any Affiliate of the Corporation, on the other hand, (E) any direct or indirect material interest in any material contract or agreement of such Proposing Person with the Corporation or any Affiliate of the Corporation (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement), (F) any other information relating to such Proposing Person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies or consents by such Proposing Person in support of the business proposed to be brought before the meeting pursuant to Section 14(a) of the Exchange Act (the disclosures to be made pursuant to the foregoing clauses (A) through (F) are referred to as "Disclosable Interests"); *provided*, *however*, that Disclosable Interests shall not include any such disclosures with respect to the ordinary course business activities of any broker, dealer, commercial bank, trust company or other nominee who is a Proposing Person solely as a result of being the stockholder directed to prepare and submit the notice required by these Bylaws on behalf of a beneficial owner and (G) a representation whether any Proposing Person, intends or is part of a group which intends to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal and/or otherwise to solicit proxies or votes from stockholders in support of such proposal; and

(iii) As to each item of business that the stockholder proposes to bring before the annual meeting, (A) a brief description of the business desired to be brought before the annual meeting, the reasons for conducting such business at the annual meeting and any material interest in such business of each Proposing Person, (B) the text of the proposal or business (including the text of any resolutions proposed for consideration), (C) a reasonably detailed description of all agreements, arrangements and understandings (1) between or among any of the Proposing Persons or (2) between or among any Proposing Person and any other Person or entity (including their names) in connection with the proposal of such business by such stockholder and (D) any other information relating to such item of business that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies in support of the business proposed to be brought before the meeting pursuant to Section 14(a) of the Exchange Act; *provided*, *however*, that the disclosures required by this Section 2.4(d) shall not include any disclosures with respect to any broker, dealer, commercial bank, trust company or other nominee who is a Proposing Person solely as a result of being the stockholder directed to prepare and submit the notice required by these Bylaws on behalf of a beneficial owner.

(e) For purposes of this Section 2.4, the term "Proposing Person" shall mean (i) the stockholder providing the notice of business proposed to be brought before an annual meeting, (ii) the beneficial owner or beneficial owners, if different, on whose behalf the notice of the business proposed to be brought before the annual meeting is made, (iii) any participant (as defined in paragraphs (a)(ii)-(vi) of Instruction 3 to Item 4 of Schedule 14A) with such stockholder in such solicitation or (iv) any associate (within the meaning of Rule 12b-2 under the Exchange Act for the purposes of these Bylaws) of such stockholder, beneficial owner or any other participant.

(f) A Proposing Person shall update and supplement its notice to the Corporation of its intent to propose business at an annual meeting, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 2.4 shall be true and correct as of the record date for notice of the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to, or mailed and received by, the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for notice of the meeting (in the case of the update and supplement required to be made as of such record date), and not later than eight (8) business days prior to the date for the meeting or, if practicable, any adjournment or postponement thereof (and, if not practicable, on the first practicable date prior to the date to which the meeting has been adjourned or postponed) (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof). For the avoidance of doubt, the obligation to update and supplement as set forth in this paragraph or any other Section of these Bylaws shall not limit the Corporation's rights with respect to any deficiencies in any notice provided by a stockholder, extend any applicable deadlines hereunder or enable or be deemed to permit a stockholder who has previously submitted notice hereunder to amend or update any proposal or to submit any new proposal, including by changing or adding matters, business or resolutions proposed to be brought before a meeting of the stockholders.

(g) Notwithstanding anything in these Bylaws to the contrary, no business shall be conducted at an annual meeting that is not properly brought before the meeting in accordance with this Section 2.4. The presiding officer of the meeting shall, if the facts warrant, determine that the business was not properly brought before the meeting in accordance with this Section 2.4, and if he or she should so determine, he or she shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted.

(h) In addition to the requirements of this Section 2.4 with respect to any business proposed to be brought before an annual meeting, each Proposing Person shall comply with all applicable requirements of the Exchange Act with respect to any such business. Nothing in this Section 2.4 shall be deemed to affect the rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

(i) For purposes of these Bylaws, "public disclosure" shall mean disclosure in a press release reported by a national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Sections 13, 14 or 15(d) of the Exchange Act.

2.5 Advance Notice Procedures for Nominations of Directors.

(a) Subject in all respects to the provisions of the Stockholders' Agreement and Certificate of Incorporation, nominations of any person for election to the Board at an annual meeting or at a special meeting (but only if the election of directors is a matter specified in the notice of meeting given by or at the direction of the person calling such special meeting) may be made at such meeting only (i) by or at the direction of the Board, including by any committee or persons authorized to do so by the Board or these Bylaws, or (ii) by a stockholder present in person (as defined in Section 2.4) who (A) was a beneficial owner of shares of the Corporation both at the time of giving the notice provided for in this Section 2.5 and at the time of the meeting, (B) is entitled to vote at the meeting and (C) has complied with this Section 2.5 as to such notice and nomination. The foregoing clause (ii) shall be the exclusive means for a stockholder to make any nomination of a person or persons for election to the Board at any annual meeting of stockholders other than in accordance with the provisions of the Stockholders' Agreement and the Certificate of Incorporation.

(b) Without qualification, for a stockholder to make any nomination of a person or persons for election to the Board at an annual meeting, the stockholder must (i) provide Timely Notice (as defined in Section 2.4(c) of these Bylaws) thereof in writing and in proper form to the Secretary, (ii) provide the information, agreements and questionnaires with respect to such stockholder and its candidate for nomination as required by this Section 2.5, and (iii) provide any updates or supplements to such notice at the times and in the forms required by this Section 2.5. In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period or extend a time period for the giving of a stockholder's notice as described above.

(c) To be in proper form for purposes of this Section 2.5, a stockholder's notice to the Secretary shall set forth:

(i) As to each Nominating Person (as defined below), the Stockholder Information (as defined in Section 2.4(d)(i) of these Bylaws) except that for purposes of this Section 2.5, the term "Nominating Person" shall be substituted for the term "Proposing Person" in all places it appears in Section 2.4(d)(i);

(ii) As to each Nominating Person, any Disclosable Interests (as defined in Section 2.4(d)(ii), except that for purposes of this Section 2.5 the term "Nominating Person" shall be substituted for the term "Proposing Person" in all places it appears in Section 2.4(d)(ii) and the disclosure with respect to the business to be brought before the meeting in Section 2.4(d)(iii) shall be made with respect to nomination of each person for election as a director at the meeting) and a representation whether any Nominating Person intends or is part of a group which intends to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to elect the nominee and/or otherwise to solicit proxies or votes from stockholders in support of such nomination; and

(iii) As to each candidate whom a Nominating Person proposes to nominate for election as a director, (A) all information with respect to such candidate for nomination that would be required to be set forth in a stockholder's notice pursuant to this Section 2.5 if such candidate for nomination were a Nominating Person, (B) all information relating to such candidate for nomination that is required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors in a contested election pursuant to Section 14(a) under the Exchange Act (including such candidate's written consent to being named in the Corporation's proxy statement as a nominee and to serving as a director if elected), (C) a description of any direct or indirect material interest in any material contract or agreement between or among any Nominating Person, on the one hand, and each candidate for nomination or his or her respective associates or any other participants in such solicitation, on the other

hand, including, without limitation, all information that would be required to be disclosed pursuant to Item 404 under Regulation S-K if such Nominating Person were the "registrant" for purposes of such rule and the candidate for nomination were a director or executive officer of such registrant, and (D) a completed and signed questionnaire, representation and agreement as provided in Section 2.5(h).

(d) For purposes of this Section 2.5, the term "Nominating Person" shall mean (i) the stockholder providing the notice of the nomination proposed to be made at the meeting, (ii) the beneficial owner or beneficial owners, if different, on whose behalf the notice of the nomination proposed to be made at the meeting is made, (iii) any other participant (as defined in paragraphs (a)(ii)-(vi) of Instruction 3 to Item 4 of Schedule 14A) in such solicitation and (iv) any associate (within the meaning of Rule 12b-2 under the Exchange Act for the purposes of these Bylaws) of such stockholder or beneficial owner or any other participant in such solicitation.

(e) A stockholder providing notice of any nomination proposed to be made at a meeting shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 2.5 shall be true and correct as of the record date for notice of the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to, or mailed and received by, the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for notice of the meeting (in the case of the update and supplement required to be made as of such record date), and not later than eight (8) business days prior to the date for the meeting or, if practicable, any adjournment or postponement thereof (and, if not practicable, on the first practicable date prior to the date to which the meeting has been adjourned or postponed) (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof). For the avoidance of doubt, the obligation to update and supplement as set forth in this paragraph or any other Section of these Bylaws shall not limit the Corporation's rights with respect to any deficiencies in any notice provided by a stockholder, extend any applicable deadlines hereunder or enable or be deemed to permit a stockholder who has previously submitted notice hereunder to amend or update any nomination or to submit any new nomination.

(f) Notwithstanding anything in Section 2.5(b) to the contrary, in the event that the number of directors to be elected to the Board at the annual meeting is increased effective after the time period for which nominations would otherwise be due under Section 2.5(b) and there is no public announcement by the Corporation naming the nominees for the additional directorships at least one hundred (100) days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this Section 2.5 shall also be considered timely, but only with respect to nominees for the additional directorships, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the tenth (10th) day following the day on which such public announcement is first made by the Corporation.

(g) Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of persons for election to the Board may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (i) by or at the direction of the Board or (ii) provided that the Board has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who is a stockholder of record at the time the notice provided for in this Section 2.5 is delivered to the Secretary, who is entitled to vote at the meeting and upon such election and who complies with the notice procedures set forth in this Section 2.5. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board, any such stockholder entitled to vote in such election of directors may nominate a person or persons (as the case may be) for election to such position(s) as specified in the Corporation's notice of meeting, if the stockholder's notice required by Section 2.5(b) shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the one hundred twentieth (120th) day prior to such special meeting and not later than the close of business on the later of the ninetieth (90th) day prior to such special meeting or the tenth (10th) day following the day on which the Corporation first makes a public announcement of the date of the special meeting at which directors are to be

elected. In no event shall the public announcement of an adjournment or postponement of a special meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(h) To be eligible to be a candidate for election as a director of the Corporation at an annual meeting, a candidate must be nominated in the manner prescribed in this Section 2.5 (or otherwise in accordance with the Stockholders' Agreement or Certificate of Incorporation, as applicable) and the candidate for nomination, whether nominated by the Board or by a stockholder of record, must have previously delivered (in the case of a nomination by a stockholder pursuant to Section 2.5(a)(b), in accordance with the time period prescribed in thisSection 2.5 for delivery of the stockholder notice of nomination), to the Secretary at the principal executive offices of the Corporation, (i) a completed written questionnaire (in the form provided by the Corporation) with respect to the background, qualifications, stock ownership and independence of such candidate for nomination, and such additional information with respect to such proposed nominee as would be required to be provided by the Corporation pursuant to Schedule 14A if such proposed nominee were a participant in the solicitation of proxies by the Corporation in connection with such annual or special meeting and (ii) a written representation and agreement (in the form provided by the Corporation) that such candidate for nomination (A) is not, and will not become a party to, any agreement, arrangement or understanding with any Person or entity other than the Corporation with respect to any direct or indirect compensation or reimbursement for service as a director of the Corporation that has not been disclosed therein and (B) if elected as a director of the Corporation, will comply with all applicable corporate governance, conflict of interest, confidentiality, stock ownership and trading and other policies and guidelines of the Corporation applicable to all directors and in effect during such person's term in office as a director (and, if requested by any candidate for nomination, the Secretary shall provide to such candidate for nomination all such policies and guidelines then in effect).

(i) The Board may also require any proposed candidate for nomination as a Director to furnish such other information as may reasonably be requested by the Board in writing prior to the meeting of stockholders at which such candidate's nomination is to be acted upon in order for the Board to determine the eligibility of such candidate for nomination to be an independent director of the Corporation in accordance with the Corporation's corporate governance guidelines.

(j) In addition to the requirements of this Section 2.5 with respect to any nomination proposed to be made at a meeting, each Nominating Person shall comply with all applicable requirements of the Exchange Act with respect to any such nominations.

(k) No candidate shall be eligible for nomination as a director of the Corporation unless such candidate for nomination and the Nominating Person seeking to place such candidate's name in nomination has complied with this Section 2.5, as applicable. The presiding officer at the meeting shall, if the facts warrant, determine that a nomination was not properly made in accordance with this Section 2.5, and if he or she should so determine, he or she shall so declare such determination to the meeting, the defective nomination shall be disregarded and any ballots cast for the candidate in question (but in the case of any form of ballot listing other qualified nominees, only the ballots cast for the nominee in question) shall be void and of no force or effect.

(l) Notwithstanding anything in these Bylaws to the contrary, no candidate for nomination shall be eligible to be seated as a director of the Corporation unless nominated and elected in accordance with this Section 2.5.

(m) Notwithstanding anything to the contrary contained in these Bylaws, for as long as any party to the Stockholders' Agreement has a right to designate or nominate a Director, the procedure for any such nomination shall be governed by the Stockholders' Agreement and such party shall not be subject to the notice procedures set forth in these Bylaws for the nomination of any person to serve as a Director at any annual meeting or special meeting of stockholders.

2.6 Notice of Stockholders' Meetings

(a) Except to the extent otherwise required by law, all notices of meetings with stockholders shall be in writing and shall be sent or otherwise given in accordance with Section 2.6 of these Bylaws not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at such meeting. The notice shall specify the place, if any, date, and hour of the meeting, the means of remote communication, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called.

(b) Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Corporation shall also be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice to the Corporation. Any such consent shall be deemed revoked if (i) the Corporation is unable to deliver by electronic transmission two (2) consecutive notices given by the Corporation in accordance with such consent, and (ii) such inability becomes known to the secretary or an assistant secretary of the Corporation or to the transfer agent, or other person responsible for the giving of notice; provided, however, that the inadvertent failure to recognize such revocation shall not invalidate any meeting or other action.

(c) Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Corporation shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Any such consent shall be revocable by the stockholder by written notice to the Corporation. Any stockholder who fails to object in writing to the Corporation, within sixty (60) days of having been given written notice by the Corporation of its intention to send the single notice permitted under this subsection 2.6(c), shall be deemed to have consented to receiving such single written notice.

(d) Sections 2.6(b) and (c) shall not apply to any notice given to stockholders under Sections 164 (notice of sale of shares of stockholder who failed to pay an installment or call on stock not fully paid), 296 (notice of disputed claims relating to insolvent corporations), 311 (notice of meeting of stockholders to revoke dissolution of corporation), 312 (notice of meeting of stockholders of corporation whose certificate of incorporation has been renewed or revived) and 324 (notice when stock has been attached as required for sale upon execution process) of the DGCL.

2.7 Manner of Giving Notice; Affidavit of Notice

(a) Written notice of any meeting of stockholders, if mailed, is given when deposited in the United States mail, postage prepaid, directed to the stockholder at his, her or its address as it appears on the records of the Corporation. An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the Corporation that the notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

(b) Notice given pursuant to this Section 2.7(b) shall be deemed given: (i) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice; (ii) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice; (iii) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of such posting and the giving of such separate notice; and (iv) if by any other form of electronic transmission, when directed to the stockholder. An affidavit of the secretary, an assistant secretary or the transfer agent or other agent of the Corporation that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

2.8 Quorum

The holders of a majority of the stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business except as otherwise provided by statute or by the Certificate of Incorporation. If, however, such quorum is not present or represented at any meeting of the stockholders, then the stockholders entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present or represented. At such adjourned meeting at which a quorum is present or represented, any business may be transacted that might have been transacted at the meeting as originally noticed.

2.9 Adjourned Meeting; Notice

When a meeting is adjourned to another time or place, unless these Bylaws otherwise require, notice need not be given of the adjourned meeting if the time and place thereof, and the means of remote communication, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting, are announced at the meeting at which the adjournment is taken. At the adjourned meeting the Corporation may transact any business that might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

2.10 Conduct of Business

The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting by the person presiding over the meeting. The Board may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board, the chairperson of any meeting of stockholders shall have the right and authority to convene and (for any or no reason) to recess and/or adjourn the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairperson, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board or prescribed by the chairperson of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders entitled to vote at the meeting, their duly authorized and constituted proxies or such other persons as the chairperson of the meeting shall determine; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. The presiding person at any meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting (including, without limitation, determinations with respect to the administration and/or interpretation of any of the rules, regulations or procedures of the meeting, whether adopted by the Board or prescribed by the person presiding over the meeting), shall, if the facts warrant, determine and declare to the meeting that a matter of business was not properly brought before the meeting and if such presiding person should so determine, such presiding person shall so declare to the meeting and any such matter or business not properly brought before the meeting shall not be transacted or considered. Unless and to the extent determined by the Board or the chairperson of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

2.11 Voting

(a) The stockholders entitled to vote at any meeting of stockholders shall be determined in accordance with the provisions of Section 2.11 of these Bylaws, subject to the provisions of Sections 217 and 218 of the DGCL (relating to voting rights of fiduciaries, pledgors and joint owners of stock and to voting trusts and other voting agreements).

(b) Except as otherwise provided in the Certificate of Incorporation, each stockholder shall be entitled to one vote for each share of capital stock held by such stockholder.

2.12 Record Date for Stockholder Meetings and Other Purposes

(a) In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall not be more than sixty (60) days nor less than ten (10) days before the date of such meeting. If the Board so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be the close of business on the next day preceding the day on which notice is first given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board may fix a new record date for the adjourned meeting; and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance herewith at the adjourned meeting.

(b) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment or any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of capital stock, or for the purposes of any other lawful action, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than sixty (60) days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

2.13 Proxies

Each stockholder entitled to vote at a meeting of stockholders may authorize another Person or Persons to act for such stockholder by proxy authorized by an instrument in writing or by a transmission permitted by law filed in accordance with the procedure established for the meeting, but, no such proxy shall be voted or acted upon after three (3) years from its date, unless the proxy provides for a longer period. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 212 of the DGCL. A proxy may be in the form of an electronic transmission which sets forth or is submitted with information from which it can be determined that the electronic transmission was authorized by the stockholder.

2.14 List of Stockholders Entitled to Vote

The Corporation shall prepare, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting (provided, however, that if the record date for determining the stockholders entitled to vote is less than ten (10) days before the date of the meeting, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date), arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. The Corporation shall not be required to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting for a period of at least ten (10) days prior to the meeting: (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the Corporation's principal executive office. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take

reasonable steps to ensure that such information is available only to stockholders of the Corporation (the "Stockholders"). If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. Such list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them. Except as otherwise provided by law, the stock ledger shall be the only evidence as to who are the stockholders entitled to examine the list of stockholders required by this Section 2.14 or to vote in person or by proxy at any meeting of stockholders.

2.15 Inspectors of Election

(a) Before any meeting of stockholders, the Corporation shall appoint an inspector or inspectors of election to act at the meeting or its adjournment and make a written report thereof. The Corporation may designate one or more Persons as alternate inspectors to replace any inspector who fails to act. If any Person appointed as inspector or any alternate fails to appear or fails or refuses to act, then the chairperson of the meeting shall appoint a Person to fill that vacancy.

(b) Such inspectors shall:

(i) determine the number of shares outstanding and the voting power of each, the number of shares represented at the meeting and the validity of any proxies and ballots;

(ii) count all votes or ballots;

(iii) count and tabulate all votes;

(iv) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspector(s); and

(v) certify its or their determination of the number of shares represented at the meeting and its or their count of all votes and ballots.

(c) Each inspector, before entering upon the discharge of the duties of inspector, shall take and sign an oath faithfully to execute the duties of inspection with strict impartiality and according to the best of such inspector's ability. Any report or certificate made by the inspectors of election is prima facie evidence of the facts stated therein. The inspectors of election may appoint such Persons to assist them in performing their duties as they determine.

2.16 Delivery to the Corporation

Whenever this Article II requires one or more persons (including a record or beneficial owner of stock) to deliver a document or information to the Corporation or any officer, employee or agent thereof (including any notice, request, questionnaire, revocation, representation or other document or agreement), such document or information shall be in writing exclusively (and not in an electronic transmission) and shall be delivered exclusively by hand (including, without limitation, overnight courier service) or by certified or registered mail, return receipt requested, and the Corporation shall not be required to accept delivery of any document not in such written form or so delivered. For the avoidance of doubt, the Corporation expressly opts out of Section 116 of the DGCL with respect to the delivery of information and documents to the Corporation required by this Article II.

2.17 Waiver of Notice

Whenever notice is required to be given under any provision of the DGCL or of the Certificate of Incorporation or these Bylaws, a written waiver thereof, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders need be specified in any written waiver or any waiver by electronic transmission of notice unless so required by the Certificate of Incorporation or these Bylaws.

2.18 Stockholder Action by Written Consent Without a Meeting

(a) Unless otherwise provided in the certificate of incorporation, any action required by the General Corporation Law of Delaware to be taken at any annual or special meeting of stockholders of a corporation, or any action that may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice, and without a vote if a consent in writing, setting forth the action so taken, is signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.

(b) A telegram, cablegram or other electronic transmission consenting to an action to be taken and transmitted by a stockholder, proxyholder or other person or persons authorized to act for a stockholder or proxyholder, shall be deemed to be written, signed and dated for the purposes of this Section 2.18, provided that any such telegram, cablegram or other electronic transmission sets forth or is delivered with information from which the Corporation can determine (a) that the telegram, cablegram or other electronic transmission was transmitted by the stockholder, proxyholder or other authorized person or persons, and (b) the date on which such stockholder, proxyholder or other authorized person or persons transmitted such telegram, cablegram or electronic transmission. The date on which such telegram, cablegram or electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by telegram, cablegram or other electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall have been delivered to the Corporation by delivery to its registered office in this State, its principal place of business or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the Corporation's registered office shall be made by hand or by certified or registered mail, return receipt requested. Notwithstanding the foregoing limitations on delivery, consents given by telegram, cablegram or other electronic transmission may be otherwise delivered to the principal place of business of the Corporation or to an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded, to the extent and in the manner provided by resolution of the Board of the Corporation. Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

(c) Prompt notice of the taking of the corporate action without a meeting by written consent shall be given to those stockholders who have not consented in writing. If the action that is consented to is such as would have required the filing of a certificate under any section of the DGCL if such action had been voted on by stockholders at a meeting thereof, then the certificate filed under such section shall state, in lieu of any statement required by such section concerning any vote of stockholders, that written notice and written consent have been given as provided in Section 228 of the DGCL.

2.19 Record Date for Stockholder Notice; Voting; Giving Consents

(a) In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or entitled to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board may fix, in advance, a record date that shall not be more than sixty (60) nor less than ten (10) days before the date of such meeting, nor more than sixty (60) days prior to any other action.

(b) If the Board does not so fix a record date:

(i) the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held;

(ii) the record date for determining stockholders entitled to express consent to corporate action in writing without a meeting, when no prior action by the Board is necessary, shall be the day on which the first written consent is expressed; and

(iii) the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

(c) A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board may fix a new record date for the adjourned meeting.

2.20 List of Stockholders Entitled to Vote

The officer who has charge of the stock ledger of the Corporation shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. The Corporation shall not be required to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder for any purpose germane to the meeting for a period of at least ten (10) days prior to the meeting: (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (b) during ordinary business hours, at the principal place of business of the Corporation. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to Stockholders. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be examined by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

2.21 Stockholder Proposals

Any stockholder wishing to bring any other business before a meeting of stockholders, including, but not limited to, the nomination of persons for election as directors, must provide notice to the Corporation not more than ninety (90) and not less than fifty (50) days before the meeting in writing by registered mail, return receipt requested, of the business to be presented by the stockholders at the stockholders' meeting. Any such notice shall set forth the following as to each matter the stockholder proposes to bring before the meeting: (a) a brief description of the business desired to be brought before the meeting and the reasons for conducting such business

at the meeting and, if such business includes a proposal to amend the Bylaws of the Corporation, the language of the proposed amendment; (b) the name and address, as they appear on the Corporation's books, of the stockholder proposing such business; (c) the class and number of shares of the Corporation that are beneficially owned by such stockholder; (d) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business; and (e) any material interest of the stockholder in such business. Notwithstanding the foregoing provisions of this Section 2.21, a stockholder shall also comply with all applicable requirements of all applicable laws, rules and regulations, including, but not limited to, the Securities Act of 1933, as amended (the "Securities Act"), and the rules and regulations promulgated thereunder, with respect to the matters set forth in this Section 2.21. In the absence of such notice to the Corporation meeting the above requirements, a stockholder shall not be entitled to present any business at any meeting of stockholders.

III. DIRECTORS

3.1 Powers

Subject to the provisions of the DGCL and any limitations in the Certificate of Incorporation or these Bylaws relating to action required to be approved by the stockholders or by the outstanding shares, the business and affairs of the Corporation shall be managed and all corporate powers shall be exercised by or under the direction of the Board.

3.2 Number of Directors

(a) The number of directors constituting the Board shall be not more than nine (9) but not less than seven (7), and may be fixed or changed, within this minimum and maximum, by the stockholders or the Board. The number of directors constituting the initial Board shall be fixed at seven (7). At least two-thirds (2/3) of the members of Board shall be comprised of individuals who are citizens of the United States, as defined in Title 49, United States Code, Section 40102, and consistent with administrative interpretations thereof issued by the Department of Transportation or its predecessor or successors, or as the same may be from time to time amended (each a "U.S. Citizen"); except that if the Board has one member or two members, such members shall be U.S. Citizens. Subject to the Certificate of Incorporation, the number of directors shall be fixed exclusively by resolution of the Board.

(b) No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

3.3 Election, Qualification and Term of Office of Directors

(a) Except as provided in Sections 3.4 and 3.18 of these Bylaws, directors shall be elected at each annual meeting of stockholders to hold office until the next annual meeting. Directors need not be stockholders unless so required by the Certificate of Incorporation or these Bylaws, wherein other qualifications for directors may be prescribed. Each director, including a director elected to fill a vacancy, shall hold office until his or her successor is elected and qualified or until his or her earlier resignation or removal. Each director shall be a natural person.

(b) Elections of directors need not be by written ballot.

3.4 Resignation and Vacancies

(a) Any director may resign at any time upon notice given in writing or electronic transmission to the Corporation. When one or more directors so resigns and the resignation is effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have the power to fill such vacancy or

vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each director so chosen shall hold office as provided in this Section 3.4 in the filling of other vacancies.

(b) Unless otherwise provided in the Certificate of Incorporation or these Bylaws:

(i) vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the stockholders having the right to vote as a single class may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director; and

(ii) whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the provisions of the Certificate of Incorporation, vacancies and newly created directorships of such class or classes or series may be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected.

(c) If at any time, by reason of death or resignation or other cause, the Corporation should have no directors in office, then any officer or any stockholder or an executor, administrator, trustee or guardian of a stockholder, or other fiduciary entrusted with like responsibility for the person or estate of a stockholder, may call a special meeting of stockholders in accordance with the provisions of the Certificate of Incorporation or these Bylaws, or may apply to the Court of Chancery for a decree summarily ordering an election as provided in Section 211 of the DGCL.

(d) If, at the time of filling any vacancy or any newly created directorship, the directors then in office constitute less than a majority of the whole Board (as constituted immediately prior to any such increase), then the Court of Chancery may, upon application of any stockholder or stockholders holding at least ten percent (10%) of the total number of the shares at the time outstanding having the right to vote for such directors, summarily order an election to be held to fill any such vacancies or newly created directorships, or to replace the directors chosen by the directors then in office as aforesaid, which election shall be governed by the provisions of Section 211 of the DGCL as far as applicable.

3.5 Place of Meetings; Meetings by Telephone

(a) The Board of the Corporation may hold meetings, both regular and special, either within or outside the State of Delaware.

(b) Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, members of the Board, or any committee designated by the Board, may participate in a meeting of the Board, or any committee, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

3.6 First Meetings

The first meeting of each newly elected Board shall be held at such time and place as shall be fixed by the vote of the stockholders at the annual meeting and no notice of such meeting shall be necessary to the newly elected directors in order legally to constitute the meeting, provided a quorum shall be present. In the event of the failure of the stockholders to fix the time or place of such first meeting of the newly elected Board, or in the event such meeting is not held at the time and place so fixed by the stockholders, the meeting may be held at such time and place as shall be specified in a notice given as hereinafter provided for special meetings of the Board, or as shall be specified in a written waiver signed by all of the directors.

3.7 Regular Meetings

Regular meetings of the Board may be held without notice at such time and at such place as shall from time to time be determined by the Board.

3.8 Special Meetings; Notice

(a) Special meetings of the Board for any purpose or purposes may be called at any time by the chairman of the Board, the president, any vice president, the secretary or any director.

(b) Notice of the time and place of special meetings shall be delivered either personally or by mail, telex, facsimile, telephone or electronic transmission to each director, addressed to each director at such director's address and/or phone number and/or electronic transmission address as it is shown on the records of the Corporation. If the notice is mailed, it shall be deposited in the United States mail at least four (4) days before the time of the holding of the meeting. If the notice is delivered personally or by telex, facsimile, telephone or electronic transmission, it shall be delivered by telephone or transmitted at least forty-eight (48) hours before the time of the holding of the meeting. Any oral notice given personally or by telephone may be communicated either to the director or to a person at the office of the director who the person giving the notice has reason to believe will promptly communicate it to the director. The notice need not specify the purpose or the place of the meeting, if the meeting is to be held at the principal executive office of the Corporation. Notice may be delivered by any person entitled to call a special meeting or by an agent of such person.

3.9 Quorum

At all meetings of the Board, a majority of the authorized number of directors shall constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board, except as otherwise specifically provided by statute or by the Certificate of Incorporation and except that directors who are U.S. Citizens must comprise at least two-thirds (2/3) of the directors deemed present for purposes of determining a quorum, and a quorum shall not exist if directors who are not U.S. Citizens constitute more than one-third (1/3) of the directors present and entitled to vote on the particular action.

3.10 Waiver Of Notice

Whenever notice is required to be given under any provision of the DGCL or of the Certificate of Incorporation or these Bylaws, a written waiver thereof, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the directors, or meeting of a committee of directors, need be specified in any written waiver of notice unless so required by the Certificate of Incorporation or these Bylaws.

3.11 Adjourned Meeting; Notice

If a quorum is not present at any meeting of the Board, then the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

3.12 Board Action by Written Consent Without a Meeting

Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board, or of any committee thereof, may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

3.13 Fees and Compensation of Directors

Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, the Board shall have the authority to fix the compensation of directors.

3.14 Approval of Loans to Officers

Subject to compliance with applicable law, including without limitation any federal or state securities laws, the Corporation may lend money to, or guarantee any obligation of, or otherwise assist any officer or other employee of the Corporation or of its subsidiary, including any officer or employee who is a director of the Corporation or its subsidiary, whenever, in the judgment of the directors, such loan, guaranty or assistance may reasonably be expected to benefit the Corporation. The loan, guaranty or other assistance may be with or without interest and may be unsecured, or secured in such manner as the Board shall approve, including, without limitation, a pledge of shares of stock of the Corporation. Nothing contained in this Section 3.14 shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the Corporation at common law or under any statute.

3.15 Removal of Directors

(a) Unless otherwise restricted by statute, by the Certificate of Incorporation or by these Bylaws, any director or the entire Board may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors; provided, that, whenever the holders of any class or classes of stock, or series thereof, are entitled to elect one or more directors by the provisions of the Certificate of Incorporation, removal of any directors elected by such class or classes of stock, or series thereof, shall be by the holders of a majority of the shares of such class or classes of stock, or series of stock, then entitled to vote at an election of directors.

(b) No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of such director's term of office.

3.16 Chairman of the Board of Directors

The Corporation may also have, at the discretion of the Board, a chairman of the Board. The chairman of the Board shall, if such a person is elected, preside at the meetings of the Board and exercise and perform such other powers and duties as may from time to time be assigned to him or her by the Board, or as may be prescribed by these Bylaws.

3.17 Classified Board of Directors

The Board shall be divided into three (3) classes, Class I, Class II, and Class III, which shall be as nearly equal in number as possible. The term of office of each director in Class I shall expire at the first annual meeting of Stockholders following the effectiveness of this Section 3.17. The term of office of each director in Class II shall expire at the second annual meeting of the Stockholders following the effectiveness of this Section 3.17. The term of office of each director in Class III shall expire at the third annual meeting of Stockholders following the effectiveness of this Section 3.17. Each director shall serve until the election and qualification of a successor or until such director's earlier resignation, death or removal from office. Upon the expiration of the term of office for each class of directors, the directors of such class shall be elected for a term of three (3) years, to serve until the election and qualification of their successors or until their earlier resignation, death or removal from office.

3.18 Nominating Procedures

Nominations for election of directors shall be governed by this Section 3.17. Nominations for the election of directors may only be made by the Board, by the nominating committee of the Board (or, if none, any other

committee serving a similar function) or by any stockholder entitled to vote generally in elections of directors where the stockholder complies with the requirements of this Section 3.17. Any stockholder of record entitled to vote generally in elections of directors may nominate one or more persons for election as directors at a meeting of stockholders only if written notice of such stockholder's intent to make such nomination or nominations has been given, either by personal delivery or by United States certified mail, postage prepaid, to the Secretary (a) with respect to an election to be held at an annual meeting of stockholders, not more than ninety (90) days nor less than fifty (50) days in advance of such meeting, and (b) with respect to an election to be held at a special meeting of stockholders called for the purpose of the election of directors, not later than the close of business on the tenth (10^{th}) business day following the date on which notice of such meeting is first given to stockholders. Each such notice of a stockholder's intent to nominate a director or directors at an annual or special meeting shall set forth the following: (i) the name and address, as they appear on the Corporation's books, of the stockholder who intends to make the nomination and the name and residence address of the person or persons to be nominated; (ii) the class and number of shares of the Corporation which are beneficially owned by the stockholder; (iii) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice; (iv) a description of all arrangements or understandings between the stockholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by the stockholder; (v) such other information regarding each nominee proposed by such stockholder as would be required to be disclosed in solicitations of proxies for election of directors, or as would otherwise be required, in each case pursuant to Regulation 14A under the Exchange Act including any information that would be required to be included in a proxy statement filed pursuant to Regulation 14A had the nominee been nominated by the Board; and (vi) the written consent of each nominee to be named in a proxy statement and to serve as director of the Corporation if so elected. No person shall be eligible to serve as a director of the Corporation unless nominated in accordance with the procedures set forth in this Section 3.17. If the chairman of the stockholders' meeting shall determine that a nomination was not made in accordance with the procedures described by these Bylaws, he shall so declare to the meeting, and the defective nomination shall be disregarded. Notwithstanding the foregoing provisions of this Section, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations promulgated thereunder with respect to the matters set forth in this Section.

3.19 Lead Independent Director.

The independent directors on the Board shall annually designate one independent director to serve as the lead independent director of the Board (the "Lead Independent Director") for a term of one year. The Lead Independent Director shall have and may exercise such powers as may, from time to time, be assigned to him or her by the Board or by the other independent directors in matters upon which only independent directors may act. The Lead Independent Director shall be "independent" pursuant to applicable Stock Exchange Rules and shall not be an officer or employee of the Corporation. Notwithstanding the foregoing, the Board shall not be required to designate a Lead Independent Director if the chairperson of the Board is "independent" pursuant to applicable Stock Exchange Rules and shall not be an officer or employee of the Corporation.

IV. COMMITTEES

4.1 Committees of Directors

The Board may, by resolution passed by a majority of the whole Board, designate one or more committees, with each committee to consist of one or more of the directors of the Corporation. At least two-thirds of the members of each committee shall be comprised of individuals who are U.S. Citizens, except that if a committee has one member or two members, such members shall be U.S. Citizens. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a

quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board or in the bylaws of the Corporation, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers that may require it; but no such committee shall have the power or authority to (i) approve or adopt, or recommend to the stockholders, any action or matter expressly required by the DGCL to be submitted to stockholders for approval, or (ii) adopt, amend or repeal any bylaws of the Corporation.

4.2 Committee Minutes

Each committee shall keep regular minutes of its meetings and report the same to the Board when required.

4.3 Meetings and Action of Committees

Meetings and actions of committees shall be governed by, and be held and taken in accordance with, the provisions of Article III of these Bylaws, Section 3.5 (place of meetings and meetings by telephone), Section 3.7 (regular meetings), Section 3.8 (special meetings and notice), Section 3.9 (quorum), Section 3.10 (waiver of notice), Section 3.11 (adjourned meeting and notice), and Section 3.12 (Board action by written consent without a meeting), with such changes in the context of those Bylaws as are necessary to substitute the committee and its members for the Board and its members; provided, however, that the time of regular meetings of committees may also be called by resolution of the Board and that notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The Board may adopt rules for the government of any committee not inconsistent with the provisions of these Bylaws.

V. OFFICERS

5.1 Officers

The officers of the Corporation shall be a chief executive officer, a president, one or more vice presidents, a secretary and a treasurer. The Corporation may also have, at the discretion of the Board, a chairman of the Board, one or more assistant vice presidents, assistant secretaries, assistant treasurers and any such other officers as may be appointed in accordance with the provisions of Section 5.3 of these Bylaws. Any number of offices may be held by the same person.

5.2 Election of Officers

The officers of the Corporation, except such officers as may be appointed in accordance with the provisions of Sections 5.3 of these Bylaws, shall be chosen by the Board, subject to the rights, if any, of an officer under any contract of employment.

5.3 Subordinate Officers

The Board may appoint, or empower the president to appoint, such other officers and agents as the business of the Corporation may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in these Bylaws or as the Board may from time to time determine.

5.4 Removal and Resignation of Officers

(a) Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, either with or without cause, by an affirmative vote of the majority of the Board at any regular or special meeting of the Board or by any officer upon whom such power of removal may be conferred by the Board.

(b) Any officer may resign at any time by giving written notice to the Corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party.

5.5 Vacancies in Offices

Any vacancy occurring in any office of the Corporation shall be filled by the Board.

5.6 Chairman of the Board

The chairman of the Board, if such an officer be elected, shall, if present, preside at meetings of the Board and exercise and perform such other powers and duties as may from time to time be assigned to him by the Board or as may be prescribed by these Bylaws. If there is no chief executive officer, then the chairman of the Board shall also be the chief executive officer of the Corporation and shall have the powers and duties prescribed in Section 5.7 of these Bylaws. The chairman of the Board shall be chosen by the Board.

5.7 Chief Executive Officer

Subject to such supervisory powers, if any, as may be given by the Board to the chairman of the Board, the chief executive officer of the Corporation shall, subject to the control of the Board, have general supervision, direction and control of the business and the officers of the Corporation. The chief executive officer shall preside at all meetings of the stockholders and, in the absence or nonexistence of a chairman of the Board, at all meetings of the Board at which he or she is present. The chief executive officer shall have the general powers and duties of management usually vested in the office of chief executive officer of a corporation and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

5.8 President

Subject to such supervisory powers, if any, as may be given by the Board to the chairman of the Board or the chief executive officer, if there be such officers, the president shall, subject to the control of the Board, have general supervision, direction and control of the business and the officers of the Corporation. In the absence or nonexistence of the chief executive officer, he or she shall preside at all meetings of the stockholders and, in the absence or nonexistence of a chairman of the Board and chief executive officer, at all meetings of the Board at which he or she is present. He or she shall have the general powers and duties of management usually vested in the office of president of a corporation and shall have such other powers and duties as may be prescribed by the Board or these Bylaws. The Board may provide in their discretion that the offices of president and chief executive officer may be held by the same person.

5.9 Vice Presidents

In the absence or disability of the chief executive officer and president, the vice presidents, if any, in order of their rank as fixed by the Board or, if not ranked, a vice president designated by the Board, shall perform all the duties of the president and when so acting shall have all the powers of, and be subject to all the restrictions upon, the president. The vice presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them by the Board, these Bylaws, the president or the chairman of the Board.

5.10 Secretary

(a) The Secretary or an agentof the Corporation shall keep or cause to be kept, at the principal executive office of the Corporation or such other place as the Board may direct, a book of minutes of all meetings and

actions of directors, committees of directors and stockholders. The minutes shall show the time and place of each meeting, whether regular or special (and, if special, how authorized and the notice given), the names of those present at directors' meetings or committee meetings, the number of shares present or represented at stockholders' meetings and the proceedings thereof.

(b) The Secretary shall keep, or cause to be kept, at the principal executive office of the Corporation or at the office of the Corporation's transfer agent or registrar, as determined by resolution of the Board, a share register, or a duplicate share register, showing the names of all stockholders and their addresses, the number and classes of shares held by each, the number and date of certificates evidencing such shares, and the number and date of cancellation of every certificate surrendered for cancellation.

(c) The Secretary shall give, or cause to be given, notice of all meetings of the stockholders and of the Board required to be given by law or by these Bylaws. The Secretary shall keep the seal of the Corporation, if one be adopted, in safe custody and shall have such other powers and perform such other duties as may be prescribed by the Board or by these Bylaws.

5.11 Treasurer

(a) The treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the Corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings and shares. The books of account shall at all reasonable times be open to inspection by any director.

(b) The treasurer shall deposit all money and other valuables in the name and to the credit of the Corporation with such depositaries as may be designated by the Board. The treasurer shall disburse the funds of the Corporation as may be ordered by the Board, shall render to the president and directors, whenever they request it, an account of all of his or her transactions as treasurer and of the financial condition of the Corporation, and shall have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws.

5.12 Assistant Secretary

The assistant secretary, or, if there is more than one, the assistant secretaries in the order determined by the stockholders or Board (or if there be no such determination, then in the order of their election) shall, in the absence of the Secretary or in the event of his or her inability or refusal to act, perform the duties and exercise the powers of the Secretary and shall perform such other duties and have such other powers as the Board or the stockholders may from time to time prescribe.

5.13 Representation of Shares of Other Corporations

The chairman of the Board, the chief executive officer, the president, any vice president, the treasurer, the secretary or assistant secretary of this Corporation, or any other person authorized by the Board or the chief executive officer, president or a vice president, is authorized to vote, represent, and exercise on behalf of this Corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of this Corporation. The authority granted herein may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by such person having the authority.

5.14 Authority and Duties of Officers

In addition to the foregoing authority and duties, all officers of the Corporation shall respectively have such authority and perform such duties in the management of the business of the Corporation as may be designated from time to time by the Board or the stockholders.

5.15 Compensation

The compensation of the officers of the Corporation for their services as such shall be fixed from time to time by or at the direction of the Board. An officer of the Corporation shall not be prevented from receiving compensation by reason of the fact that he or she is also a director of the Corporation.

5.16 Limitations on Non-Citizens as Managing Officers.

Notwithstanding anything to the contrary in these Bylaws, the chief executive officer and the president (if applicable) and at least two-thirds (2/3) of the officers of the Corporation shall each be a U.S. Citizen.

VI. INDEMNITY

6.1 Indemnification of Directors and Officers

The Corporation shall, to the maximum extent and in the manner permitted by the DGCL, indemnify each of its directors and officers against expenses (including attorneys' fees), judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with any proceeding, arising by reason of the fact that such person is or was an agent of the Corporation. For purposes of this Section 6.1, a director or officer of the Corporation includes any person (i) who is or was a director or officer of the Corporation, (ii) who is or was serving at the request of the Corporation as a director, officer, manager, member, partner, trustee or other agent of another corporation, limited liability company, partnership, joint venture, trust or other enterprise, or (iii) who was a director or officer of a corporation that was a predecessor corporation of the Corporation or of another enterprise at the request of such predecessor corporation. Such indemnification shall be a contract right and shall include the right to receive payment of any expenses incurred by the indemnitee in connection with any proceeding in advance of its final disposition, consistent with the provisions of applicable law as then in effect. The right of indemnification provided in this Section 6.1 shall not be exclusive of any other rights to which those seeking indemnification may otherwise be entitled, and the provisions of this Section 6.1 shall inure to the benefit of the heirs and legal representatives of any person entitled to indemnity under this Section 6.1 and shall be applicable to proceedings commenced or continuing after the adoption of this Section 6.1, whether arising from acts or omissions occurring before or after such adoption. In furtherance, but not in limitation of the foregoing provisions, the following procedures, presumptions and remedies shall apply with respect to advancement of expenses and the right to indemnification under this Section 6.1:

(a) Advancement of Expenses. All reasonable expenses incurred by or on behalf of the indemnitee in connection with any proceeding shall be advanced to the indemnitee by the Corporation within twenty (20) days after the receipt by the Corporation of a statement or statements from the indemnitee requesting such advance or advances from time to time, whether prior to or after final disposition of such proceeding, unless, prior to the expiration of such twenty-day period, the Board shall unanimously (except for the vote, if applicable, of the indemnitee) determine that the indemnitee has no reasonable likelihood of being entitled to indemnification pursuant to this Section 6.1. Such statement or statements shall reasonably evidence the expenses incurred by the indemnitee and, if required by law at the time of such advance, shall include or be accompanied by an undertaking by or on behalf of the indemnitee to repay the amounts advanced if it should ultimately be determined that the indemnitee is not entitled to be indemnified against such expenses pursuant to this Section 6.1.

(b) Procedure for Determination of Entitlement to Indemnification.

(i) To obtain indemnification under this Section 6.1, an indemnitee shall submit to the Secretary a written request, including such documentation and information as is reasonably available to the indemnitee and reasonably necessary to determine whether and to what extent the indemnitee is entitled to indemnification (the "Supporting Documentation"). The determination of the indemnitee's entitlement to indemnification shall be

made not later than sixty (60) days after receipt by the Corporation of the written request for indemnification together with the Supporting Documentation. The Secretary shall, promptly upon receipt of such a request for indemnification, advise the Board in writing that the indemnitee has requested indemnification, whereupon the Corporation shall provide such indemnification, including without limitation advancement of expenses, so long as the indemnitee is legally entitled thereto in accordance with applicable law.

(ii) The indemnitee's entitlement to indemnification under this Section 6.1 shall be determined in one of the following ways: (A) by a majority vote of the Disinterested Directors (as hereinafter defined), even though less than a quorum of the Board; (B) by a committee of such Disinterested Directors, even though less than a quorum of the Board; (C) by a written opinion of Independent Counsel (as hereinafter defined) if (x) a Change of Control (as hereinafter defined) shall have occurred and the indemnitee so requests or (y) a quorum of the Board consisting of Disinterested Directors is not obtainable or, even if obtainable, a majority of such Disinterested Directors so directs; (D) by the Stockholders (but only if a majority of the Disinterested Directors, if they constitute a quorum of the Board, presents the issue of entitlement to indemnification to the stockholders for their determination); or (E) as provided in paragraph (c) below.

(iii) In the event the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to paragraph (b)(ii) above, a majority of the Disinterested Directors shall select the Independent Counsel, but only an Independent Counsel to which the indemnitee does not reasonably object; provided, however, that if a Change of Control shall have occurred, the indemnitee shall select such Independent Counsel, but only an Independent Counsel to which the Board does not reasonably object.

(iv) The only basis upon which a finding that indemnification may not be made is that such indemnification is prohibited by law.

(c) Presumptions and Effect of Certain Proceedings. Except as otherwise expressly provided in this Section 6.1, if a Change of Control shall have occurred, the indemnitee shall be presumed to be entitled to indemnification under this Section 6.1 upon submission of a request for Indemnification together with the Supporting Documentation in accordance with paragraph (b)(i), and thereafter the Corporation shall have the burden of proof to overcome that presumption in reaching a contrary determination. In any event, if the person or persons empowered under paragraph (b)(ii) above to determine entitlement to indemnification shall not have been appointed or shall not have made a determination within sixty (60) days after receipt by the Corporation of the request therefor together with the Supporting Documentation, the indemnitee shall be deemed to be entitled to indemnification and the indemnitee shall be entitled to such indemnification unless (A) the indemnitee misrepresented or failed to disclose a material fact in making the request for indemnification or in the Supporting Documentation or (B) such indemnification is prohibited by law. The termination of any proceeding described in this Section 6.1, or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, adversely affect the right of the indemnitee to indemnification or create a presumption that the indemnitee did not act in good faith and in a manner that the indemnitee reasonably believed to be in or not opposed to the best interests of the Corporation or, with respect to any criminal proceeding, that the indemnitee had reasonable cause to believe that the indemnitee's conduct was unlawful.

(d) Remedies of Indemnitee.

(i) In the event that a determination is made pursuant to paragraph (b)(ii) that the indemnitee is not entitled to indemnification under this Section 6.1: (A) the indemnitee shall be entitled to seek an adjudication of his or her entitlement to such indemnification either, at the indemnitee's sole option, in (x) an appropriate court of the State of Delaware or any other court of competent jurisdiction, or (y) an arbitration to be conducted by a single arbitrator pursuant to the rules of the American Arbitration Association; (B) any such judicial proceeding or arbitration shall be *de novo* and the indemnitee shall not be prejudiced by reason of such adverse determination; and (C) in any such judicial proceeding or arbitration the Corporation shall have the burden of proving that the indemnitee is not entitled to indemnification under this Section 6.1.

(ii) If a determination shall have been made or is deemed to have been made, pursuant to paragraph (b)(ii) or (iii), that the indemnitee is entitled to indemnification, the Corporation shall be obligated to pay the amounts constituting such indemnification within five (5) days after such determination has been made or is deemed to have been made and shall be conclusively bound by such determination unless (A) the indemnitee misrepresented or failed to disclose a material fact in making the request for indemnification or in the Supporting Documentation, or (B) such indemnification is prohibited by law. In the event that: (X) advancement of expenses is not timely made pursuant to paragraph (a); or (Y) payment of indemnification is not made within five (5) days after a determination of entitlement to indemnification has been made or deemed to have been made pursuant to paragraph (b)(ii) or (iii), the indemnitee shall be entitled to seek judicial enforcement of the Corporation's obligation to pay to the indemnitee such advancement of expenses or indemnification. Notwithstanding the foregoing, the Corporation may bring an action, in an appropriate court in the State of Delaware or any other court of competent jurisdiction, contesting the right of the indemnitee to receive indemnification hereunder due to the occurrence of an event described in subclause (A) or (B) of this clause (ii) (a "Disqualifying Event"); provided, however, that in any such action the Corporation shall have the burden of proving the occurrence of such Disqualifying Event.

(iii) The Corporation shall be precluded from asserting in any judicial proceedings or arbitration commenced pursuant to this paragraph (d) that the procedures and presumptions of this Section 6.1 are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Corporation is bound by all the provisions of this Section 6.1.

(iv) In the event that the indemnitee, pursuant to this paragraph (d), seeks a judicial adjudication of or an award in arbitration to enforce his or her rights under, or to recover damages for breach of, this Section 6.1, the indemnitee shall be entitled to recover from the Corporation, and shall be indemnified by the Corporation against, any expenses actually and reasonably incurred by the indemnitee if the indemnitee prevails in such judicial adjudication or arbitration. If it shall be determined in such judicial adjudication or arbitration that the indemnitee is entitled to receive part but not all of the indemnification or advancement of expenses sought, the expenses incurred by the indemnitee in connection with such judicial adjudication shall be prorated accordingly.

(e) Definitions. For purposes of this Section 6.1:

(i) "Change in Control" means a change in control of the Corporation of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A promulgated under the Exchange Act, whether or not the Corporation is then subject to such reporting requirement; provided that, without limitation, such a change in control shall be deemed to have occurred if (A) any "person" (as such term is used in Sections 13(d) and 14(d) of the Act) is or becomes the "beneficial owner" (as defined in Rule l3d-3 under the Act), directly or indirectly, of securities of the Corporation representing twenty-five percent (25%) or more of the combined voting power of the Corporation's then outstanding securities without the prior approval of at least a majority of the members of the Board in office immediately prior to such acquisition; (B) the Corporation is a party to a merger, consolidation, sale of assets or other reorganization, or a proxy contest, as a consequence of which members of the Board in office immediately prior to such transaction or event constitute less than a majority of the Board thereafter; or (C) during any period of two (2) consecutive years, individuals who at the beginning of such period constituted the Board (including for this purpose any new director whose election or nomination for election by the Corporation's stockholders was approved by a vote of at least a majority of the directors then still in office who were directors at the beginning of such period) cease for any reason to constitute at least a majority of the Board;

(ii) "Disinterested Director" means a director of the Corporation who is not a party to the proceeding in respect of which indemnification is sought by the indemnitee; and

(iii) "Independent Counsel" means a law firm or a member of a law firm that neither presently is, nor in the past five (5) years has been, retained to represent: (A) the Corporation or the indemnitee in any matter

material to either such party or (B) any other party to the proceeding giving rise to a claim for indemnification under this Section 6.1. Notwithstanding the foregoing, the term "Independent Counsel" shall not include any person who, under the applicable standards of professional conduct then prevailing under such persons, relevant jurisdiction of practice, would have a conflict of interest in representing either the Corporation or the indemnitee in an action to determine the indemnitee's rights under this Section 6.1.

(f) Invalidity; Severability; Interpretation. If any provision or provisions of this Section 6.1 shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (i) the validity, legality and enforceability of the remaining provisions of this Section 6.1 (including, without limitation, all portions of any paragraph of this Section 6.1 containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (ii) to the fullest extent possible, the provisions of this Section 6.1 (including, without limitation, all portions of any paragraph of this Section 6.1 containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid; illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable. Reference herein to laws, regulations or agencies shall be deemed to include all amendments thereof, substitutions therefor and successors thereto.

6.2 Indemnification of Others

The Corporation shall have the power, to the extent and in the manner permitted by the DGCL, to indemnify each of its officers, employees and agents (other than directors) against expenses (including attorneys' fees), judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with any proceeding, arising by reason of the fact that such person is or was an agent of the Corporation. For purposes of this Section 6.2, an officer, employee or agent of the Corporation (other than a director) includes any person (a) who is or was an employee or agent of the Corporation, (b) who is or was serving at the request of the Corporation as a director, officer, manager, member, partner, trustee, employee or other agent of another corporation, limited liability company, partnership, joint venture, trust or other enterprise, or (c) who was an employee or agent of a corporation that was a predecessor corporation of the Corporation or of another enterprise at the request of such predecessor corporation.

6.3 Insurance

The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, manager, member, partner, trustee, employee or other agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, limited liability company, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of the DGCL.

VII. RECORDS AND REPORTS

7.1 Maintenance and Inspection of Records

(a) The Corporation shall, either at its principal executive office or at such place or places as designated by the Board, keep a record of its stockholders listing their names and addresses and the number and class of shares held by each stockholder, a copy of these Bylaws as amended to date, accounting books and other records.

(b) Any stockholder of record, in person or by attorney or other agent, shall, upon written demand under oath stating the purpose thereof, have the right during the usual hours for business to inspect for any proper purpose the Corporation's stock ledger, a list of its stockholders and its other books and records and to make copies or extracts therefrom. A proper purpose shall mean a purpose reasonably related to such person's interest as a stockholder. In every instance where an attorney or other agent is the person who seeks the right to

inspection, the demand under oath shall be accompanied by a power of attorney or such other writing that authorizes the attorney or other agent to so act on behalf of the stockholder. The demand under oath shall be directed to the Corporation at its registered office in Delaware or at its principal place of business.

(c) Any records maintained by a corporation in the regular course of its business, including its stock ledger, books of account and minute books, may be kept on, or by means of, or be in the form of, any information storage device or method, provided that the records so kept can be converted into clearly legible paper form within a reasonable time. Any corporation shall so convert any records so kept upon the request of any person entitled to inspect such records pursuant to any provision of the Certificate of Incorporation, these Bylaws or the DGCL. When records are kept in such manner, a clearly legible paper from or by means of the information storage device or method shall be admissible in evidence, and accepted for all other purposes, to the same extent as an original paper record of the same information would have been, provided the paper form accurately portrays the record.

7.2 Inspection by Directors

Any director shall have the right to examine the Corporation's stock ledger, a list of its stockholders and its other books and records for a purpose reasonably related to his or her position as a director. The Court of Chancery is hereby vested with the exclusive jurisdiction to determine whether a director is entitled to the inspection sought. The court may summarily order the Corporation to permit the director to inspect any and all books and records, the stock ledger and the stock list and to make copies or extracts therefrom. The burden of proof shall be upon the Corporation to establish that the inspection such director seeks is for an improper purpose. The court may, in its discretion, prescribe any limitations or conditions with reference to the inspection, or award such other and further relief as the court may deem just and proper.

7.3 Annual Statement to Stockholders

The Board shall present at each annual meeting, and at any special meeting of the stockholders when called for by vote of the stockholders, a full and clear statement of the business and condition of the Corporation.

VIII. GENERAL MATTERS

8.1 Checks

From time to time, the Board shall determine by resolution which person or persons may sign or endorse all checks, drafts, other orders for payment of money, notes or other evidences of indebtedness that are issued in the name of or payable to the Corporation, and only the persons so authorized shall sign or endorse those instruments.

8.2 Execution of Corporate Contracts and Instruments

The Board, except as otherwise provided in these Bylaws, may authorize any officer or officers, or agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the Corporation; such authority may be general or confined to specific instances. Unless so authorized or ratified by the Board or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

8.3 Stock Certificates; Partly Paid Shares

(a) The shares of the Corporation shall be represented by certificates, provided that the Board of the Corporation may provide by resolution or resolutions that some or all of any or all classes or series of its stock

shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. Notwithstanding the adoption of such a resolution by the Board, every holder of stock represented by certificates and upon request every holder of uncertificated shares shall be entitled to have a certificate signed by, or in the name of the Corporation by the chairman or vice-chairman of the Board, or the president or vice president, and by the treasurer or an assistant treasurer, or the secretary or an assistant secretary of such Corporation representing the number of shares registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue. The Corporation shall not have power to issue a certificate in bearer form.

(b) The Corporation may issue the whole or any part of its shares as partly paid and subject to call for the remainder of the consideration to be paid therefor. Upon the face or back of each stock certificate issued to represent any such partly paid shares, and upon the books and records of the Corporation in the case of uncertificated partly paid shares, the total amount of the consideration to be paid therefor and the amount paid thereon shall be stated. Upon the declaration of any dividend on fully paid shares, the Corporation shall declare a dividend upon partly paid shares of the same class, but only upon the basis of the percentage of the consideration actually paid thereon.

8.4 Special Designation on Certificates

If the Corporation is authorized to issue more than one class of stock or more than one series of any class, then the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the Corporation shall issue to represent such class or series of stock; provided, however, that, except as otherwise provided in Section 202 of the DGCL, in lieu of the foregoing requirements there may be set forth on the face or back of the certificate that the Corporation shall issue to represent such class or series of stock a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

8.5 Lost Certificates

Except as provided in this Section 8.6, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the Corporation and cancelled at the same time. The Corporation may issue a new certificate of stock or uncertificated shares in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate, or his or her legal representative, to give the Corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

8.6 Shares Without Certificates

The Corporation shall adopt a system of issuance, recordation and transfer of its shares of stock by electronic or other means not involving the issuance of certificates, provided the use of such system by the Corporation is permitted in accordance with applicable law.

8.7 Construction; Definitions

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the DGCL shall govern the construction of these Bylaws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term "person" includes both a corporation and a natural person.

8.8 Dividends

(a) The directors of the Corporation, subject to any rights or restrictions contained in the Certificate of Incorporation, may declare and pay dividends upon the shares of its capital stock pursuant to the DGCL. Dividends may be paid in cash, in property or in shares of the Corporation's capital stock.

(b) The directors of the Corporation may set apart out of any of the funds of the Corporation available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve. Such purposes shall include but not be limited to equalizing dividends, repairing or maintaining any property of the Corporation and meeting contingencies.

8.9 Fiscal Year

The fiscal year of the Corporation shall be fixed by resolution of the Board and may be changed by the Board.

8.10 Seal

The Corporation may adopt a corporate seal which may be altered as desired, and may use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

8.11 Transfer of Stock

Upon surrender to the Corporation or the transfer agent of the Corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer, it shall be the duty of the Corporation to issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction in its books.

8.12 Stock Transfer Agreements and Restrictions

The Corporation shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the Corporation to restrict the transfer of shares of stock of the Corporation of any one or more classes owned by such stockholders in any manner not prohibited by the DGCL.

8.13 Electronic Transmission

For purposes of these Bylaws, "electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

IX. AMENDMENTS

The original or other bylaws of the Corporation may be adopted, amended or repealed by the stockholders entitled to vote; provided, however, that the Corporation may, in its Certificate of Incorporation, confer the

power to adopt, amend or repeal bylaws upon the directors. The fact that such power has been so conferred upon the directors shall not divest the stockholders of the power, nor limit their power to adopt, amend or repeal bylaws.

X. FORUM SELECTION

10.1 Selection of Forum

(a) Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director or officer or other employee of the Corporation to the Corporation or the Corporation's stockholders, creditors or other constituents, (iii) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation arising pursuant to any provision of the DGCL or the Certificate of Incorporation or these Bylaws (as each may be amended from time to time), (iv) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation governed by the internal affairs doctrine; or (v) any action asserting an "internal corporate claim" as that term is defined in Section 115 of the DGCL, in all cases to the fullest extent permitted by law and subject to the court's having personal jurisdiction over the indispensable parties named as defendants provided, that, if and only if the Court of Chancery of the State of Delaware dismisses any such action for lack of subject matter jurisdiction, such action may be brought in another state court sitting in the State of Delaware (or, if no state court located within the State of Delaware has jurisdiction, the federal district court for the District of Delaware).

Unless the Corporation consents in writing to the selection of an alternative forum, the federal district courts of the United States of America shall, to the fullest extent permitted by law, be the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act.

XI. DISSOLUTION

11.1 Dissolution of Corporation

(a) If it should be deemed advisable in the judgment of the Board of the Corporation that the Corporation should be dissolved, the Board, after the adoption of a resolution to that effect by a majority of the whole Board at any meeting called for that purpose, shall cause notice to be mailed to each stockholder entitled to vote thereon of the adoption of the resolution and of a meeting of stockholders to take action upon the resolution.

(b) At the meeting a vote shall be taken for and against the proposed dissolution. If a majority of the outstanding stock of the Corporation entitled to vote thereon votes for the proposed dissolution, then a certificate stating, among other things, that the dissolution has been authorized in accordance with the provisions of Section 275 of the DGCL and setting forth the names and residences of the directors and officers shall be executed, acknowledged, and filed and shall become effective in accordance with Section 103 of the DGCL. Upon such certificate's becoming effective in accordance with Section 103 of the DGCL, the Corporation shall be dissolved.

(c) Whenever all the stockholders entitled to vote on a dissolution consent in writing, either in person or by duly authorized attorney, to a dissolution, no meeting of directors or stockholders shall be necessary. The consent shall be filed and shall become effective in accordance with Section 103 of the DGCL. Upon such consent's becoming effective in accordance with Section 103 of the DGCL, the Corporation shall be dissolved. If the consent is signed by an attorney, then the original power of attorney or a photocopy thereof shall be attached to and filed with the consent. The consent filed with the Secretary of State shall have attached to it the affidavit of the Secretary or some other officer of the Corporation stating that the consent has been signed by or on behalf of

all the stockholders entitled to vote on a dissolution; in addition, there shall be attached to the consent a certification by the Secretary or some other officer of the Corporation setting forth the names and residences of the directors and officers of the Corporation.

XII. CUSTODIAN

12.1 Appointment of a Custodian in Certain Cases

The Court of Chancery, upon application of any stockholder, may appoint one or more persons to be custodians and, if the Corporation is insolvent, to be receivers, of and for the Corporation when:

(a) at any meeting held for the election of directors the stockholders are so divided that they have failed to elect successors to directors whose terms have expired or would have expired upon qualification of their successors;

(b) the business of the Corporation is suffering or is threatened with irreparable injury because the directors are so divided respecting the management of the affairs of the Corporation that the required vote for action by the Board cannot be obtained and the stockholders are unable to terminate this division; or

(c) the Corporation has abandoned its business and has failed within a reasonable time to take steps to dissolve, liquidate or distribute its assets.

12.2 Duties of Custodian

The custodian shall have all the powers and title of a receiver appointed under Section 291 of the DGCL, but the authority of the custodian shall be to continue the business of the Corporation and not to liquidate its affairs and distribute its assets, except when the Court of Chancery otherwise orders and except in cases arising under Sections 226(a)(3) or 352(a)(2) of the DGCL.

XIII. LIMITATIONS OF OWNERSHIP BY NON-CITIZENS

13.1 Definitions.

For purposes of this Article XIII, the following definitions shall apply:

(a) "Act" shall mean Subtitle VII of Title 49 of the United States Code, as amended, or as the same may be from time to time amended.

(b) "Beneficial Ownership", "Beneficially Owned" or "Owned Beneficially" refers to beneficial ownership as defined in Rule 13d-3 (without regard to the 60-day provision in paragraph (d)(1)(i) thereof) under the Exchange Act.

(c) "Foreign Stock Record" shall have the meaning set forth in Section 13.3 below.

(d) "Non-Citizen" shall mean any person or entity who is not a "citizen of the United States" (as defined in Title 49, United States Code, Section 40102, and consistent with administrative interpretations thereof issued by the Department of Transportation or its predecessor or successors, or as the same may be from time to time amended), including any agent, trustee or representative of a Non-Citizen.

(e) "Own or Control" or "Owned or Controlled" shall mean (i) ownership of record, (ii) beneficial ownership or (iii) the power to direct, by agreement, agency or in any other manner, the voting (or any combination of the foregoing (i), (ii) and (iii)) of Stock. Any determination by the Board of Directors as to whether Stock is Owned or Controlled by a Non-Citizen shall be final.

(f) "Permitted Percentage" shall mean 25% of the voting power of the Stock.

(g) "Stock" shall mean the outstanding capital stock of the Corporation entitled to vote; provided, however, that for the purpose of determining the voting power of Stock that shall at any time constitute the Permitted Percentage, the voting power of Stock outstanding shall not be adjusted downward solely because shares of Stock may not be entitled to vote by reason of any provision of this Article VIII.

13.2 Limitations on Ownership.

It is the policy of the Corporation that, consistent with the requirements of the Act, Non-Citizens shall not Own or Control more than the Permitted Percentage and, if Non-Citizens nonetheless at any time Own or Control more than the Permitted Percentage, the voting rights of the Stock in excess of the Permitted Percentage shall be automatically suspended in accordance with Sections 13.3 and 13.4 below.

13.3 Foreign Stock Record.

The Corporation or any transfer agent designated by it shall maintain a separate stock record (the 'Foreign Stock Record") in which shall be registered Stock known to the Corporation to be Owned or Controlled by Non-Citizens. It shall be the duty of each stockholder to register his, her or its Stock if such stockholder is a Non-Citizen. A Non-Citizen may, at its option, register any Stock to be purchased pursuant to an agreement entered into with the Corporation, as if Owned or Controlled by it, upon execution of a definitive agreement. Such Non-Citizen shall register his, her or its Stock by sending a written request to the Corporation, noting both the execution of a definitive agreement for the purchase of Stock and the anticipated closing date of such transaction. Within 10 days of such closing date, the Non-Citizen shall send to the Corporation a written notice confirming that such closing occurred. Failure to send such confirmatory notice shall result in the removal of such Stock from the Foreign Stock Record. For the avoidance of doubt, any Stock registered as a result of execution of a definitive agreement shall not have any voting or other ownership rights until the closing of that

transaction. In the event that the sale pursuant to such definitive agreement is not consummated in accordance with such agreement (as may be amended), such Stock shall be removed from the Foreign Stock Record without further action by the Corporation. The Foreign Stock Record shall include (a) the name and nationality of each such Non-Citizen and (b) the date of registration of such shares in the Foreign Stock Record. In no event shall shares in excess of the Permitted Percentage be entered on the Foreign Stock Record. In the event that the Corporation shall determine that Stock registered on the Foreign Stock Record exceeds the Permitted Percentage, the voting rights of the owners of the Stock registered on the Foreign Stock Record shall be suspended on a pro rata basis among all such owners (and not in reverse chronological order) so that the aggregate voting rights afforded to all of the Stock registered on the Foreign Stock Registry, taken together (without duplication), are equal to the Permitted Percentage, until such time as, absent such pro rata suspension, the voting rights of all of the Stock registered on the Foreign Stock Registry, taken together (without duplication), would not exceed the Permitted Percentage.

13.4 Suspension of Voting Rights.

If at any time the number of shares of Stock known to the Corporation to be Owned or Controlled byNon-Citizens exceeds the Permitted Percentage, the voting rights of Stock Owned or Controlled by Non-Citizens and not registered on the Foreign Stock Record at the time of any vote or action of the stockholders of the Corporation shall be suspended without further action by the Corporation. Such suspension of voting rights shall automatically terminate upon the earlier of the (i) transfer of such shares to a person or entity who is not a Non-Citizen, or (ii) registration of such shares on the Foreign Stock Record, subject to the last two sentences of Section 13.3 above.

13.5 Certificate of Citizenship.

(a) The Corporation may by notice in writing (which may be included in the form of proxy or ballot distributed to stockholders in connection with the annual meeting or any special meeting of the stockholders of the Corporation, or otherwise) require a person that is a holder of record of Stock or that the Corporation knows to have, or has reasonable cause to believe has, Beneficial Ownership of Stock to certify in such manner as the Corporation shall deem appropriate (including by way of execution of any form of proxy or ballot of such person) that, to the knowledge of such person:

(i) all Stock as to which such person has record ownership or Beneficial Ownership is Owned and Controlled only by citizens of the United States; or

(ii) the number and class or series of Stock owned of record or Beneficially Owned by such person that is Owned or Controlled by Non-Citizens is as set forth in such certificate.

(b) With respect to any Stock identified in response to Section 13.5(a)(ii) above, the Corporation may require such person to provide such further information as the Corporation may reasonably require in order to implement the provisions of this Article XIII.

(c) For purposes of applying the provisions of this Article XIII with respect to any Stock, in the event of the failure of any person to provide the certificate or other information to which the Corporation is entitled pursuant to this Section 13.5, the Corporation shall presume that the Stock in question is Owned or Controlled by Non-Citizens.

CERTIFICATE OF ADOPTION OF BYLAWS
OF
FLYEXCLUSIVE, INC.

The undersigned hereby certifies that he is a duly elected, qualified and acting officer of flyExclusive, Inc. and that the foregoing Bylaws, comprising thirty-two (32) pages, were adopted as the Bylaws of the Corporation effective December 27, 2023, by the Board of the Corporation pursuant to action of the Board by unanimous written consent, and were recorded in the minutes thereof.

IN WITNESS WHEREOF, the undersigned has hereunto set his or her hand and affixed the corporate seal this 27th day of December, 2023.

/s/ Cason Maddison
Cason Maddison, Secretary

Exhibit 10.1

STOCKHOLDERS' AGREEMENT

This Stockholders' Agreement (this "Agreement") is made as of December 27, 2023, by and among (i) EG Acquisition Corp., a Delaware corporation (the "Company"); (ii) Thomas James Segrave Jr. ("Segrave"); (iii) Thomas James Segrave, Jr., as custodian for Laura Grace Segrave ("LG Trust"); (iv) Thomas James Segrave, Jr., as custodian for Madison Lee Segrave, ("ML Trust"); (v) Thomas James Segrave, Jr., as custodian for Lillian May Segrave, ("LM Trust"); (vi) Thomas James Segrave, Jr., as custodian for Thomas James Segrave, III, ("TJ Trust" and, together with Segrave, LG Trust, ML Trust and LM Trust, the "Existing Equityholders"); and (vii) EG Sponsor LLC, a Delaware limited liability company ("Sponsor", and, together with the Existing Equityholders, the "Stockholder Parties").

RECITALS

WHEREAS, the Company has entered into that certain Equity Purchase Agreement, dated as of October 17, 2022 (as it may be amended or supplemented from time to time, the "Purchase Agreement"), by and among (i) LGM Enterprises, LLC ("OpCo"), (ii) the Existing Equityholders, (iii) EG Acquisition Corp., a Delaware corporation and predecessor to the Company (the "SPAC"), (iv) the Sponsor, and (v) Thomas James Segrave, Jr., as the Existing Equityholder Representative (as defined therein), pursuant to which the parties thereto have agreed to consummate the transactions contemplated by the Purchase Agreement (collectively, the "Transaction");

WHEREAS, pursuant to the Purchase Agreement, among other things, (i) OpCo issued a number of OpCo Common Units (as defined below) to the Company in exchange for a contribution of cash from the SPAC, (ii) the Class B common stock of the SPAC, held by Sponsor, converted into an equivalent number of shares of Class A Common Stock (as defined below) of the Company, and (iii) the Company issued Class B Common Stock (defined below) to the Existing Equityholders;

WHEREAS, as of immediately following the closing of the Transaction (the "Closing"), each of the Stockholder Parties Beneficially Owns (as defined below) the respective number of shares of Class A common stock, par value $0.0001 per share (the "Class A Common Stock"), and Class B common stock, par value $0.0001 per share (the "Class B Common Stock" and together with the Class A Common Stock and the Class B Common Stock, the "Common Stock"), of the Company, set forth on Annex A hereto;

WHEREAS, in connection with the Transaction, the Stockholder Parties have agreed to enter into this Agreement;

NOW THEREFORE, in consideration of the foregoing and of the promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. Definitions. Capitalized terms used herein but not defined in this Agreement shall have the meanings ascribed to them in the Purchase Agreement. In addition to the terms defined elsewhere in this Agreement, the following terms shall have the meanings indicated when used in this Agreement with initial capital letters:

"Affiliate" shall have the meaning ascribed to such term in Rule 12b-2 of the General Rules and Regulations under the Exchange Act.

"A&R By-laws" shall mean the Amended and Restated By-laws of the Company, dated as of the date hereof, as it may be amended, supplemented, restated and/or modified from time to time.

"A&R Certificate of Incorporation" shall mean the Second Amended and Restated Certificate of Incorporation of the Company, dated as of the date hereof, as it may be amended, supplemented, restated and/or modified from time to time.

"Board" shall mean the board of directors of the Company.

"Closing Date" shall have the meaning given in the Purchase Agreement.

"Company Warrants" means warrants to purchase Class A Common Stock.

"Confidential Information" shall mean all information (whether or not specifically identified as confidential), in any form or medium, belonging to Company and its Affiliates that are not generally known to the public, including, but not limited to, information concerning business plans, financial statements, and other information provided pursuant to this Agreement, operating practices and methods, expansion plans, strategic plans, marketing plans, contracts, customer lists, or other business documents that the Company treats as confidential; provided that "Confidential Information" shall not include any information that a Stockholder Party can demonstrate has become generally known to and widely available for use other than as a result of the acts or omissions of such Stockholder Party or any Person over which such Stockholder Party has control to the extent such acts or omissions are not authorized by such Stockholder Party in the performance of such Person's assigned duties for such Stockholder Party.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

"Law" shall mean any federal, state, local or foreign law, regulation or rule or any decree, judgment, permit or order.

"LGM Holders" shall mean the Existing Equityholders and their Permitted Transferees.

"Lock-up Period" shall mean the period beginning on the Closing Date and ending on the date that is the first (1st) anniversary of the Closing Date.

"Lock-up Shares" shall mean (i) the shares of Common Stock received by the Existing Equityholders in connection with the Transactions on the Closing Date, (ii) any shares of Common Stock received after the Closing Date by any Existing Equityholder or Permitted Transferee thereof pursuant to a Redemption (as defined in the OpCo LLCA) of the OpCo Common Units held as of the Closing Date, and (iii) the Company Warrants held as of the Closing Date and any shares of Common Stock issued to Existing Equityholders or Permitted Transferees thereof upon exercise of any such warrants.

"OpCo Common Units" shall mean the "Common Units" of OpCo as defined in the OpCo LLCA.

"OpCo LLCA" shall mean the Amended and Restated Limited Liability Company Operating Agreement of OpCo, dated as of the date hereof, as it may be amended, supplemented, restated and/or modified from time to time.

"Permitted Transferees" shall mean, with respect to any stockholder of the Company party to this Agreement: (i) the Company, OpCo, or any of their Subsidiaries; (ii) any Person, approved in writing in advance by the Board and the Sponsor; (iii) in the case of Sponsor, any of its direct or indirect equityholders or its Affiliates under common control; and (iv) if the stockholder is a natural Person, any of such stockholder's controlled Affiliates, or any trust or other estate planning vehicle that is under the control of such stockholder and for the sole benefit of such stockholder and/or such stockholder's spouse, former spouse, ancestors and descendants (whether natural or adopted), parents and their descendants and any spouse of the foregoing Persons, in the case of each of clauses (i) through (iv) above, only if such transferee becomes a party to this Agreement.

"Person" shall mean individual, corporation, limited liability company, partnership, joint venture, association, trust, unincorporated organization or any other entity, including a governmental authority.

"Registration Rights Agreement" shall mean the Registration Rights Agreement, dated as of the date hereof, by and among the Existing Equityholders, Sponsor, the Company and the New Noteholders (as defined therein).

"Sponsor Holders" shall mean Sponsor and its Permitted Transferees.

"Stockholder Shares" shall mean all securities of the Company registered in the name of, or Beneficially Owned by the Stockholder Parties, including any and all securities of the Company acquired and held in such capacity subsequent to the date hereof.

"Subsidiary" shall mean, with respect to any Person, (i) any corporation of which more than fifty percent (50%) of the outstanding voting securities is, directly or indirectly, owned by such Person, and (ii) any partnership, limited liability company, joint venture or other entity of which more than fifty percent (50%) of the total equity interest is, directly or indirectly, owned by such Person or of which such Person or any Subsidiary is a general partner, manager, managing member or the equivalent.

"Transfer" shall mean the (i) sale of, offer to sell, contract or agreement to sell, hypothecate, pledge, grant of any option to purchase or otherwise dispose of or agreement to dispose of, directly or indirectly, or establishment or increase of a put equivalent position or liquidation with respect to or decrease of a call equivalent position within the meaning of Section 16 of the Exchange Act with respect to, any security, (ii) entry into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of any security, whether any such transaction is to be settled by delivery of such securities, in cash or otherwise, or (iii) public announcement of any intention to effect any transaction specified in clause (i) or (ii) above.

2. Agreement to Vote. During the term of this Agreement, each LGM Holder shall vote or cause to be voted all securities of the Company that may be voted in the election of the Company's directors registered in the name of, or beneficially owned (as such term is defined in Rule 13d-3 under the Exchange Act, including by the exercise or conversion of any security exercisable or convertible for shares of Common Stock, but excluding shares of stock underlying unexercised Options or warrants) ("Beneficially Owned" or "Beneficial Ownership") by such LGM Holder, including any and all securities of the Company acquired and held in such capacity subsequent to the date hereof (hereinafter referred to as the "Voting Shares"), in accordance with the provisions of this Agreement, including, without limitation, voting or causing to be voted all Voting Shares Beneficially Owned by such LGM Holder so that the Board is comprised of the Persons designated pursuant to Section 3. Except as explicitly provided in this Agreement, each LGM Holder is free to vote or cause to be voted all Voting Shares Beneficially Owned by such LGM Holder. For the avoidance of doubt, nothing in this Section 2 shall require an LGM Holder to exercise or convert any security exercisable or convertible for voting securities of the Company. In the event the LGM Holders act by written consent in accordance with the Company's certificate of incorporation and by-laws with respect to any action otherwise required by the General Corporation Law of Delaware to be taken at any annual or special meeting of stockholders of the Company, and the effective date of such action is not subject to Rule 14c-2 of the Exchange Act, the LGM Holders shall provide the Sponsor Holders at least 20 days' prior written notice prior to the effective date of such action.

3. Board of Directors.

(a) Board Representation. Subject to the terms and conditions of this Agreement, from and after the date of this Agreement, the Company and each LGM Holder shall take all necessary action to cause, effective beginning immediately following the Closing Date, the Board to be comprised of seven (7) directors who, initially, shall be the Persons identified on Exhibit 3 and thereafter as set forth in accordance with thisSection 3.

(b) Sponsor Designees.

(i) Subject to Section 3(b)(ii), the Sponsor Holders, by a majority of shares held by them, shall have the right to nominate, and the Board and the LGM Holders will appoint and vote for, two (2) members of the Board (the "Sponsor Designees" and each an "Sponsor Designee"), two (2) of which are

initially designated as set forth on Exhibit 3 hereto and all of which shall thereafter be designated by the Sponsor Holders by a majority of shares held by them.

(ii) In the event the Sponsor Holders cease collectively, as of any date after the Closing Date, to own voting stock of the Company bearing at least: (A) fifteen percent (15%) of the aggregate outstanding voting power of the Company, the Sponsor Holders shall only be entitled to nominate one (1) member of the Board as of the date Sponsor Holders cease to hold the aforementioned requisite securities of the Company; and (B) five percent (5%) of the aggregate outstanding voting power of the Company, the Sponsor Holders shall no longer be entitled to nominate any members of the Board as of the date the Sponsor Holders cease to hold the aforementioned requisite securities of the Company.

(c) Resignation; Removal; Vacancies. Any member of the Board designated pursuant to Section 3(b) may resign, or may be removed either (i) with or without cause solely at the direction of the Sponsor Holder who designated such member of the Board, or (ii) by the affirmative written vote or written consent of a majority of the remaining members of the Board upon death, disability or disqualification of such member of the Board. The Sponsor Holder who designated such resigned or removed director (or such Sponsor Holder's successors) shall have the exclusive right to designate a replacement for such member of the Board, which individual shall be appointed and approved pursuant to Section 3(b) for so long as such Sponsor Holder is entitled to designate such nominee pursuant to such section.

(d) From and after the lapse or termination of a Board designation rights set forth inSection 3(b), in accordance with the terms of this Agreement, the Board seat that would have been designated pursuant to such designation right had such right not lapsed or terminated will be filled in accordance with the A&R Certificate of Incorporation and the A&R By-laws.

4. Controlled Company.

(a) The Stockholder Parties agree and acknowledge that by virtue of the combined voting power of the Existing Equityholders of more than fifty percent (50%) of the total voting power of the shares of capital stock of the Company outstanding as of the Closing, the Company will, as of the Closing, qualify as a "controlled company" within the meaning of Section 303A of the NYSE Listed Company Manual (the "NYSE Listing Rules") of The New York Stock Exchange.

(b) From and after the Closing, the Company agrees and acknowledges that, unless otherwise agreed by Segrave, it shall elect, to the extent permitted under the NYSE Listing Rules, to be treated as a "controlled company" within the meaning of Section 303A of the NYSE Listing Rules.

5. Representations and Warranties of Each Existing Equityholder. Each Existing Equityholder on its own behalf hereby represents and warrants to the Company and each other Existing Equityholder, severally and not jointly, with respect to such Existing Equityholder and such Existing Equityholder's ownership of his, her or its Stockholder Shares set forth on Annex A, as of the Closing Date:

(a) Organization; Authority. If Existing Equityholder is a legal entity, Existing Equityholder (i) is duly incorporated or organized, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization and (ii) has all requisite power and authority to enter into this Agreement and to perform its obligations hereunder. If Existing Equityholder is a natural person, Existing Equityholder has the legal capacity to enter into this Agreement and perform his or her obligations hereunder. If Existing Equityholder is a legal entity, this Agreement has been duly authorized, executed and delivered by Existing Equityholder. This Agreement constitutes a valid and binding obligation of Existing Equityholder enforceable in accordance with its terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity (regardless of whether considered in a proceeding in equity or at law).

(b) No Consent. Except as provided in this Agreement and for filing requirements under applicable securities laws, no consent, approval or authorization of, or designation, declaration or filing with, any

governmental Authority or other Person on the part of Existing Equityholder is required in connection with the execution, delivery and performance of this Agreement, except where the failure to obtain such consents, approvals, authorizations or to make such designations, declarations or filings would not materially interfere with a Existing Equityholder's ability to perform his, her or its obligations pursuant to this Agreement. If Existing Equityholder is a natural person, no consent of such Existing Equityholder's spouse is necessary under any "community property" or other laws for the execution and delivery of this Agreement or the performance of Existing Equityholder's obligations hereunder. If Existing Equityholder is a trust, no consent of any beneficiary is required for the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby.

(c) Ownership of Shares. Existing Equityholder Beneficially Owns his, her or its Stockholder Shares free and clear of all Liens. Except pursuant to this Agreement, the Purchase Agreement, and the Registration Rights Agreement, there are no options, warrants or other rights, agreements, arrangements or commitments of any character to which Existing Equityholder is a party relating to the pledge, acquisition, disposition, Transfer or voting of Stockholder Shares and there are no voting trusts or voting agreements with respect to the Stockholder Shares. Existing Equityholder does not Beneficially Own (i) any shares of capital stock of the Company other than the Stockholder Shares set forth on Annex A and (ii) any options, warrants or other rights to acquire any additional shares of capital stock of the Company or any security exercisable for or convertible into shares of capital stock of the Company, other than as set forth on Annex A (collectively, "Options").

6. Lock-up.

(a) Subject to Sections 6(b) and 6(c), each Existing Equityholder agrees that, without the Company's prior written consent, it, he or she shall not Transfer any Lock-up Shares until the end of the Lock-up Period.

(b) Notwithstanding the provisions set forth in Section 6(a), any Existing Equityholder or its Permitted Transferees may Transfer the Lock-up Shares during the Lock-up Period (i) to any of such Existing Equityholder's Permitted Transferees; (ii) in connection with a pledge of up to 25% of each individual Existing Equityholder's Lock-up Shares in connection with a bona fide transaction with a lender and disclosed in writing to the Board; or (iii) in connection with a liquidation, merger, stock exchange, reorganization, tender offer approved by the Board or a duly authorized committee thereof or other similar transaction which results in all of the Company's stockholders having the right to exchange their shares of Common Stock for cash, securities or other property subsequent to the Closing Date.

(c) Notwithstanding anything contained herein to the contrary, the Lock-up Period shall expire, and each Existing Equityholder, together with its Permitted Transferees, shall be entitled to Transfer all of the Lock-up Shares, immediately upon the date on which the Company completes a liquidation, merger, capital stock exchange, reorganization or other similar transaction that results in all of the Company's stockholders having the right to exchange their shares of Common Stock of the Company for cash, securities or other property.

7. No Other Voting Trusts or Other Arrangement. Each Existing Equityholder shall not, and shall not permit any entity under such Existing Equityholder's control to (a) deposit any Voting Shares or any interest in any Voting Shares in a voting trust, voting agreement or similar agreement, (b) grant any proxies, consent or power of attorney or other authorization or consent with respect to any of the Voting Shares or (c) subject any of the Voting Shares to any arrangement with respect to the voting of the Voting Shares, in each case, that conflicts with or prevents the implementation of this Agreement.

8. Additional Shares. Each Existing Equityholder agrees that all securities of the Company that may vote in the election of the Company's directors that such Existing Equityholder purchases, acquires the right to vote or otherwise acquires Beneficial Ownership of (including by the exercise or conversion of any security exercisable or convertible for shares of Common Stock) after the execution of this Agreement shall be subject to the terms of this Agreement and shall constitute Voting Shares for all purposes of this Agreement.

9. Confidentiality. Each Stockholder Party agrees, and agrees to cause its Affiliates, to keep confidential and not disclose, divulge, or use for any purpose (other than to monitor its investment in the Company) any Confidential Information; provided, however, that a Stockholder Party may disclose Confidential Information to (a) its attorneys, accountants, consultants, and other professionals to the extent necessary to obtain their services in connection with monitoring its investment in the Company, (b) to any Affiliate, partner, member, equityholder or wholly-owned Subsidiary of such Stockholder Party, or any lender (or potential lender) or similar financing counterparty thereof, in each case in the ordinary course of business; provided that such Stockholder Party informs such Person that such information is confidential and directs such Person to maintain the confidentiality of such information, (c) as may otherwise be required by law, regulation, rule, court order or subpoena or by obligations pursuant to any listing agreement with any securities exchange or securities quotation system, provided that such Stockholder Party promptly notifies the Company of such disclosure and takes reasonable steps to minimize the extent of any such required disclosure, or (d) any party with whom such Stockholder Party enters into a confidentiality agreement, in form reasonably satisfactory to the Company, governing such Confidential Information.

10. Specific Enforcement. It is agreed and understood that monetary damages would not adequately compensate an injured party for the breach of this Agreement by any party hereto and, accordingly, that this Agreement shall be specifically enforceable, in addition to any other remedy to which such injured party is entitled at law or in equity, and that any breach of this Agreement shall be the proper subject of a temporary or permanent injunction or restraining order. Further, each party hereto waives any claim or defense that there is an adequate remedy at law for such breach or threatened breach or an award of specific performance is not an appropriate remedy for any reason at law or equity and agrees that a party's rights would be materially and adversely affected if the obligations of the other parties under this Agreement were not carried out in accordance with the terms and conditions hereof. Each party further agrees that no party shall be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtain any remedy referred to in this Section 10, and each party irrevocably waives any right it may have to require the obtaining, furnishing or posting of any such bond or similar instrument.

11. Termination.

(a) Following the Closing, with respect to each Stockholder Party, except as set forth in Section 11(b), (a) Section 2 (Agreement to Vote), Section 3 (Board of Directors), of this Agreement shall terminate automatically (without any action by any party hereto) on the first date on which such Stockholder Party no longer has the right to designate a director to the Board under this Agreement; (b) Section 4(b) (Controlled Company) shall survive until the Company is no longer considered a "controlled company" under Section 303A of the NYSE Listing Rules (or other applicable stock exchange rule) and (c) the remainder of this Agreement shall terminate automatically (without any action by any party hereto) as to each Stockholder Party when such Stockholder Party ceases to Beneficially Own any Stockholder Shares.

(b) Notwithstanding the foregoing, the obligations set forth in Section 9 (Confidentiality), Section 10 (Specific Enforcement), Section 11 (Termination), Section 12 (Amendments and Waivers), Section 14 (Assignment), Section 16 (Severability), Section 17 (Governing Law), Section 18 (Jurisdiction), and Section 19 (WAIVER OF JURY TRIAL) shall survive termination of this Agreement.

12. Amendments and Waivers. Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by each Stockholder Party that (i) remains a party to this Agreement at such time and (ii) (x) in the case of any amendment to the rights of any Stockholder Party hereunder, has such right at the time of such amendment and (y) in the case of an amendment to any obligation of a Stockholder Party hereunder, remains subject to such obligation at the time of such amendment. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Law.

13. Stock Splits, Stock Dividends, etc. In the event of any stock split, stock dividend, recapitalization, reorganization or the like, any securities issued with respect to Voting Shares held by Stockholder Parties shall become Voting Shares for purposes of this Agreement (and any securities issued with respect to Lock-up Shares held by Existing Equityholders shall become Lock-up Shares for purposes of this Agreement). During the term of this Agreement, all dividends and distributions payable in cash with respect to the Voting Shares shall be paid, as applicable, to each of the undersigned Stockholder Parties and all dividends and distributions payable in Common Stock or other equity or securities convertible into equity with respect to the Voting Shares shall be paid, as applicable, to each of the undersigned Stockholder Parties, but all dividends and distributions payable in Common Stock or other equity or securities convertible into equity shall become Voting Shares (and all dividends and distributions on Lock-up Shares payable in Common Stock or other equity or securities convertible into equity shall become Lock-up Shares) for purposes of this Agreement.

14. Assignment.

(a) Neither this Agreement nor any of the rights, duties, interests or obligations of the Company hereunder shall be assigned or delegated by the Company in whole or in part.

(b) No Stockholder Party may assign or delegate such Stockholder Party's rights, duties or obligations under this Agreement, in whole or in part, except in connection with a Transfer of Stockholder Shares by such Stockholder Party to a Permitted Transferee in accordance with the terms of the Registration Rights Agreement and this Section 14.

(c) This Agreement and the provisions hereof shall, subject to Section 14(b), inure to the benefit of, shall be enforceable by and shall be binding upon the respective assigns and successors in interest of each Stockholder Party, as applicable, including with respect to any of such Stockholder Party's Stockholder Shares that are transferred to a Permitted Transferee in accordance with the terms of this Agreement and the Registration Rights Agreement.

(d) No assignment in accordance with this Section 14 by any party hereto (including pursuant to a Transfer of any Stockholder Party's Stockholder Shares) of such party's rights, duties and obligations hereunder shall be binding upon or obligate the Company or any other party hereto unless and until each of the other parties hereto shall have received (i) written notice of such assignment as provided in Section 21 and (ii) the executed written agreement of the assignee to be bound by the terms and provisions of this Agreement (which may be accomplished by an addendum or certificate of joinder to this Agreement) as fully as if it were an initial signatory hereto. Each Stockholder Party shall not permit the Transfer of any such Stockholder Party's Stockholder Shares to a Permitted Transferee unless and until the Person to whom such securities are to be transferred has executed a written agreement as provided in clause (ii) of the preceding sentence.

(e) Any transfer or assignment made other than as provided in this Section 14 shall be null and void.

(f) Notwithstanding anything herein to the contrary, for purposes of determining the number of shares of capital stock of the Company held by each Stockholder Party, the aggregate number of shares so held by such Stockholder Party shall include any shares of capital stock of the Company transferred or assigned to a Permitted Transferee in accordance with the provisions of this Section 14; provided, that any such Permitted Transferee has executed a written agreement agreeing to be bound by the terms and provisions of this Agreement as contemplated by Section 14(d) above, including agreeing to vote or cause to be voted the Voting Shares Beneficially Owned by such Permitted Transferee as required of the applicable transferring LGM Holder or Sponsor Holder.

15. Other Rights. Except as provided by this Agreement, each Stockholder Party shall retain the full rights of a holder of shares of capital stock of the Company with respect to the Stockholder Shares, including the right to vote the Stockholder Shares subject to this Agreement.

16. Severability. In the event that any provision of this Agreement 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.

17. Governing Law. This Agreement, the rights and duties of the parties hereto, any disputes (whether in contract, tort or statute), and the legal relations between the parties arising hereunder shall be governed by and interpreted and enforced in accordance with the Laws of the State of Delaware without reference to its conflicts of laws provisions.

18. Jurisdiction. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement shall be brought against any of the parties in the Court of Chancery of the State of Delaware (the "Chancery Court") (or, in the event that the Chancery Court does not have jurisdiction, the federal district court for the District of Delaware or other state courts of the State of Delaware) and each of the parties hereby consents to the exclusive jurisdiction of such courts (and of the appropriate appellate courts) in any such suit, action or proceeding and waives any objection to venue laid therein. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such courts.

19. WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

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

21. Notices. Any notices provided pursuant to this Agreement shall be in writing and given by (i) deposit in the United States mail, addressed to the party to be notified, postage prepaid and registered or certified with return receipt requested, (ii) delivery in person or by courier service providing evidence of delivery, or (iii) transmission by electronic mail. Notices provided pursuant to this Agreement shall be provided, (x) if to the Company, in accordance with the terms of the Purchase Agreement, (y) if to any other party hereto, to the address or email address, as applicable, of such party set forth on Annex A hereto, or (z) to any other address or email address, as a party designates in writing to the other parties in accordance with thisSection 22.

22. Entire Agreement. This Agreement constitutes the full and entire understanding and agreement among the parties, and supersedes any prior agreement or understanding among the parties, with regard to the subject matter hereof, and no party shall be liable or bound to any other party in any manner by any warranties, representations or covenants except as specifically set forth herein.

23. Effectiveness. Notwithstanding anything contained in this Agreement to the contrary, this Agreement shall be effective upon the Closing. If the Purchase Agreement is terminated in accordance with its terms, this Agreement shall terminate concurrently therewith and shall be of no further force and effect.

[*Remainder of page intentionally left blank; signature pages follow*]

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

COMPANY:

EG Acquisition Corp.
a Delaware corporation

By: /s/ Gregg Hymowitz
Name: Gregg Hymowitz
Title: Chief Executive Officer

SPONSOR:

EG Sponsor LLC
a Delaware corporation

By: /s/ Matthew Lux
Name: Matthew Lux
Title: Authorized Signatory

EXISTING EQUITYHOLDERS:

/s/ Thomas James Segrave, Jr.
Thomas James Segrave, Jr.

/s/ Thomas James Segrave, Jr.
Thomas James Segrave, Jr. as Custodian for Laura Grace Segrave

/s/ Thomas James Segrave, Jr.
Thomas James Segrave, Jr. as Custodian for Madison Lee Segrave

/s/ Thomas James Segrave, Jr.
Thomas James Segrave, Jr. as Custodian for Lillian May Segrave

/s/ Thomas James Segrave, Jr.
Thomas James Segrave, Jr. as Custodian for Thomas James Segrave, III

Annex A

Holder	Address	Shares of Common Stock	Warrants	Options	Other Equity Securities/Rights to Acquire Equity Securities
Thomas James Segrave, Jr.	2860 Jetport Road, Kinston, North Carolina 28504	Class B Common Stock: 57,530,000	-	-	57,530,000 LGM Common Units
Thomas James Segrave, Jr., as Custodian for Laura Grace Segrave	2860 Jetport Road, Kinston, North Carolina 28504	Class B Common Stock: 600,000	-	-	600,000 LGM Common Units
Thomas James Segrave, Jr., as Custodian for Madison Lee Segrave	2860 Jetport Road, Kinston, North Carolina 28504	Class B Common Stock: 600,000	-	-	600,000 LGM Common Units
Thomas James Segrave, Jr., as Custodian for Lillian May Segrave	2860 Jetport Road, Kinston, North Carolina 28504	Class B Common Stock: 600,000	-	-	600,000 LGM Common Units
Thomas James Segrave, Jr., as Custodian for Thomas James Segrave III	2860 Jetport Road, Kinston, North Carolina 28504	Class B Common Stock: 600,000	-	-	600,000 LGM Common Units
EG Sponsor LLC	375 Park Avenue, 24th Floor, New York, NY 10152	Class A Common Stock: 5,625,000	Warrants to purchase 4,333,333 shares of Class A Common Stock	-	-

Exhibit 3
Initial Board Designees

The initial board designees shall initially be:

- Thomas James Segrave, Jr., who shall serve as the initial chairperson of the Board
- Gregg S. Hymowitz (ETG Designee)
- Gary Fegel (ETG Designee)
- Michael S. Fox
- Frank B. Holding, Jr.
- Peter B. Hopper
- Thomas J. Segrave, Sr.

Exhibit 10.2

AMENDED AND RESTATED REGISTRATION RIGHTS AGREEMENT

THIS AMENDED AND RESTATED REGISTRATION RIGHTS AGREEMENT (this "***Agreement***"), dated as of December 27, 2023, is made and entered into by and among EG Acquisition Corp., a Delaware corporation (the "***Company***"), EG Sponsor LLC, a Delaware limited liability company (the "***Sponsor***"), the undersigned parties listed under Existing Holders on the signature page hereto (each such party, together with the Sponsor and any Permitted Transferee of an Existing Holder who hereafter becomes a party to this Agreement pursuant to Section 5.2 of this Agreement, an "***Existing Holder***" and collectively the "***Existing Holders***"), and the undersigned parties listed under New Holders on the signature page hereto (each such party, together with any Permitted Transferee of a New Holder who hereafter becomes a party to this Agreement pursuant to Section 5.2 of this Agreement, a "***New Holder***" and collectively the "***New Holders***"). Capitalized terms used but not otherwise defined in this Agreement shall have the meaning ascribed to such term in the Equity Purchase Agreement (as defined below).

RECITALS

WHEREAS, the Company and the Sponsor are party to that certain Registration and Stockholder Rights Agreement dated May 25, 2021 (the "***Existing Registration Rights Agreement***"), pursuant to which the Company granted the Sponsor certain registration rights with respect to certain securities of the Company;

WHEREAS, the Company entered into that certain Equity Purchase Agreement (the "***Equity Purchase Agreement***"), dated as of October 17, 2022, by and between the Company, Sponsor, LGM Enterprises, LLC ("***LGM***"), the Existing Equityholders listed on Annex A thereto (the "***Existing Equityholders***") and Thomas James Segrave, Jr., as the Existing Equityholder Representative;

WHEREAS, upon the closing of the transactions contemplated by the Equity Purchase Agreement (the "***Closing***") and subject to the terms and conditions set forth therein, the Existing Equityholders received common units of LGM ("***Common Units***"), in respect of which the Company may issue shares of the Company's Class A common stock, par value $0.0001 per share (the "***Common Stock***") in connection with any redemption by a New Holder of its Common Units in accordance with the Amended and Restated Limited Liability Company Operating Agreement of the Company (as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "***LGM LLC Agreement***");

WHEREAS, the Sponsor owns 5,625,000 shares of Common Stock (the "***Founder Shares***") consisting of (i) 5,624,000 shares of Common Stock that were converted from an equal number of shares of the Company's Class B common stock, par value $0.0001 per share (the "***Class B Common Stock***") on May 19, 2023 and (ii) 1,000 shares of Common Stock that, upon Closing, were converted from an equal number of shares of the Company's Class B Common Stock.

WHEREAS, on May 25, 2021, the Company and the Sponsor entered into that certain Warrant Purchase Agreement, pursuant to which the Sponsor purchased 4,333,333 private placement warrants (the "***Private Placement Warrants***" and such agreement, the "***Warrant Purchase Agreement***") at a price of $1.50 per Private Placement Warrant, in a private placement transaction occurring simultaneously with the closing of the Company's initial public offering (and the closing of the over-allotment option, if applicable), each Private Placement Warrant entitling the holder to purchase one share of Common Stock at an exercise price of $11.50 per share;

WHEREAS, in order to finance the Company's transaction costs in connection with the transactions contemplated by the Equity Purchase Agreement, the Sponsor, an affiliate of the Sponsor or certain of the Company's officers or directors may, but are not obligated to, loan the Company funds as the Company may require, of which up to $1,500,000 of such loans may be convertible into warrants of the Company at a price of $1.50 per warrant at the option of the lender (the "***Working Capital Warrants***");

WHEREAS, pursuant to that certain Non-Redemption Agreement, dated as of the date hereof, by and among the Company, LGM, Thomas James Segrave, Jr. ("***Segrave***"), and the other investors party thereto (the "***Non-Redemption Agreement***"), immediately upon the Closing, Segrave shall redeem 70,000 Common Units in exchange for 70,000 shares of Class A Common Stock (the "***Non-Redemption Agreement Shares***") pursuant to the LGM LLC Agreement, and immediately transfer such Non-Redemption Agreement Shares to the Investors (as defined in the Non-Redemption Agreement); and

WHEREAS, pursuant to Section 6.8 of the Existing Registration Rights Agreement, the provisions, covenants and conditions set forth therein may be amended or modified upon the written consent of the Company and the holders of a majority-in-interest of the "Registrable Securities" (as such term was defined in the Existing Registration Rights Agreement) at the time in question; and

WHEREAS, the Company and the Sponsor desire to amend and restate the Existing Registration Rights Agreement in order to provide the Existing Holders and the New Holders certain registration rights with respect to certain securities of the Company, as set forth in this Agreement.

NOW, **THEREFORE**, in consideration of the mutual representations, covenants and agreements contained herein, and certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE I
DEFINITIONS

1.1 Definitions. The terms defined in this *Article I* shall, for all purposes of this Agreement, have the respective meanings set forth below:

"***Adverse Disclosure***" shall mean any public disclosure of material non-public information, which disclosure, in the good faith judgment of the Board, after consultation with the executive officers of and counsel to the Company, (i) would be required to be made in any Registration Statement or Prospectus in order for the applicable Registration Statement or Prospectus not to contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein (in the case of any prospectus and any preliminary prospectus, in the light of the circumstances under which they were made) not misleading, (ii) would not be required to be made at such time if the Registration Statement were not being filed, and (iii) the Company has a bona fide business purpose for not making such information public.

"***Agreement***" shall have the meaning given in the Preamble.

"***Block Trade***" means an offering and/or sale of Registrable Securities by any Holder on a block trade or underwritten basis (whether firm commitment or otherwise) without substantial marketing efforts prior to pricing, including, without limitation, a "bought deal", same day trade, overnight trade or similar transaction.

"***Board***" shall mean the Board of Directors of the Company.

"***Class B Common Stock***" shall have the meaning given in the Recitals hereto.

"***Closing***" shall have the meaning in the Recitals hereto.

"***Company***" shall have the meaning given in the Preamble.

"***Common Stock***" shall have the meaning given in the Recitals hereto.

"***Company Shelf Takedown Notice***" shall have the meaning given in subsection 2.1.3.

"***Demand Registration***" shall have the meaning given in subsection 2.2.1.

"***Demanding Holders***" shall have the meaning given in subsection 2.2.1.

"***Effectiveness Deadline***" shall have the meaning given in subsection 2.1.1.

"***Equity Purchase Agreement***" shall have the meaning given in the Recitals hereto.

"***Exchange Act***" shall mean the Securities Exchange Act of 1934, as it may be amended from time to time.

"***Existing Holders***" shall have the meaning in the Preamble and shall include any Permitted Transferee of an Existing Holder who becomes a party to this Agreement in accordance with Section 5.2.

"***Existing Registration Rights Agreement***" shall have the meaning given in the Recitals hereto.

"***Form S-1 Shelf***" shall have the meaning given in subsection 2.1.1.

"***Form S-3 Shelf***" shall have the meaning given in subsection 2.1.1.

"***Founder Shares***" shall have the meaning given in the Recitals hereto and shall be deemed to include the shares of Common Stock issued upon conversion thereof.

"***Holders***" shall mean the Sponsor and the New Holders and any person or entity who hereafter becomes a party to this Agreement pursuant to Section 5.2.

"***Insider Letter"*** shall mean that certain letter agreement, dated as of May 25, 2021, by and among the Company, the Sponsor and each of the Company's officers, directors and director nominees.

"***LGM LLC Agreement***" shall have the meaning given in the Recitals hereto.

"***Lock-Up Period***" shall mean (i) with respect to the Existing Equityholders, the "Lock-up Period" (as defined in the Stockholders Agreement) or (ii) with respect to the Sponsor, the "Lock-up Periods" (as defined in the Insider Letter).

"***Maximum Number of Securities***" shall have the meaning given in subsection 2.2.4.

"***Misstatement***" shall mean an untrue statement of a material fact or an omission to state a material fact required to be stated in a Registration Statement or Prospectus, or necessary to make the statements in a Registration Statement or Prospectus (in the case of any prospectus and any preliminary prospectus, in the light of the circumstances under which they were made) not misleading.

"***New Holders***" shall have the meaning in the Preamble and shall include any Permitted Transferee of a New Holder who becomes a party to this Agreement in accordance with Section 5.2.

"***Permitted Transferees***" shall mean any person or entity to whom a Holder of Registrable Securities is permitted to transfer such Registrable Securities prior to the expiration of the Lock-Up Period.

"***Piggyback Registration***" shall have the meaning given in subsection 2.3.1.

"***Private Placement Warrants***" shall have the meaning given in the Recitals hereto.

"***Pro Rata***" shall have the meaning given in subsection 2.2.4.

"***Prospectus***" shall mean the prospectus included in any Registration Statement, as supplemented by any and all prospectus supplements and as amended by any and all post-effective amendments and including all material incorporated by reference in such prospectus.

"***Registrable Security***" shall mean (a) the Founder Shares, including the shares of Common Stock issued as a result of the conversion of certain Founder Shares from Class B Common Stock to Class A Common Stock, (b) the Private Placement Warrants and any shares of Common Stock issued or issuable upon the exercise of the Private Placement Warrants, (c) any shares of Common Stock issued upon the redemption by a New Holder of any Common Units held by a New Holder as of the date of this Agreement in accordance with the terms of the LGM LLC Agreement, including for the avoidance of doubt, the Non-Redemption Agreement Shares, (d) the Working Capital Warrants (including the shares of Common Stock issued or issuable upon the exercise of the Working Capital Warrants), (e) the shares of Common Stock issued as a

result of the conversion of the Senior Subordinated Convertible Note, dated as of October 17, 2022, as amended, and (f) any other equity security of the Company issued or issuable with respect to any such share of Common Stock described in the foregoing clauses (a) through (e) by way of a stock dividend or stock split or in connection with a combination of shares, recapitalization, merger, consolidation or reorganization; provided, however, that, as to any particular Registrable Security, such securities shall cease to be Registrable Securities when: (A) a Registration Statement with respect to the sale of such securities shall have become effective under the Securities Act and such securities shall have been sold, transferred, disposed of or exchanged in accordance with such Registration Statement; (B) such securities shall have been otherwise transferred, new certificates or book entries for such securities not bearing a legend restricting further transfer shall have been delivered by the Company and subsequent public distribution of such securities shall not require registration under the Securities Act; (C) such securities shall have ceased to be outstanding; (D) such securities have been sold without registration pursuant to Rule 144; or (E) such securities have been sold to, or through, a broker, dealer or underwriter in a public distribution or other public securities transaction.

"***Registration***" shall mean a registration effected by preparing and filing a registration statement or similar document in compliance with the requirements of the Securities Act, and the applicable rules and regulations promulgated thereunder, and such registration statement becoming effective.

"***Registration Expenses***" shall mean the out-of-pocket expenses of a Registration, including, without limitation, the following:

(A) all registration and filing fees (including fees with respect to filings required to be made with the Financial Industry Regulatory Authority, Inc.) and any securities exchange on which the Common Stock is then listed;

(B) fees and expenses of compliance with securities or blue sky laws (including reasonable fees and disbursements of counsel for the Underwriters in connection with blue sky qualifications of Registrable Securities);

(C) printing, messenger, telephone and delivery expenses;

(D) reasonable fees and disbursements of counsel for the Company;

(E) reasonable fees and disbursements of all independent registered public accountants of the Company incurred specifically in connection with such Registration; and

(F) reasonable fees and expenses of one (1) legal counsel selected by the majority-in-interest of the Demanding Holders initiating a Demand Registration to be registered for offer and sale in the applicable Registration.

"***Registration Statement***" shall mean any registration statement that covers the Registrable Securities pursuant to the provisions of this Agreement, including the Prospectus included in such registration statement, amendments (including post-effective amendments) and supplements to such registration statement, and all exhibits to and all material incorporated by reference in such registration statement.

"***Removed Shares***" shall have the meaning given in Section 2.6.

"***Requesting Holder***" shall have the meaning given in subsection 2.2.1.

"***Restricted Securities***" shall have the meaning given in subsection 3.6.1.

"***Rule 144***" shall mean Rule 144 promulgated under the Securities Act, or any successor rule promulgated thereafter by the SEC.

"***Rule 415***" shall have the meaning given in subsection 2.1.1.

"***SEC***" shall mean the United States Securities and Exchange Commission.

"***SEC Guidance***" means (i) any publicly-available written or oral guidance of the SEC staff, or any comments, requirements or requests of the SEC staff whether formally or informally or publicly or privately and (ii) the Securities Act.

"***Securities Act***" shall mean the Securities Act of 1933, as amended from time to time.

"Shelf Takedown Notice" shall have the meaning given in subsection 2.1.3.

"***Shelf Underwritten Offering***" shall have the meaning given in subsection 2.1.3.

"***Sponsor***" shall have the meaning given in the Preamble hereto.

"***Stockholders Agreement***" shall mean the Stockholders Agreement, dated as of December 27, 2023, between the Sponsor, the Company and the Existing Holders.

"***Underwriter***" shall mean a securities dealer who purchases any Registrable Securities as principal in an Underwritten Offering and not as part of such dealer's market-making activities.

"***Underwritten Registration***" or "***Underwritten Offering***" shall mean a Registration in which securities of the Company are sold to an Underwriter in a firm commitment underwriting for distribution to the public.

"***Warrant Purchase Agreement***" shall have the meaning given in the Recitals hereto.

"***Working Capital Warrants***" shall have the meaning given in the Recitals hereto.

ARTICLE II
REGISTRATIONS

2.1 Shelf Registration.

2.1.1 Initial Registration. The Company shall, as soon as practicable, but in no event later than thirty (30) calendar days after the consummation of the transactions contemplated by the Equity Purchase Agreement, file a Registration Statement under the Securities Act to permit the public resale of all the Registrable Securities held by the Holders from time to time as permitted by Rule 415 under the Securities Act (or any successor or similar provision adopted by the SEC then in effect) ("***Rule 415***") on the terms and conditions specified in this subsection 2.1.1 and shall use its reasonable best efforts to cause such Registration Statement to be declared effective as soon as practicable after the filing thereof, but in no event later than the earlier of (i) sixty (60) calendar days following the Closing (or 90 calendar days following the Closing if the SEC notifies the Company that it will "review" the Registration Statement), and (ii) the second (2nd) business day after the date the Company is notified (orally or in writing, whichever is earlier) by the SEC that the Registration Statement will not be "reviewed" or will not be subject to further review (such earlier date, the "***Effectiveness Deadline***"). The Registration Statement filed with the SEC pursuant to this subsection 2.1.1 shall be a shelf registration statement on Form S-3 (a "***Form S-3 Shelf***") or, if Form S-3 is not then available to the Company, on Form S-1 (a "***Form S-1 Shelf***") or such other form of registration statement as is then available to effect a registration for resale of such Registrable Securities, covering such Registrable Securities, and shall contain a Prospectus in such form as to permit any Holder to sell such Registrable Securities pursuant to Rule 415 at any time beginning on the effective date for such Registration Statement. A Registration Statement filed pursuant to this subsection 2.1.1 shall provide for the resale pursuant to any method or combination of methods legally available to, and requested by, the Holders. The Company shall cause such Registration Statement filed pursuant to this subsection 2.1.1 to remain effective, and to be supplemented and amended to the extent necessary to ensure that such Registration Statement is available or, if not available, that another Registration Statement is available, for the resale of all the Registrable Securities held by the Holders until

all such Registrable Securities have ceased to be Registrable Securities. As soon as practicable following the effective date of a Registration Statement filed pursuant to this subsection 2.1.1, but in any event within one (1) business day of such date, the Company shall notify the Holders of the effectiveness of such Registration Statement and shall furnish to them, without charge, such number of copies of the Registration Statement (including any amendments, supplements and exhibits), the prospectus contained therein (including each preliminary prospectus and all related amendments and supplements) and any documents incorporated by reference into the Registration Statement or such other documents as the Holders may reasonably request in order to facilitate the sale of the Registrable Securities in the manner described in the Registration Statement. When effective, a Registration Statement filed pursuant to this subsection 2.1.1 (including the documents incorporated therein by reference) will comply as to form in all material respects with all applicable requirements of the Securities Act and the Exchange Act and will not 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 not misleading (in the case of any Prospectus contained in such Registration Statement, in the light of the circumstances under which such statement was made).

2.1.2 Form S-3 Shelf. If the Company files a Form S-3 Shelf and thereafter the Company becomes ineligible to use FormS-3 for secondary sales, the Company shall use its best efforts to file a Form S-1 Shelf as promptly as practicable (but in any event, within ten (10) calendar days) to replace the shelf registration statement that is a Form S-3 Shelf and have the Form S-1 Shelf declared effective as promptly as practicable and to cause such Form S-1 Shelf to remain effective, and to be supplemented and amended to the extent necessary to ensure that such Registration Statement is available or, if not available, that another Registration Statement is available, for the resale of all the Registrable Securities held by the Holders until all such Registrable Securities have ceased to be Registrable Securities.

2.1.3 Shelf Takedown. At any time and from time to time following the effectiveness of the shelf registration statement required bysubsection 2.1.1 or 2.1.2, any Holder may request to sell all or a portion of their Registrable Securities in an underwritten offering that is registered pursuant to such shelf registration statement, including a Block Trade (a "***Shelf Underwritten Offering***") provided that such Holder(s) (a) reasonably expect aggregate gross proceeds in excess of $25,000,000 from such Shelf Underwritten Offering or (b) reasonably expects to sell all of the Registrable Securities held by such Holder in such Shelf Underwritten Offering but in no event less than $10,000,000. All requests for a Shelf Underwritten Offering shall be made by giving written notice to the Company (the "***Shelf Takedown Notice***"). Each Shelf Takedown Notice shall specify the approximate number of Registrable Securities proposed to be sold in the Shelf Underwritten Offering and the expected price range (net of underwriting discounts and commissions) of such Shelf Underwritten Offering. Within five (5) business days after receipt of any Shelf Takedown Notice, the Company shall give written notice of such requested Shelf Underwritten Offering to all other Holders of Registrable Securities (the "***Company Shelf Takedown Notice***") and, subject to reductions consistent with the Pro Rata calculations inSection 2.2.4, shall include in such Shelf Underwritten Offering all Registrable Securities with respect to which the Company has received written requests for inclusion therein (other than a Block Trade, in which only the Demanding Holder shall be entitled to participate), within five (5) days after sending the Company Shelf Takedown Notice, or, in the case of a Block Trade, as provided in Section 2.5. The Company shall enter into an underwriting agreement in a form as is customary in Underwritten Offerings of securities by the Company with the managing Underwriter or Underwriters selected by the Company after consultation with the initiating Holders and shall take all such other reasonable actions as are requested by the managing Underwriter or Underwriters in order to expedite or facilitate the disposition of such Registrable Securities. In connection with any Shelf Underwritten Offering contemplated by this subsection 2.1.3, subject to Section 3.3 and Article IV, the underwriting agreement into which each Holder and the Company shall enter shall contain such representations, covenants, indemnities and other rights and obligations of the Company and the selling stockholders as are customary in underwritten offerings of securities by the Company. Notwithstanding anything to the contrary set forth in this subsection 2.1.3 or subsection 2.2.1, a request by any Existing Holder(s) or New Holder(s) for a Shelf Underwritten Offering pursuant to this subsection 2.1.3 shall count as a Demand Registration for purposes of the limitations on the number of Demand Registrations set forth in the last sentence of subsection 2.2.1 for so long as the Registrable Securities requested to be sold in such Shelf Underwritten Offering by such Holders pursuant to this subsection 2.2.1 (after giving effect to any to reductions consistent with the Pro Rata calculations in Section 2.2.4) have actually been sold in connection therewith.

2.1.4 Holder Information Required for Participation in Shelf Registration. At least ten (10) calendar days prior to the first anticipated filing date of a Registration Statement pursuant to this Article II, the Company shall notify each Holder in writing of the anticipated filing of such Registration Statement (which may be by email), and request from each Holder all information reasonably necessary about the Holder to include such Holder's Registrable Securities in such Registration Statement. Notwithstanding anything else in this Agreement, the Company shall not be obligated to include such Holder's Registrable Securities to the extent the Company has not received such information, and received any other reasonably requested agreements or certificates, on or prior to the third (3rd) calendar day prior to the first anticipated filing date of a Registration Statement pursuant to this Article II.

2.2 Demand Registration.

2.2.1 Request for Registration. Subject to the provisions of subsection 2.2.4 and Section 2.4 hereof and provided that the Company does not have an effective Registration Statement pursuant to subsection 2.1.1 outstanding covering the Registrable Securities, (a) the Existing Holders holding at least a majority in interest of the then-outstanding number of Registrable Securities held by the Existing Holders or (b) the New Holders holding at least a majority-in-interest of the then-outstanding number of Registrable Securities held by the New Holders (the "***Demanding Holders***"), in each case, may make a written demand for Registration of all or part of their Registrable Securities, which written demand shall describe the amount and type of securities to be included in such Registration and the intended method(s) of distribution thereof (such written demand a "***Demand Registration***"). The Company shall, within ten (10) days of the Company's receipt of the Demand Registration (other than a Block Trade), notify, in writing, all other Holders of Registrable Securities of such demand, and each Holder of Registrable Securities who thereafter wishes to include all or a portion of such Holder's Registrable Securities in a Registration pursuant to such Demand Registration (each such Holder that includes all or a portion of such Holder's Registrable Securities in such Registration, a "***Requesting Holder***") shall so notify the Company, in writing, within five (5) days after the receipt by the Holder of the notice from the Company. Upon receipt by the Company of any such written notification from a Requesting Holder(s) to the Company, such Requesting Holder(s) shall be entitled to have their Registrable Securities included in a Registration pursuant to a Demand Registration and the Company shall effect, as soon thereafter as practicable, the Registration of all Registrable Securities requested by the Demanding Holder(s) and Requesting Holder(s) pursuant to such Demand Registration, but not more than forty five (45) days immediately after the Company's receipt of the Demand Registration. Under no circumstances shall the Company be obligated to effect more than an aggregate of three (3) Registrations pursuant to a Demand Registration by the Existing Holders, or more than an aggregate of five (5) Registrations pursuant to a Demand Registration by the New Holders, in each case under this subsection 2.2.1 with respect to any or all Registrable Securities held by such Holders; provided, however, that a Registration pursuant to a Demand Registration shall not be counted for such purposes unless a Registration Statement that may be available at such time has become effective and all of the Registrable Securities requested by the Requesting Holders and the Demanding Holders to be registered on behalf of the Requesting Holders and the Demanding Holders in such Registration Statement have been sold, in accordance with Section 3.1 of this Agreement.

2.2.2 Effective Registration. Notwithstanding the provisions of subsection 2.2.1 above or any other part of this Agreement, a Registration pursuant to a Demand Registration shall not count as a Registration unless and until (i) the Registration Statement filed with the SEC with respect to a Registration pursuant to a Demand Registration has been declared effective by the SEC and (ii) the Company has complied with all of its obligations under this Agreement with respect thereto; provided, further, that if, after such Registration Statement has been declared effective, an offering of Registrable Securities in a Registration pursuant to a Demand Registration is subsequently interfered with by any stop order or injunction of the SEC, federal or state court or any other governmental agency, the Registration Statement with respect to such Registration shall be deemed not to have been declared effective, unless and until, (a) such stop order or injunction is removed, rescinded or otherwise terminated, and (b) a majority-in-interest of the Demanding Holders initiating such Demand Registration thereafter affirmatively elect to continue

with such Registration and accordingly notify the Company in writing, but in no event later than five (5) days, of such election; and provided, further, that the Company shall not be obligated or required to file another Registration Statement until the Registration Statement that has been previously filed with respect to a Registration pursuant to a Demand Registration becomes effective or is subsequently terminated.

2.2.3 Underwritten Offering. Subject to the provisions of subsection 2.2.4 and Section 2.4 hereof, if a majority-in-interest of the Demanding Holders so advise the Company as part of their Demand Registration that the offering of the Registrable Securities pursuant to such Demand Registration shall be in the form of an Underwritten Offering, then the right of such Demanding Holder or Requesting Holder (if applicable) to include its Registrable Securities in such Registration shall be conditioned upon such Holder's participation in such Underwritten Offering and the inclusion of such Holder's Registrable Securities in such Underwritten Offering to the extent provided herein. All such Holders proposing to distribute their Registrable Securities through an Underwritten Offering under this subsection 2.2.3 shall enter into an underwriting agreement in customary form with the Underwriter(s) selected for such Underwritten Offering by the majority-in-interest of the Demanding Holders initiating the Demand Registration, which Underwriter(s) shall be reasonably satisfactory to the Company.

2.2.4 Reduction of Underwritten Offering. If the managing Underwriter or Underwriters in an Underwritten Registration, in good faith, advises the Company, the Demanding Holders and the Requesting Holders (if applicable) in writing that the dollar amount or number of Registrable Securities that the Demanding Holders and the Requesting Holders (if applicable) desire to sell, taken together with all other Common Stock or other equity securities that the Company desires to sell and the shares of Common Stock, if any, as to which a Registration has been requested pursuant to separate written contractual piggy-back registration rights held by any other stockholders who desire to sell, exceeds the maximum dollar amount or maximum number of equity securities that can be sold in the Underwritten Offering without adversely affecting the proposed offering price, the timing, the distribution method, or the probability of success of such offering (such maximum dollar amount or maximum number of such securities, as applicable, the "***Maximum Number of Securities***"), then the Company shall include in such Underwritten Offering, as follows: (i) first, the Registrable Securities of the Demanding Holders and the Requesting Holders (if applicable) (pro rata based on the respective number of Registrable Securities that each Demanding Holder and Requesting Holder (if applicable) has requested be included in such Underwritten Registration and the aggregate number of Registrable Securities that the Demanding Holders and Requesting Holders have requested be included in such Underwritten Registration (such proportion is referred to herein as "***Pro Rata***")) that can be sold without exceeding the Maximum Number of Securities; (ii) second, to the extent that the Maximum Number of Securities has not been reached under the foregoing clause (i), Common Stock or other equity securities that the Company desires to sell, which can be sold without exceeding the Maximum Number of Securities; and (iii) third, to the extent that the Maximum Number of Securities has not been reached under the foregoing clauses (i) and (ii), Common Stock or other equity securities of other persons or entities that the Company is obligated to register in a Registration pursuant to separate written contractual arrangements with such persons and that can be sold without exceeding the Maximum Number of Securities.

2.2.5 Demand Registration Withdrawal. Any of the Demanding Holders initiating a Demand Registration or any of the Requesting Holders (if applicable), pursuant to a Registration under subsection 2.2.1 shall have the right to withdraw from a Registration pursuant to such Demand Registration or a Shelf Underwritten Offering pursuant to subsection 2.1.3 for any or no reason whatsoever upon written notification to the Company and the Underwriter or Underwriters (if any) of their intention to withdraw from such Registration at least one (1) business day prior to the effectiveness of the Registration Statement filed with the SEC with respect to the Registration of their Registrable Securities pursuant to such Demand Registration (or in the case of an Underwritten Registration pursuant to Rule 415, at least five (5) business days prior to the time of pricing of the applicable offering). Notwithstanding anything to the contrary in this Agreement, the Company shall be responsible for the Registration Expenses incurred in connection with a Registration pursuant to a Demand Registration or a Shelf Underwritten Offering prior to its withdrawal under this subsection 2.2.5.

2.3 Piggyback Registration.

2.3.1 Piggyback Rights. If the Company proposes to file a Registration Statement under the Securities Act with respect to an offering of equity securities, or securities or other obligations exercisable or exchangeable for, or convertible into, equity securities, for its own account or for the account of stockholders of the Company (or by the Company and by the stockholders of the Company including, without limitation, pursuant to Section 2.2 hereof), other than a Registration Statement (i) filed in connection with any employee stock option or other benefit plan, (ii) for a rights offering or an exchange offer or offering of securities solely to the Company's existing stockholders, (iii) for an offering of debt that is convertible into equity securities of the Company or (iv) for a dividend reinvestment plan, then the Company shall give written notice of such proposed filing to all of the Holders of Registrable Securities as soon as practicable but not less than ten (10) days before the anticipated filing date of such Registration Statement, which notice shall (A) describe the amount and type of securities to be included in such offering, the intended method(s) of distribution, and the name of the proposed managing Underwriter or Underwriters, if any, in such offering, and (B) offer to all of the Holders of Registrable Securities the opportunity to register the sale of such number of Registrable Securities as such Holders may request in writing within five (5) days after receipt of such written notice (such Registration a "***Piggyback Registration***"). The Company shall, in good faith, cause such Registrable Securities to be included in such Piggyback Registration and shall use its best efforts to cause the managing Underwriter or Underwriters of a proposed Underwritten Offering to permit the Registrable Securities requested by the Holders pursuant to this subsection 2.3.1 to be included in a Piggyback Registration on the same terms and conditions as any similar securities of the Company included in such Registration and to permit the sale or other disposition of such Registrable Securities in accordance with the intended method(s) of distribution thereof. All such Holders proposing to distribute their Registrable Securities through an Underwritten Offering under this subsection 2.3.1 shall enter into an underwriting agreement in customary form with the Underwriter(s) selected for such Underwritten Offering by the Company.

2.3.2 Reduction of Piggyback Registration. If the managing Underwriter or Underwriters in an Underwritten Registration that is to be a Piggyback Registration, in good faith, advises the Company and the Holders of Registrable Securities participating in the Piggyback Registration in writing that the dollar amount or number of shares of Common Stock that the Company desires to sell, taken together with (i) the shares of Common Stock, if any, as to which Registration has been demanded pursuant to separate written contractual arrangements with persons or entities other than the Holders of Registrable Securities hereunder (ii) the Registrable Securities as to which registration has been requested pursuant to Section 2.3 hereof, and (iii) the shares of Common Stock, if any, as to which Registration has been requested pursuant to separate written contractual piggy-back registration rights of other stockholders of the Company, exceeds the Maximum Number of Securities, then:

(a) If the Registration is undertaken for the Company's account, the Company shall include in any such Registration (A) first, the shares of Common Stock or other equity securities that the Company desires to sell, which can be sold without exceeding the Maximum Number of Securities; (B) second, to the extent that the Maximum Number of Securities has not been reached under the foregoing clause (A), the Registrable Securities of Holders exercising their rights to register their Registrable Securities pursuant to subsection 2.3.1 hereof, Pro Rata, which can be sold without exceeding the Maximum Number of Securities; and (C) third, to the extent that the Maximum Number of Securities has not been reached under the foregoing clauses (A) and (B), the shares of Common Stock, if any, as to which Registration has been requested or demanded pursuant to written contractual piggy-back registration rights of other stockholders of the Company, which can be sold without exceeding the Maximum Number of Securities;

(b) If the Registration is pursuant to a request by persons or entities other than the Holders of Registrable Securities, then the Company shall include in any such Registration (A) first, the shares of Common Stock or other equity securities, if any, of such requesting persons or entities, other than the Holders of Registrable Securities, which can be sold without exceeding the Maximum Number of Securities; (B) second, to the extent that the Maximum Number of Securities has not been reached under the foregoing clause (A), the Registrable Securities of Holders exercising their rights to register their Registrable Securities pursuant to subsection 2.3.1, Pro Rata, which can be sold without exceeding the Maximum Number of Securities; (C) third, to

the extent that the Maximum Number of Securities has not been reached under the foregoing clauses (A) and (B), the shares of Common Stock or other equity securities that the Company desires to sell, which can be sold without exceeding the Maximum Number of Securities; and (D) fourth, to the extent that the Maximum Number of Securities has not been reached under the foregoing clauses (A), (B) and (C), the shares of Common Stock or other equity securities for the account of other persons or entities that the Company is obligated to register pursuant to separate written contractual arrangements with such persons or entities, which can be sold without exceeding the Maximum Number of Securities.

2.3.3 Piggyback Registration Withdrawal. Any Holder of Registrable Securities shall have the right to withdraw from a Piggyback Registration for any or no reason whatsoever upon written notification to the Company and the Underwriter or Underwriters (if any) of his, her or its intention to withdraw from such Piggyback Registration prior to the effectiveness of the Registration Statement filed with the SEC with respect to such Piggyback Registration (or in the case of an Underwritten Registration pursuant to Rule 415, at least five (5) business days prior to the time of pricing of the applicable offering). The Company (whether on its own good faith determination or as the result of a request for withdrawal by persons pursuant to separate written contractual obligations) may withdraw a Registration Statement filed with the SEC in connection with a Piggyback Registration at any time prior to the effectiveness of such Registration Statement. Notwithstanding anything to the contrary in this Agreement, the Company shall be responsible for the Registration Expenses incurred in connection with the Piggyback Registration prior to its withdrawal under this subsection 2.3.3.

2.3.4 Unlimited Piggyback Registration Rights. For purposes of clarity, any Registration effected pursuant to Section 2.3 hereof shall not be counted as a Registration pursuant to a Demand Registration effected under Section 2.2 hereof or a Shelf Underwritten Offering effected under subsection 2.1.3.

2.4 Restrictions on Registration Rights. If (A) during the period starting with the date sixty (60) days prior to the Company's good faith estimate of the date of the filing of, and ending on a date one hundred and twenty (120) days after the effective date of, a Company initiated Registration and provided that the Company has delivered written notice to the Holders prior to receipt of a Shelf Underwritten Offering pursuant to subsection 2.1.3 or a Demand Registration pursuant to subsection 2.2.1 and it continues to actively employ, in good faith, all reasonable efforts to cause the applicable Registration Statement to become effective; (B) the Holders have requested a Shelf Underwritten Offering or an Underwritten Registration, as applicable, and the Company and the Holders are unable to obtain the commitment of underwriters to firmly underwrite the offer; or (C) in the good faith judgment of the Board such Shelf Underwritten Offering or Registration would be materially detrimental to the Company and the Board concludes as a result that it is essential to defer such Shelf Underwritten Offering or the filing of such Registration Statement at such time, as applicable, then in each case the Company shall furnish to such Holders a certificate signed by the Chairman of the Board or the Chief Executive Officer stating that, in the good faith judgment of the Board, it would be materially detrimental to the Company for such Shelf Underwritten Offering to be commenced or such Registration Statement to be filed, as applicable, in the near future and that it is therefore essential to defer such Shelf Underwritten Offering or the filing of such Registration Statement, as applicable. In such event, the Company shall have the right to defer such offering or filing for a period of not more than ninety (90) days; provided, however, that the Company shall not defer its obligation in this manner more than twice in any12-month period (the "***Aggregate Blocking Period***").

2.5 Block Trades. Notwithstanding any other provision of this Article II, but subject to Sections 2.4 and 3.4, if the Demanding Holders desire to effect a Block Trade, the Demanding Holders shall provide written notice to the Company at least five (5) business days prior to the date such Block Trade will commence. As expeditiously as possible, the Company shall use its reasonable best efforts to facilitate such Block Trade for the benefit of the Demanding Holders. The Demanding Holders shall use reasonable best efforts to work with the Company and the Underwriter(s) (including by disclosing the maximum number of Registrable Securities proposed to be the subject of such Block Trade) in order to facilitate preparation of the Registration Statement, Prospectus and other offering documentation related to the Block Trade and any related due diligence and comfort procedures.

2.6 Rule 415; Removal. If at any time the SEC takes the position that the offering of some or all of the Registrable Securities in a Registration Statement on Form S-3 filed pursuant to this Article II are not eligible to be made on a delayed or continuous basis under the provisions of Rule 415 under the Securities Act (provided, however, the Company shall be obligated to use diligent efforts to advocate with the SEC for the registration of all of the Registrable Securities in accordance with the SEC Guidance, including without limitation, Compliance and Disclosure Interpretation 612.09) or requires a Holder to be named as an "underwriter," the Company shall (i) promptly notify each holder of Registrable Securities thereof (or in the case of the SEC requiring a Holder to be named as an "underwriter," the applicable Holders) and (ii) use reasonable best efforts to persuade the SEC that the offering contemplated by such Registration Statement is a valid secondary offering and not an offering "by or on behalf of the issuer" as defined in Rule 415 and that none of the applicable Holders is an "underwriter." The Existing Holders shall have the right to select one legal counsel designated by the holders of a majority of the Registrable Securities held by the Existing Holders, and the New Holders shall have the right to select one legal counsel designated by the holders of a majority of the Registrable Securities held by the New Holders, and subject to such Registration Statement, each such legal counsel shall have the review and oversee any registration or matters pursuant to this Section 2.6, including participation in any meetings or discussions with the SEC regarding the SEC's position and to comment on any written submission made to the SEC with respect thereto. No such written submission with respect to this matter shall be made to the SEC to which the applicable set of Holders' counsel reasonably objects. In the event that, despite the Company's reasonable best efforts and compliance with the terms of this Section 2.6, the SEC refuses to alter its position, the Company shall, at the applicable Holder(s)' option, (i) remove from such Registration Statement such portion of the Registrable Securities (the "***Removed Shares***") and/or (ii) agree to such restrictions and limitations on the registration and resale of the Registrable Securities as the SEC may require to assure the Company's compliance with the requirements of Rule 415; provided, however, that the Company shall only be required to include such Holder's Registrable Securities in the Registration Statement if the Holder agrees to be named as an "underwriter" in such Registration Statement. In the event of a share removal pursuant to this Section 2.6, the Company shall give the applicable Holders at least five (5) days prior written notice along with the calculations as to such Holder's allotment. Any removal of shares of the applicable Holders (who, for the avoidance of doubt, shall solely consist of those Holders the SEC is requiring to be named as an "underwriter") pursuant to this Section 2.6 shall be allocated between the applicable Holders on a pro rata basis based on the aggregate amount of Registrable Securities held by such applicable Holders. In the event of a share removal of some or all Holders pursuant to this Section 2.6, the Company shall promptly register the resale of any Removed Shares pursuant to subsection 2.1.2 hereof and in no event shall the filing of such Registration Statement on Form S-1 or subsequent Registration Statement on Form S-3 filed pursuant to the terms of subsection 2.1.2 be counted as a Demand Registration hereunder. Until such time as the Company has registered all of the Removed Shares for resale pursuant to Rule 415 on an effective Registration Statement, the Company shall not be able to defer the filing of a Registration Statement pursuant to Section 2.4 hereof.

ARTICLE III
COMPANY PROCEDURES

3.1 General Procedures. If the Company is required to effect the Registration of Registrable Securities, the Company shall use its best efforts to effect such Registration to permit the sale of such Registrable Securities in accordance with the intended plan of distribution thereof, and pursuant thereto the Company shall, as expeditiously as possible:

3.1.1 prepare and file with the SEC as soon as practicable a Registration Statement with respect to such Registrable Securities and use its reasonable best efforts to cause such Registration Statement to become effective and remain effective until all Registrable Securities covered by such Registration Statement have been sold;

3.1.2 prepare and file with the SEC such amendments and post-effective amendments to the Registration Statement, and such supplements to the Prospectus, as may be reasonably requested by any Holder with Registrable Securities registered on such Registration Statement or any Underwriter of Registrable Securities or as may be required by the rules, regulations or instructions applicable to the registration form used by the Company or by the Securities Act or rules and regulations thereunder to keep the Registration Statement effective until all Registrable Securities covered by such Registration Statement are sold in accordance with the intended plan of distribution set forth in such Registration Statement or supplement to the Prospectus;

3.1.3 prior to filing a Registration Statement or Prospectus, or any amendment or supplement thereto, furnish without charge to the Underwriters, if any, and each Holder of Registrable Securities included in such Registration, and each such Holder's legal counsel, copies of such Registration Statement as proposed to be filed, each amendment and supplement to such Registration Statement (in each case including all exhibits thereto and documents incorporated by reference therein), the Prospectus included in such Registration Statement (including each preliminary Prospectus), and such other documents as the Underwriters and each Holder of Registrable Securities included in such Registration or the legal counsel for any such Holders may request in order to facilitate the disposition of the Registrable Securities owned by such Holders;

3.1.4 prior to any public offering of Registrable Securities, use its reasonable best efforts to (i) register or qualify the Registrable Securities covered by the Registration Statement under such securities or "blue sky" laws of such jurisdictions in the United States as any Holder of Registrable Securities included in such Registration Statement (in light of their intended plan of distribution) may request and (ii) take such action necessary to cause such Registrable Securities covered by the Registration Statement to be registered with or approved by such other governmental authorities as may be necessary by virtue of the business and operations of the Company and do any and all other acts and things that may be necessary or advisable to enable the Holders of Registrable Securities included in such Registration Statement to consummate the disposition of such Registrable Securities in such jurisdictions; provided, however, that the Company shall not be required to qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify or take any action to which it would be subject to general service of process or taxation in any such jurisdiction where it is not then otherwise so subject;

3.1.5 cause all such Registrable Securities to be listed on each securities exchange or automated quotation system on which similar securities issued by the Company are then listed;

3.1.6 provide a transfer agent or warrant agent, as applicable, and registrar for all such Registrable Securities no later than the effective date of such Registration Statement;

3.1.7 advise each seller of such Registrable Securities, promptly after it shall receive notice or obtain knowledge thereof, of the issuance of any stop order by the SEC suspending the effectiveness of such Registration Statement or the initiation or threatening of any proceeding for such purpose and promptly use its reasonable best efforts to prevent the issuance of any stop order or to obtain its withdrawal if such stop order should be issued;

3.1.8 at least five (5) days prior to the filing of any Registration Statement or Prospectus or any amendment or supplement to such Registration Statement or Prospectus, furnish a copy thereof to each seller of such Registrable Securities and its counsel, including, without limitation, providing copies promptly upon receipt of any comment letters received with respect to any such Registration Statement or Prospectus;

3.1.9 notify the Holders at any time when a Prospectus relating to such Registration Statement is required to be delivered under the Securities Act, of the happening of any event as a result of which the Prospectus included in such Registration Statement, as then in effect, includes a Misstatement, and then to correct such Misstatement as set forth in Section 3.4 hereof;

3.1.10 permit a representative of the Holders (such representative to be selected by a majority of the participating Holders,provided that the Existing Holders holding a majority of the Registrable Securities held by the Existing Holders shall be permitted to select their own representative), the Underwriter(s), if any, and any attorney(s) or accountant(s) retained by such Holders or Underwriter(s) to participate, at each such person's own expense, in the preparation of the Registration Statement, and cause the Company's officers, directors and employees to supply all information reasonably requested by any such representative(s), Underwriter, attorney(s) or accountant(s) in connection with the Registration; provided, however, that such representative(s) or Underwriter enters into a confidentiality agreement, in form and substance reasonably satisfactory to the Company, prior to the release or disclosure of any such

information; and provided further, the Company may not include the name of any Holder or Underwriter or any information regarding any Holder or Underwriter in any Registration Statement or Prospectus, any amendment or supplement to such Registration Statement or Prospectus, any document that is to be incorporated by reference into such Registration Statement or Prospectus, or any response to any comment letter, without the prior written consent of such Holder or Underwriter and providing each such Holder or Underwriter a reasonable amount of time to review and comment on such applicable document, which comments the Company shall include unless contrary to applicable law;

3.1.11 obtain a "comfort" letter from the Company's independent registered public accountants in the event of an Underwritten Registration, in customary form and covering such matters of the type customarily covered by "comfort" letters as the managing Underwriter(s) may reasonably request, and reasonably satisfactory to a majority-in-interest of the participating Holders;

3.1.12 on the date the Registrable Securities are delivered for sale pursuant to such Registration, obtain an opinion and a negative assurance letter, each dated such date, of counsel representing the Company for the purposes of such Registration, addressed to the Holders, the placement agent or sales agent, if any, and the Underwriter(s), if any, covering such legal matters with respect to the Registration in respect of which such opinion is being given as the Underwriter(s), placement agent(s) or sales agent(s) may reasonably request and as are customarily included in such opinions and negative assurance letters, and reasonably satisfactory to a majority in interest of the participating Holders;

3.1.13 in the event of any Underwritten Offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the managing Underwriter of such offering;

3.1.14 make available to its security holders, as soon as reasonably practicable, an earnings statement covering the period of at least twelve (12) months beginning with the first day of the Company's first full calendar quarter after the effective date of the Registration Statement which satisfies the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder (or any successor rule promulgated thereafter by the SEC);

3.1.15 if the Registration involves the Registration of Registrable Securities involving gross proceeds in excess of $25,000,000, use its reasonable efforts to make available senior executives of the Company to participate in customary "road show" presentations that may be reasonably requested by the Underwriter(s) in any Underwritten Offering; and

3.1.16 otherwise, in good faith, cooperate reasonably with, and take such customary actions as may reasonably be requested by the Holders, in connection with such Registration.

3.2 Registration Expenses. Except as otherwise provided herein, the Registration Expenses of all Registrations shall be borne by the Company. It is acknowledged by the Holders that the Holders shall bear all incremental selling expenses relating to the sale of Registrable Securities, such as Underwriters' commissions and discounts, brokerage fees, Underwriter marketing costs and, other than as set forth in the definition of "Registration Expenses," all reasonable fees and expenses of any legal counsel representing the Holders.

3.3 Requirements for Participation in Underwritten Offerings. No person may participate in any Underwritten Offering for equity securities of the Company pursuant to a Registration initiated by the Company hereunder unless such person (i) agrees to sell such person's securities on the basis provided in any underwriting arrangements approved by the Company and (ii) completes and executes all customary questionnaires, powers of attorney, indemnities, lock-up agreements, underwriting agreements and other customary documents as may be reasonably required under the terms of such underwriting arrangements.

3.4 Suspension of Sales; Adverse Disclosure. Upon receipt of written notice from the Company that a Registration Statement or Prospectus contains a Misstatement, each of the Holders shall forthwith discontinue disposition of Registrable Securities until it has received copies of a supplemented or amended Prospectus correcting the Misstatement (it being understood that the Company hereby covenants to prepare and file such supplement or

amendment as soon as practicable after the time of such notice), or until it is advised in writing by the Company that the use of the Prospectus may be resumed. If the filing, initial effectiveness or continued use of a Registration Statement in respect of any Registration at any time would require the Company to make an Adverse Disclosure or would require the inclusion in such Registration Statement of financial statements that are unavailable to the Company for reasons beyond the Company's control, the Company may, upon giving prompt written notice of such action to the Holders, delay the filing or initial effectiveness of, or suspend use of, such Registration Statement for the shortest period of time, but in no event more than forty-five (45) days, determined in good faith by the Company to be necessary for such purpose. In the event the Company exercises its rights under the preceding sentence, the Holders agree to suspend, immediately upon their receipt of the notice referred to above, their use of the Prospectus relating to any Registration in connection with any sale or offer to sell Registrable Securities. The Company shall immediately notify the Holders of the expiration of any period during which it exercised its rights under this Section 3.4.

3.5 Reporting Obligations; Legend Removal.

3.5.1 As long as any Holder shall own Registrable Securities, the Company, at all times while it shall be a reporting company under the Exchange Act, covenants to file timely (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to Sections 13(a) or 15(d) of the Exchange Act. The Company further covenants that it shall take such further action as any Holder may reasonably request, all to the extent required from time to time to enable such Holder to sell the shares of Common Stock held by such Holder without registration under the Securities Act within the limitation of the exemptions provided by Rule 144, including providing any legal opinions. Upon the request of any Holder, the Company shall deliver to such Holder a written statement as to whether it has complied with such requirements and, if not, the specifics thereof.

3.5.2 At any time when a Holder's Registrable Securities are eligible to be sold pursuant to an effective Registration Statement or without restriction under, and without the Company being in compliance with the current public information requirements of, Rule 144 under the Securities Act, then at such Holder's request, the Company will cause the Company's transfer agent to remove any remaining restrictive legend set forth on such Registrable Shares. In connection therewith, if required by the Company's transfer agent, the Company will promptly cause an opinion of counsel to be delivered to and maintained with its transfer agent, together with any other authorizations, certificates and directions required by the transfer agent that authorize and direct the transfer agent to issue such Registrable Shares without any such legend.

ARTICLE IV
INDEMNIFICATION AND CONTRIBUTION

4.1 Indemnification.

4.1.1 The Company agrees to indemnify, to the extent permitted by law, each Holder of Registrable Securities, its affiliates, officers and directors and each person who controls such Holder (within the meaning of the Securities Act) against all losses, claims, damages, liabilities and expenses (including attorneys' fees) caused by any untrue or alleged untrue statement of material fact contained in any Registration Statement, Prospectus or preliminary Prospectus or any amendment thereof or supplement thereto or any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as the same are caused by or contained in any information furnished in writing to the Company by such Holder expressly for use therein. The Company shall indemnify the Underwriters, their officers and directors and each person who controls such Underwriters (within the meaning of the Securities Act) to the same extent as provided in the foregoing with respect to the indemnification of the Holder.

4.1.2 In connection with any Registration Statement in which a Holder of Registrable Securities is participating, such Holder shall furnish to the Company in writing such information and affidavits as the Company reasonably requests for use in connection with any such Registration Statement or Prospectus and, to the extent permitted by law, shall indemnify the Company, its directors and officers and agents and each person who controls the Company (within the meaning of the Securities Act) against any losses, claims, damages, liabilities and expenses (including without limitation reasonable attorneys' fees) resulting from any untrue statement of material fact contained in the Registration Statement, Prospectus or preliminary Prospectus or any amendment thereof or supplement thereto or any omission of a material fact required to be stated therein or necessary to make the statements therein not misleading, but only to the extent that such untrue statement or omission is contained in any information or affidavit so furnished in writing by such Holder expressly for use therein; provided, however, that the obligation to indemnify shall be several, not joint and several, among such Holders of Registrable Securities, and the liability of each such Holder of Registrable Securities shall be in proportion to and limited to the net proceeds received by such Holder from the sale of Registrable Securities pursuant to such Registration Statement. The Holders of Registrable Securities shall indemnify the Underwriters, their officers, directors and each person who controls such Underwriters (within the meaning of the Securities Act) to the same extent as provided in the foregoing with respect to indemnification of the Company.

4.1.3 Any person entitled to indemnification herein shall (i) give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification (provided that the failure to give prompt notice shall not impair any person's right to indemnification hereunder to the extent such failure has not materially prejudiced the indemnifying party) and (ii) permit such indemnifying party to assume the defense of such claim with counsel reasonably satisfactory to the indemnified party if the indemnifying party provides notice of such to the indemnified party within 30 days of the indemnifying party's receipt of notice of such claim. 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 other legal 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 advice of counsel) that there may be legal defenses available to it or other indemnified parties that are different from or in addition to those available to the indemnifying party, (3) a conflict or potential conflict exists (based on advice of counsel to the indemnified party) between the indemnified party and the indemnifying 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 (4) the indemnifying party has not in fact employed counsel to assume the defense of such action or counsel reasonably satisfactory to the indemnified party, in each case, 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 (plus local counsel) at any one time for all such indemnified party or parties. If such defense is assumed, the indemnifying party shall not be subject to any liability for any settlement made by the indemnified party without its consent (but such consent shall not be unreasonably withheld). No indemnifying party shall, without the consent of the indemnified party, settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action or proceeding relating to the matters contemplated by this Section 4 (whether or not any indemnified party is a party thereto), unless such settlement, compromise or consent (1) includes an express and unconditional release of each indemnified party, in form and substance reasonably satisfactory to such indemnified party, from all liability arising out of such litigation, investigation, proceeding or claim and (2) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

4.1.4 The indemnification provided for under this Agreement shall remain in full force and effect regardless of any investigation made by or on behalf of the indemnified party or any officer, director or controlling person of such indemnified party and shall survive the transfer of securities. The Company and each Holder of Registrable Securities participating in an offering also agrees to make such provisions as are reasonably requested by any indemnified party for contribution to such party in the event the Company's or such Holder's indemnification is unavailable for any reason.

4.1.5 If the indemnification provided under Section 4.1 hereof from the indemnifying party is unavailable or insufficient to hold harmless an indemnified party in respect of any losses, claims, damages, liabilities and expenses referred to herein, then the indemnifying party, in lieu of indemnifying the indemnified party, shall contribute to the amount paid or payable by the indemnified party as a result of such losses, claims, damages, liabilities and expenses in such proportion as is appropriate to reflect the relative fault of the indemnifying party and the indemnified party, as well as any other relevant equitable considerations. The relative fault of the indemnifying party and indemnified party shall be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact, was made by, or relates to information supplied by, such indemnifying party or indemnified party, and the indemnifying party's and indemnified party's relative intent, knowledge, access to information and opportunity to correct or prevent such action; provided, however, that the liability of any Holder under this subsection 4.1.5 shall be limited to the amount of the net proceeds received by such Holder in such offering giving rise to such liability. The amount paid or payable by a party as a result of the losses or other liabilities referred to above shall be deemed to include, subject to the limitations set forth in subsections 4.1.1, 4.1.2 and 4.1.3 above, any legal or other fees, charges or expenses reasonably incurred by such party in connection with any investigation or proceeding. The parties hereto agree that it would not be just and equitable if contribution pursuant to this subsection 4.1.5 were determined by pro rata allocation or by any other method of allocation, which does not take account of the equitable considerations referred to in this subsection 4.1.5. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution pursuant to this subsection 4.1.5 from any person who was not guilty of such fraudulent misrepresentation.

ARTICLE V
MISCELLANEOUS

5.1 Notices. Any notice or communication under this Agreement must be in writing and given by (i) deposit in the United States mail, addressed to the party to be notified, postage prepaid and registered or certified with return receipt requested, (ii) delivery in person or by courier service providing evidence of delivery, or (iii) transmission by hand delivery, electronic mail or facsimile. Each notice or communication that is mailed, delivered, or transmitted in the manner described above shall be deemed sufficiently given, served, sent, and received, in the case of mailed notices, on the third business day following the date on which it is mailed and, in the case of notices delivered by courier service, hand delivery, electronic mail or facsimile, at such time as it is delivered to the addressee (with the delivery receipt or the affidavit of messenger) or at such time as delivery is refused by the addressee upon presentation. Any notice or communication under this Agreement must be addressed, if to the Company, 2860 Jetport Road, Kinston, NC 28405, email: cmaddison@flyexclusive.com, Attention: Cason Maddison, and, if to any Holder, at such Holder's address or contact information as set forth in the Company's books and records. Any party may change its address for notice at any time and from time to time by written notice to the other parties hereto, and such change of address shall become effective thirty (30) days after delivery of such notice as provided in this Section 5.1.

5.2 Assignment; No Third Party Beneficiaries.

5.2.1 This Agreement and the rights, duties and obligations of the Company and the Holders of Registrable Securities, as the case may be, hereunder may not be assigned or delegated by the Company or the Holders of Registrable Securities, as the case may be, in whole or in part, except in connection with a transfer of Registrable Securities by such Holder to a Permitted Transferee but only if such Permitted Transferee agrees to become bound by the transfer restrictions set forth in this Agreement.

5.2.2 This Agreement and the provisions hereof shall be binding upon and shall inure to the benefit of each of the parties and its successors and the permitted assigns of the Holders, which shall include Permitted Transferees.

5.2.3 This Agreement shall not confer any rights or benefits on any persons that are not parties hereto, other than as expressly set forth in this Agreement, including Section 4.1 and Section 5.2 hereof.

5.2.4 No assignment by any party hereto of such party's rights, duties and obligations hereunder shall be binding upon or obligate the Company unless and until the Company shall have received (i) written notice of such assignment as provided in Section 5.1 hereof and (ii) the written agreement of the assignee, in a form reasonably satisfactory to the Company, to be bound by the terms and provisions of this Agreement (which may be accomplished by an addendum or certificate of joinder to this Agreement). Any transfer or assignment made other than as provided in this Section 5.2 shall be null and void.

5.3 Severability. This Agreement shall be deemed severable, and the invalidity or unenforceability of any term or provision hereof shall not affect the validity or enforceability of this Agreement or of any other term or provision hereof. Furthermore, in lieu of any such invalid or unenforceable term or provision, the parties hereto intend that there shall be added as a part of this Agreement a provision as similar in terms to such invalid or unenforceable provision as may be possible that is valid and enforceable.

5.4 Counterparts. This Agreement may be executed in multiple counterparts (including facsimile or PDF counterparts), each of which shall be deemed an original, and all of which together shall constitute the same instrument, but only one of which need be produced.

5.5 Governing Law; Venue. NOTWITHSTANDING THE PLACE WHERE THIS AGREEMENT MAY BE EXECUTED BY ANY OF THE PARTIES HERETO, THE PARTIES EXPRESSLY AGREE THAT (I) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED UNDER THE LAWS OF THE STATE OF NEW YORK AS APPLIED TO AGREEMENTS AMONG NEW YORK RESIDENTS ENTERED INTO AND TO BE PERFORMED ENTIRELY WITHIN NEW YORK, WITHOUT REGARD TO THE CONFLICT OF LAW PROVISIONS OF SUCH JURISDICTION AND (II) THE VENUE FOR ANY ACTION TAKEN WITH RESPECT TO THIS AGREEMENT SHALL BE ANY STATE OR FEDERAL COURT IN NEW YORK COUNTY IN THE STATE OF NEW YORK.

5.6 Waiver of Trial by Jury. EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW THE RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION, SUIT, COUNTERCLAIM OR OTHER PROCEEDING (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) DIRECTLY OR INDIRECTLY ARISING OUT OF, CONNECTED WITH OR RELATING TO THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREBY, OR THE ACTIONS OF THE SPONSOR IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT HEREOF.

5.7 Amendments and Modifications. Upon the written consent of the Company and the Holders of at least a majority in interest of the Registrable Securities at the time in question, compliance with any of the provisions, covenants and conditions set forth in this Agreement may be waived, or any of such provisions, covenants or conditions may be amended or modified; provided, however, that notwithstanding the foregoing, any amendment hereto or waiver hereof that adversely affects either the Existing Holders as a group or the New Holders as a group (regardless, in each case, whether the New Holders or the Existing Holders, respectively, are adversely affected (as a group) to the same extent) shall require the consent of at least a majority-in-interest of the Registrable Securities held by such Existing Holders or New Holders, as applicable, at the time in question so affected; provided, further, that notwithstanding the foregoing, any amendment hereto or waiver hereof that adversely affects one Holder or group of affiliated Holders, solely in its capacity as a holder of the shares of capital stock of the Company, in a manner that is materially different from the other Holders (in such capacity) shall require the consent of the Holder or group of affiliated Holders so affected. No course of dealing between any Holder or the Company and any other party hereto or any failure or delay on the part of a Holder or the Company in exercising any rights or remedies under this Agreement shall operate as a waiver of any rights or remedies of any Holder or the Company. No single or partial exercise of any rights or remedies under this Agreement by a party shall operate as a waiver or preclude the exercise of any other rights or remedies hereunder or thereunder by such party.

5.8 Titles and Headings. Titles and headings of sections of this Agreement are for convenience only and shall not affect the construction of any provision of this Agreement.

5.9 Waivers and Extensions. Any party to this Agreement may waive any right, breach or default which such party has the right to waive, provided that such waiver will not be effective against the waiving party unless it is in writing, is signed by such party, and specifically refers to this Agreement. Waivers may be made in advance or after the right waived has arisen or the breach or default waived has occurred. Any waiver may be conditional. No waiver of any breach of any agreement or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof nor of any other agreement or provision herein contained. No waiver or extension of time for performance of any obligations or acts shall be deemed a waiver or extension of the time for performance of any other obligations or acts.

5.10 Remedies Cumulative. In the event that the Company fails to observe or perform any covenant or agreement to be observed or performed under this Agreement, the Holders may proceed to protect and enforce its rights by suit in equity or action at law, whether for specific performance of any term contained in this Agreement or for an injunction against the breach of any such term or in aid of the exercise of any power granted in this Agreement or to enforce any other legal or equitable right, or to take any one or more of such actions, without being required to post a bond. None of the rights, powers or remedies conferred under this Agreement shall be mutually exclusive, and each such right, power or remedy shall be cumulative and in addition to any other right, power or remedy, whether conferred by this Agreement or now or hereafter available at law, in equity, by statute or otherwise.

5.11 Other Registration Rights. The Company represents and warrants that no person, other than a Holder of Registrable Securities, has any right to require the Company to register any securities of the Company for sale or to include such securities of the Company in any Registration filed by the Company for the sale of securities for its own account or for the account of any other person. Further, the Company represents and warrants that this Agreement supersedes any other registration rights agreement or agreement with similar terms and conditions and in the event of a conflict between any such agreement or agreements and this Agreement, the terms of this Agreement shall prevail.

5.12 Term. This Agreement shall terminate upon the earlier of (i) the tenth (10^{th}) anniversary of the date of this Agreement and (ii) the date as of which (A) all of the Registrable Securities have been sold pursuant to a Registration Statement (but in no event prior to the applicable period referred to in Section 4(a)(3) of the Securities Act and Rule 174 thereunder (or any successor rule promulgated thereafter by the SEC)) or (B) with respect to any Holder, such Holder ceasing to hold Registrable Securities.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the undersigned have caused this Amended and Restated Registration Rights Agreement to be executed as of the date first written above.

COMPANY:

EG Acquisition Corp

By: /s/ Gregg Hymowitz
Name: Gregg Hymowitz
Title: Chief Executive Officer

EXISTING HOLDERS:

EG Sponsor LLC

By: /s/ Matthew Lux
Name: Matthew Lux
Title: Authorized Signatory

NEW HOLDERS:

EnTrust Emerald (Cayman) LP

By: EnTrust Global Partners LLC, as general partner

By: /s/ Matthew Lux
Name: Matthew Lux
Title: Senior Managing Director and General Counsel

ETG FE LLC

By: EnTrust Global Partners LLC, as manager

By: /s/ Matthew Lux
Name: Matthew Lux
Title: Senior Managing Director & General Counsel

ETG OMNI LLC

By: EnTrust Global Partners LLC, as manager

By: /s/ Matthew Lux
Name: Matthew Lux
Title: Senior Managing Director & General Counsel

EnTrust Magnolia Partners LP

By: EnTrust Global Partners LLC, as general partner

By: /s/ Matthew Lux
Name: Matthew Lux
Title: Senior Managing Director & General Counsel

Note: Other joinder parties to agreement have been omitted.

/s/ Thomas James Segrave, Jr.

Thomas James Segrave, Jr.

/s/ Thomas James Segrave, Jr.

Thomas James Segrave, Jr., as Custodian for Laura Grace Segrave

/s/ Thomas James Segrave, Jr.

Thomas James Segrave, Jr., as Custodian for Madison Lee Segrave

/s/ Thomas James Segrave, Jr.

Thomas James Segrave, Jr., as Custodian for Lillian May Segrave

/s/ Thomas James Segrave, Jr.

Thomas James Segrave, Jr., as Custodian for Thomas James Segrave III

Exhibit 10.3

TAX RECEIVABLE AGREEMENT

THIS TAX RECEIVABLE AGREEMENT (as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, this "***Agreement***"), dated as of December 27, 2023, is hereby entered into by and among EG Acquisition Corp., a Delaware corporation (the "***Corporation***"), LGM Enterprises LLC, a North Carolina limited liability company (the "***Company***"), the TRA Holder Representative (as defined below), and each of the TRA Holders (as defined below).

RECITALS:

A. The Company is treated as a partnership for U.S. federal income tax purposes.

B. Each of the members of the Company (other than the Corporation), directly or indirectly, owns ownership interests in the Company that are designated as "Common Units" (collectively, the "***Units***").

C. Pursuant to that certain Equity Purchase Agreement, dated as of even date herewith (the "***Equity Purchase Agreement***"), by and among (i) the Company, (ii) Thomas James Segrave Jr. ("***Segrave***"), (iii) Thomas James Segrave, Jr., as custodian for Laura Grace Segrave ("***LG Trust***"); (iv) Thomas James Segrave, Jr., as custodian for Madison Lee Segrave, ("***ML Trust***"); (v) Thomas James Segrave, Jr., as custodian for Lillian May Segrave, ("***LM Trust***"); (vi) Thomas James Segrave, Jr., as custodian for Thomas James Segrave, III, ("***TJ Trust***" and, together with Segrave, LG Trust, ML Trust and LM Trust, the "***Existing Equityholders***"), (vii) EG Acquisition Corp., a Delaware corporation and predecessor to the Corporation, (viii) EG Sponsor LLC, a Delaware limited liability company ("***Sponsor***"), and (ix) Segrave, as the Existing Equityholders' representative, the Corporation shall acquire newly-issued Units in exchange for the Closing Date Cash Contribution Amount (as defined therein) and shall become the "Managing Member" of the Company (as defined in the Operating Agreement).

D. In connection with the transactions contemplated by the Equity Purchase Agreement, the Company shall revalue its assets for U.S. federal income tax purposes (and any corresponding U.S. state or local tax purposes) pursuant to Section 1.704-1 of the Treasury Regulations.

E. Following the contribution of the Closing Date Cash Contribution Amount by the Corporation to the Company, the Company shall repurchase a certain amount of the Units owned by the TRA Holders in accordance with the terms of the Equity Purchase Agreement, which repurchase shall be treated as a Redemption (as defined herein) for purposes of this Agreement.

F. Pursuant to and subject to the terms of the Operating Agreement, from time to time and, to the extent applicable, following the waiver or expiration of the Lock-Up Period (as defined in the Stockholders' Agreement), each holder of Units (other than the Corporation and its Subsidiaries) has the right to require the Company to redeem (a "***Redemption***"") all or a portion of such holder's Units for shares of Class A Common Stock or cash contributed to the Company by the Corporation; *provided* that, at the election of the Corporation in its sole discretion, the Corporation may effect a direct exchange (a "***Direct Exchange***"") of shares of Class A Common Stock or cash for such Units (holders described in this clause, the "***TRA Holders***").

G. The Company and any direct or indirect Subsidiary (owned through a chain of entities each of which is treated as a partnership or a disregarded entity for U.S. federal income tax purposes) of the Company that is treated as a partnership for U.S. federal income tax purposes (together with the Company and any direct or indirect Subsidiary (owned through a chain of entities each of which is treated as a partnership or a disregarded entity for U.S. federal income tax purposes) of the Company that is treated as a disregarded entity for U.S. federal income tax purposes, the "***Company Group***"") shall, to the extent such direct or indirect Subsidiary is treated as a partnership for U.S. federal income tax purposes, have in effect an election under Section 754 of the Code for the Taxable Year in which any Exchange occurs, which election should result in an adjustment to the Corporation's share of the tax basis of the assets owned by the Company Group as of the date of the Exchange.

H. The parties hereto desire to provide for certain payments and make certain arrangements with respect to certain tax benefits derived by the Corporation as a result of any Exchanges, certain tax attributes of the Company Group and the receipt of payments under this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth herein, and intending to be legally bound hereby, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

1.1 **Definitions**. As used in this Agreement, the terms set forth in this **Article I** shall have the following meanings.

"***Advisory Firm***" means any accounting firm that is nationally recognized as being an expert in tax matters and is not an Affiliate of the Corporation, provided that such Advisory Firm that is used by the Corporation shall be selected by the Corporation and be reasonably acceptable to the TRA Holder Representative.

"***Actual Interest Amount***" is defined in Section 3.1.2.7 of this Agreement.

"***Actual Tax Liability***" means, with respect to any Taxable Year, an amount, not less than zero, equal to the sum of (i) the actual liability for U.S. federal income taxes of the Corporation for such Taxable Year and, if applicable, determined in accordance with a Determination or Amended Schedule, and (ii) the product of (A) the actual amount of taxable income of the Corporation for U.S. federal income tax purposes for such Taxable Year and, if applicable, determined in accordance with a Determination or Amended Schedule and (B) the Assumed State and Local Tax Rate for such Taxable Year.

"***Affiliate***" means, with respect to any Person, any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such first Person.

"***Agreed Rate***" means SOFR plus 100 basis points.

"***Agreement***" is defined in the preamble to this Agreement.

"***Amended Schedule***" is defined in Section 2.4.2 of this Agreement.

"***Assumed State and Local Tax Rate***" means the tax rate equal to the sum of the products of (x) the Corporation's income tax apportionment factor for each state and local jurisdiction in which the Corporation files income or franchise tax returns for the relevant Taxable Year and (y) the highest corporate income and franchise tax rate in effect for such Taxable Year for each such state and local jurisdiction in which the Corporation files income tax returns for each relevant Taxable Year.

"***Attributable***" is defined in Section 3.1.2.1 of this Agreement.

"***Bankruptcy Code***" is defined in Section 4.1.3 of this Agreement.

"***Basis Adjustment***" means the increase or decrease to the tax basis of the Reference Assets (i) under Section 734(b), 743(b) and 754 of the Code (in situations where, following an Exchange, the Company remains in existence as an entity for tax purposes) and (ii) under Sections 732, 755 and 1012 of the Code (in situations where, as a result of one or more Exchanges, the Company becomes an entity that is disregarded as separate from its owner for tax purposes), in each case, as a result of any Exchange and any payments made under this Agreement. Notwithstanding any other provision of this Agreement, the amount of any Basis Adjustment resulting from an Exchange of one or more Units shall be determined without regard to any Pre-Exchange Transfer of such Units and as if any such Pre-Exchange Transfer had not occurred.

"***Basis Schedule***" is defined in Section 2.2 of this Agreement.

"***Business Day***" means any day excluding Saturday, Sunday and any day that is a legal holiday under the laws of the State of New York or is a day on which banking institutions located in New York are closed.

"***Change of Control***" means the occurrence of any of the following events:

(a) any "person" or "group" (within the meaning of Sections 13(d) and 14(d) of the Exchange Act, but excluding any employee benefit plan of such person and its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan, and excluding the Specified Parties) becomes the "beneficial owner" (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of shares of Class A Common Stock, Class B Common Stock, preferred stock and/or any other class or classes of capital stock of the Corporation (if any) representing in the aggregate more than fifty percent (50%) of the voting power of all of the outstanding shares of capital stock of the Corporation entitled to vote;

(b) the stockholders of the Corporation approve a plan of complete liquidation or dissolution of the Corporation or there is consummated an agreement or series of related agreements for the sale or other disposition, directly or indirectly, by the Corporation of all or substantially all of the Corporation's assets (including a sale of all or substantially all of the assets of the Company); or

(c) there is consummated a merger or consolidation of the Corporation with any other corporation or entity, and, immediately after the consummation of such merger or consolidation, the voting capital stock of the Corporation immediately prior to such merger or consolidation does not continue to represent, or are not converted into, more than fifty percent (50%) of the combined voting power of, or economic interest in, the then outstanding voting securities of the Person resulting from such merger or consolidation or, if the surviving company is a Subsidiary, the ultimate parent thereof.

Notwithstanding the foregoing, a "***Change of Control***" shall not be deemed to have occurred by virtue of the consummation of any transaction or series of integrated transactions immediately following which the record holders of the Class A Common Stock, Class B Common Stock, preferred stock and/or any other class or classes of capital stock of the Corporation immediately prior to such transaction or series of transactions continue to have substantially the same proportionate ownership in and voting control over, and own substantially all of the shares of, an entity which owns all or substantially all of the assets of the Corporation immediately following such transaction or series of transactions.

"***Class A Common Stock***" means the Class A Common Stock, par value $0.0001 per share, of the Corporation.

"***Class B Common Stock***" means the Class B Common Stock, par value $0.0001 per share, of the Corporation.

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

"***Company***" is defined in the preamble to this Agreement.

"***Company Group***" is defined in the recitals to this Agreement.

"***Control***" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or other agreement.

"***Corporation***" is defined in the preamble to this Agreement.

"***Covered Person***" is defined in Section 7.16 of this Agreement.

"***Cumulative Net Realized Tax Benefit***" is defined in Section 3.1.2.3 of this Agreement.

"***Default Rate***" means SOFR plus 400 basis points.

"***Default Rate Interest***" is defined in Section 3.1.2.8 of this Agreement.

"***Determination***" shall have the meaning ascribed to such term in Section 1313(a) of the Code or similar provision of U.S. state tax law, as applicable, or any other event (including the execution of IRS Form 870-AD) that finally and conclusively establishes the amount of any liability for tax.

"***Direct Exchange***" is defined in the recitals to this agreement.

"***Dispute***" is defined in Section 7.8.1 of this Agreement.

"***Early Termination Effective Date***" means the date of an Early Termination Notice for purposes of determining the Early Termination Payment.

"***Early Termination Notice***" is defined in Section 4.2 of this Agreement.

"***Early Termination Payment***" is defined in Section 4.3.2 of this Agreement.

"***Early Termination Rate***" means the SOFR plus 100 basis points.

"***Early Termination Reference Date***" is defined in Section 4.2 of this Agreement.

"***Early Termination Schedule***" is defined in Section 4.2 of this Agreement.

"***Equity Purchase Agreement***" is defined in the recitals to this Agreement.

"***Exchange***" means any Direct Exchange or Redemption.

"***Exchange Act***" means the U.S. Securities Exchange Act of 1934, as amended, and any applicable rules and regulations promulgated thereunder, and any successor to such statute, rules or regulations.

"***Exchange Date***" means the date of any Exchange.

"***Existing Equityholders***" is defined in the recitals to this Agreement.

"***Expert***" is defined in Section 7.9 of this Agreement.

"***Final Payment Date***" means any date on which a payment is required to be made pursuant to this Agreement. For the avoidance of doubt, the Final Payment Date in respect of a Tax Benefit Payment is determined pursuant to Section 3.1 of this Agreement.

"***Hypothetical Tax Liability***" means, with respect to any Taxable Year, an amount equal to the sum of (i) the hypothetical liability for U.S. federal income taxes of the Corporation for such Taxable Year and (ii) the product of (A) the hypothetical amount of taxable income of the Corporation for U.S. federal income tax purposes for such Taxable Year and (B) the Assumed State and Local Rate for such Taxable Year, in each case, determined using the same methods, elections, conventions and similar practices used on the actual relevant Tax Returns of the Corporation but (i) calculating depreciation, amortization, or other similar deductions, or

otherwise calculating any items of income, gain, or loss, using the Non-Adjusted Tax Basis as reflected on the applicable Basis Schedule, including amendments thereto for the Taxable Year, and (ii) excluding any deduction attributable to Imputed Interest for the Taxable Year. For the avoidance of doubt, the Hypothetical Tax Liability shall be determined without taking into account the carryover or carryback of any tax item attributable to Imputed Interest or Basis Adjustments (or portions thereof).

"***Imputed Interest***" is defined in Section 3.1.2.3 of this Agreement.

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

"***Joinder***" means a joinder to this Agreement, in form and substance substantially similar to **Exhibit A** to this Agreement.

"***Joinder Requirement***" is defined in Section 7.6.1 of this Agreement.

"***Maximum Rate***" is defined in Section 7.13 of this Agreement.

"***Net Tax Benefit***" is defined in Section 3.1.2.2 of this Agreement.

"***Non-Adjusted Tax Basis***" means, with respect to any Reference Asset at any time, the tax basis for purposes of U.S. federal income tax law that such asset would have had at such time if no Basis Adjustments had been made.

"***Objection Notice***" is defined in Section 2.4.1.1 of this Agreement.

"***Operating Agreement***" means that certain Amended and Restated Operating Agreement of the Company, dated as of the date hereof, as such agreement may be further amended, restated, supplemented and/or otherwise modified from time to time.

"***Parties***" means the parties named on the signature pages to this Agreement and each additional party that satisfies the Joinder Requirement, in each case with their respective successors and assigns.

"***Person***" means any individual, corporation, firm, partnership, joint venture, limited liability company, estate, trust, business association, organization, governmental entity or other entity.

"***Pre-Exchange Transfer***" means any transfer of one or more Units (including upon the death of a TRA Holder) (i) that occurs after the closing of the transactions contemplated by the Equity Purchase Agreement but prior to an Exchange of such Units and (ii) to which Section 743(b) of the Code applies.

"***Realized Tax Benefit***" is defined in Section 3.1.2.4 of this Agreement.

"***Realized Tax Detriment***" is defined in Section 3.1.2.5 of this Agreement.

"***Reconciliation Dispute***" is defined in Section 7.9 of this Agreement.

"***Reconciliation Procedures***" is defined in Section 2.4.1 of this Agreement.

"***Redemption***" has the meaning in the recitals to this Agreement.

"***Reference Asset***" means any tangible or intangible asset of any member of the Company Group or any of their respective successors or assigns, whether held directly by the Company or indirectly by the Company through any entity in which the Company now holds or may subsequently hold an ownership interest (but only if

such entity is treated as a partnership or disregarded entity for U.S. federal income tax purposes and for purposes of state or local income tax law), at the time of an Exchange or other applicable transaction. A Reference Asset also includes any asset the tax basis of which is determined, in whole or in part, by reference to the tax basis of an asset that is described in the preceding sentence, including "substituted basis property" within the meaning of Section 7701(a)(42) of the Code.

"***Schedule***" means any of the following: (i) a Basis Schedule, (ii) a Tax Benefit Schedule, or (iii) the Early Termination Schedule, and, in each case, any amendments thereto.

"***Segrave***" is defined in the recitals to this Agreement.

"***Senior Obligations***" is defined in Section 5.1 of this Agreement.

"***Specified Parties***" means (i) the Existing Equityholders; (ii) any Permitted Transferee (as defined in the Stockholders' Agreement) that becomes party to the Stockholders' Agreement; (iii) any Affiliate of any of the foregoing; or (iv) any "group" (within the meaning of Sections 13(d) and 14(d) of the Exchange Act) in which the Persons referred to in the foregoing clauses (i) – (iii) beneficially own (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act) in the aggregate, directly or indirectly, a majority of the voting power of the shares of Class A Common Stock and Class B Common Stock.

"***Sponsor***" is defined in the recitals to this Agreement.

"***SOFR***" means the Secured Overnight Financing Rate, as reported by the Wall Street Journal.

"***Subsidiary***" means, with respect to any Person and as of the date of any determination, any other Person as to which such Person, owns, directly or indirectly, or otherwise controls, more than 50% of the voting power or other similar interests, or the sole general partner interest, or managing member or similar interest, of such Person.

"***Subsidiary Stock***" means any stock or other equity interest in any Subsidiary of the Corporation that is treated as a corporation for U.S. federal income tax purposes and applicable state and local tax purposes.

"***Stockholders' Agreement***" means the Stockholders' Agreement, dated as of December 27, 2023, by and among (i) the Corporation, (ii) the Existing Equityholders, and (iii) Sponsor.

"***Tax Benefit Payment***" is defined in Section 3.1.2 of this Agreement.

"***Tax Benefit Schedule***" is defined in Section 2.3.1 of this Agreement.

"***Tax Return***" means any return, declaration, report or similar statement filed or required to be filed with respect to taxes (including any attached schedules and supporting information), including, without limitation, any information return, claim for refund, amended return and declaration of estimated tax.

"***Taxable Year***" means a taxable year of the Corporation as defined in Section 441(b) of the Code or comparable section of U.S. state or local tax law, as applicable (and, therefore, for the avoidance of doubt, may include a short taxable period of less than 12 months for which a Tax Return is made), ending on or after the date of the closing of the transactions contemplated by the Equity Purchase Agreement.

"***Taxing Authority***" means any national, federal, state, county, municipal, or local government, or any subdivision, agency, commission or authority thereof, or any quasi-governmental body, or any other authority of any kind, exercising regulatory or other authority in relation to any tax matters.

"***Termination Objection Notice***" is defined in Section 4.2.1.1 of this Agreement.

"***Trading Day***" means a day on which The New York Stock Exchange (NYSE) or such other principal United States securities exchange on which the shares of Class A Common Stock are listed or admitted to trading is open for the transaction of business (unless such trading shall have been suspended for the entire day).

"***TRA Holders***" is defined in the recitals to this Agreement.

"***TRA Holder Representative***" is defined in Section 7.16 of this Agreement.

"***Treasury Regulations***" means the final, temporary, and (to the extent they can be relied upon) proposed regulations promulgated from time to time by the U.S. Department of the Treasury pursuant to and in respect of provisions of the Code as in effect for the relevant taxable period.

"***U.S.***" means the United States of America.

"***Units***" is defined in the recitals to this Agreement.

"***Valuation Assumptions***" means, as of an Early Termination Effective Date, the assumptions that:

(a) in each Taxable Year ending on or after such Early Termination Effective Date, the Corporation shall have taxable income sufficient to fully use the deductions arising from the Basis Adjustments and the Imputed Interest during such Taxable Year or future Taxable Years (including, for the avoidance of doubt, Basis Adjustments and Imputed Interest that would result from future Tax Benefit Payments that would be paid in accordance with the Valuation Assumptions) in which such deductions would become available, taking into account clause (d) below;

(b) (i) the U.S. federal income tax rates that shall be in effect for each such Taxable Year shall be those specified for each such Taxable Year by the Code and other law as in effect on the Early Termination Effective Date, except to the extent any change to such tax rates for such Taxable Year have already been enacted into law, and (ii) the combined U.S. state and local income tax rates (but not, for the avoidance of doubt, U.S. federal income tax rates) for each such Taxable Year shall be the Assumed State and Local Tax Rate for the most recently ended Taxable Year;

(c) any loss or disallowed interest or other loss carryovers or carryforwards generated by any Basis Adjustments or Imputed Interest (including any such Basis Adjustments and Imputed Interest generated as a result of payments under this Agreement) and available as of the Early Termination Effective Date shall be used by the Corporation on a pro rata basis from the Early Termination Effective Date through (i) the scheduled expiration date of such loss carryovers or (ii) if there is no such scheduled expiration, the five-year anniversary of the Early Termination Effective Date (in each case, determined without regard to any limitations on the use of such net operating losses or other tax attributes pursuant to Sections 382, 383, or 384 of the Code, or any successor provision or similar provision of state or local law);

(d) any non-amortizable assets (other than Subsidiary Stock) shall be disposed of on the fifteenth anniversary of the applicable Basis Adjustment or, if such Basis Adjustment occurred more than fifteen years before the Early Termination Effective Date, the Early Termination Effective Date;

(e) any Subsidiary Stock shall be deemed never to be disposed of except if Subsidiary Stock is directly disposed of in the Change of Control;

(f) if, on the Early Termination Effective Date, any TRA Holder has Units that have not been Exchanged, then each such Unit shall be deemed to be Exchanged on the Early Termination Effective Date for an amount of immediately available funds in U.S. dollars equal to the average of the daily VWAP of a share of Class A Common Stock for the ten (10) Trading Days immediately prior to the Early Termination Effective Date; and

(g) any payment obligations pursuant to this Agreement shall be satisfied on the date that any Tax Return to which such payment obligation relates is required to be filed under applicable law as of the Early Termination Effective Date, excluding any extensions.

"***VWAP***" means the daily per share volume-weighted average price of the Class A Common Stock on the principal U.S. securities exchange on which Class A Common Stock trades, as displayed under the heading Bloomberg VWAP on the Bloomberg page designated for the Class A Common Stock (or its equivalent successor if such page is not available) in respect of the period from the open of trading on such day until the close of trading on such day (or if such volume-weighted average price is unavailable, (a) the per share volume-weighted average price of such Class A Common Stock on such day (determined without regard to afterhours trading or any other trading outside the regular trading session or trading hours), or (b) if such determination is not feasible, the market price per share of Class A Common Stock, in either case as determined by a nationally recognized independent investment banking firm retained in good faith for this purpose by the Corporation).

1.2 **Rules of Construction**. Unless otherwise specified herein: (a) the meanings of defined terms are equally applicable to the singular and plural forms, and the active and passive forms, of the defined terms, (b) for purposes of interpretation of this Agreement: (i) the words "herein," "hereto," "hereof" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision thereof, (ii) references in this Agreement to a Schedule, Article, Section, clause or sub-clause refer to the appropriate Schedule to, or Article, Section, clause or subclause in, this Agreement, (iii) references in this Agreement to dollars or "$" refer to the lawful currency of the United States of America, (iv) the term "including" is by way of example and not limitation, (v) the term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form, and (vi) the term "or" shall not be exclusive and shall instead mean "and/or," (c) in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding;" and the word "through" means "to and including," (d) references to organization documents (including the Operating Agreement), agreements (including this Agreement) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are permitted hereby; and (e) references to any law (including the Code and the Treasury Regulations) shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such law.

ARTICLE II
DETERMINATION OF REALIZED TAX BENEFIT

2.1 **Basis Adjustments; 754 Election; Revaluation**.

2.1.1 Basis Adjustments. The Parties acknowledge and agree to treat (a) to the fullest extent permitted by law each Direct Exchange as giving rise to Basis Adjustments and (b) to the fullest extent permitted by law each Redemption using Class A Common Stock contributed to the Company by the Corporation as a direct purchase of Units by the Corporation from the applicable TRA Holder pursuant to Section 707(a)(2)(B) of the Code as giving rise to Basis Adjustments.

2.1.2 Section 754 Election. The Corporation shall ensure that, on and after the date hereof and continuing throughout the term of this Agreement, the Company and each other member of the Company Group that is treated as a partnership for U.S. federal income tax purposes shall have in effect an election under Section 754 of the Code (and under any similar provisions of applicable U.S. state or local law).

2.1.3 Revaluation. Pursuant to, and in accordance with,Section 1.704-1 of the Treasury Regulations, for U.S. federal income tax purposes (and any corresponding U.S. state or local tax purposes), the Company shall revalue its assets to fair market value as of the time of the closing of the transactions contemplated by the Equity Purchase Agreement.

2.2 **Basis Schedules**. Within one hundred and twenty (120) days after the filing of the U.S. federal income Tax Return of the Corporation for each relevant Taxable Year, the Corporation shall deliver to the TRA Holder Representative a schedule developed in consultation with the Advisory Firm (the "***Basis Schedule***") that shows,

in reasonable detail as necessary in order to understand the calculations performed under this Agreement: (a) the Basis Adjustments with respect to the Reference Assets as a result of the relevant Exchanges effected in such Taxable Year, (b) the period (or periods) over which each Basis Adjustment is amortizable and/or depreciable, and (c) the Non-Adjusted Tax Basis with respect to the Reference Assets described in clause (a) as of each relevant Exchange,. The Basis Schedule shall become final and binding on the Parties pursuant to the procedures set forth in Section 2.4.1 and may be amended by the Parties pursuant to the procedures set forth in Section 2.4.2.

2.3 **Tax Benefit Schedules**.

2.3.1 Tax Benefit Schedule. Within one hundred and twenty (120) days after the filing of the U.S. federal income Tax Return of the Corporation for any Taxable Year in which there is a Realized Tax Benefit or Realized Tax Detriment, the Corporation shall provide to the TRA Holder Representative a schedule developed in consultation with the Advisory Firm showing, in reasonable detail, the calculation of the Realized Tax Benefit or Realized Tax Detriment for such Taxable Year (a "***Tax Benefit Schedule***"'). The Tax Benefit Schedule shall become final and binding on the Parties pursuant to the procedures set forth in Section 2.4.1, and may be amended by the Parties pursuant to the procedures set forth inSection 2.4.2.

2.3.2 Applicable Principles. Subject to the provisions of this Agreement, the Realized Tax Benefit or Realized Tax Detriment for each Taxable Year is intended to measure the decrease or increase in the actual tax liability of the Corporation for such Taxable Year attributable to the Basis Adjustments and Imputed Interest, as determined using a "with and without" methodology described in Section 2.4. Carryovers, carryforwards, or carrybacks of any tax item attributable to any Basis Adjustment or Imputed Interest or any other tax item in respect thereof shall be considered to be subject to the rules of the Code and the Treasury Regulations or the appropriate provisions of U.S. state or local tax law, as applicable, governing the use, limitation, and expiration of carryovers, carryforwards, carrybacks, or other tax items of the relevant type. If a carryover or carryback of any tax item includes a portion that is attributable to any Basis Adjustments or Imputed Interest (a "***TRA Portion***") and another portion that is not (a "***Non-TRA Portion***"), such portions shall be considered to be used in accordance with the "with and without" methodology so that: (a) the amount of any Non-TRA Portion is deemed utilized first, followed by the amount of any TRA Portion (calculated by taking into account the provisions of Section 3.3 to the extent applicable); and (b) in the case of a carryback of aNon-TRA Portion, such carryback shall not affect the original "with and without" calculation made in the prior Taxable Year. The Parties agree to treat (i) all Tax Benefit Payments (other than Imputed Interest) solely to the extent attributable to an Exchange and to the extent permitted by applicable law (A) as subsequent upward purchase price adjustments that give rise to further Basis Adjustments in respect of an applicable Exchange and (B) have the effect of creating additional Basis Adjustments arising in the Taxable Year in which the applicable Tax Benefit Payment is made and (ii) as a result, to the extent permitted by applicable law, any additional Basis Adjustments arising from such a Tax Benefit Payment shall be treated as giving rise to a Basis Adjustment in the Taxable Year in which the Tax Benefit Payment is made on an iterative basis continuing until any incremental Basis Adjustment is immaterial as reasonably determined by the TRA Holder Representative and the Corporation in good faith and in consultation with the Advisory Firm.

2.4 **Procedures; Amendments**.

2.4.1 Procedures. Each time the Corporation delivers an applicable Schedule to the TRA Holder Representative, under this Agreement, including any Amended Schedule delivered pursuant to Section 2.4.2, but excluding any Early Termination Schedule or amended Early Termination Schedule delivered pursuant to the procedures set forth in Section 4.2, the Corporation shall also: (a) deliver supporting schedules and work papers from an Advisory Firm and any additional materials as reasonably requested by the TRA Holder Representative that are reasonably necessary in order to understand the calculations that were relevant for purposes of preparing the Schedule; and (b) allow the TRA Holder Representative and its advisors to have reasonable access to the appropriate representatives, as reasonably requested by the TRA Holder Representative, at the Corporation and the applicable Advisory Firm in

connection with a review of such Schedule. Without limiting the generality of the preceding sentence, the Corporation shall ensure that any Tax Benefit Schedule that is delivered to the TRA Holder Representative, along with any supporting schedules and work papers, provides a reasonably detailed presentation of the calculation of the Actual Tax Liability of the Corporation (the "with" calculation) and the Hypothetical Tax Liability of the Corporation (the "without" calculation), and identifies any material assumptions or operating procedures or principles that were used for purposes of such calculations. An applicable Schedule or amendment thereto shall become final and binding on the Parties forty-five (45) days from the date on which the TRA Holder Representative first receives the applicable Schedule or amendment thereto unless:

2.4.1.1 the TRA Holder Representative within forty-five (45) days after receiving the applicable Schedule or amendment thereto provides the Corporation with written notice of a material objection to such Schedule that is made in good faith and that sets forth in reasonable detail the TRA Holder Representative material objection (an "***Objection Notice***"); or

2.4.1.2 the TRA Holder Representative provides a written waiver of its right to deliver an Objection Notice within the time period described in Section 2.4.1.1 above, in which case such Schedule or amendment thereto becomes binding on the date the waiver from the TRA Representative is received by the Corporation.

In the event that the TRA Holder Representative or any TRA Holder timely delivers an Objection Notice pursuant to Section 2.4.1.1 above, and if the Corporation and the TRA Holder Representative, for any reason, are unable to successfully resolve the issues raised in the Objection Notice through good faith discussions within thirty (30) days after receipt by the Corporation of the Objection Notice, the Corporation and the TRA Holder Representative shall employ the reconciliation procedures as described in Section 7.9 of this Agreement (the "***Reconciliation Procedures***").

2.4.2 Amended Schedule. The applicable Schedule for any Taxable Year may be amended from time to time by the Corporation: (a) in connection with a Determination affecting such Schedule; (b) to correct material inaccuracies in the Schedule identified as a result of the receipt of additional factual information relating to a Taxable Year after the date the Schedule was originally provided to the TRA Holder Representative; (c) to comply with an Expert's determination under the Reconciliation Procedures applicable to this Agreement; (d) to reflect a change in the Realized Tax Benefit or Realized Tax Detriment for such Taxable Year attributable to a carryback or carryforward of a loss or other tax item to such Taxable Year; (e) to reflect a change in the Realized Tax Benefit or Realized Tax Detriment for such Taxable Year attributable to an amended Tax Return filed for such Taxable Year; or (f) to adjust a Basis Schedule to take into account any Tax Benefit Payments made pursuant to this Agreement (any such Schedule, an "***Amended Schedule***").

ARTICLE III
TAX BENEFIT PAYMENTS

3.1 **Timing and Amount of Tax Benefit Payments**.

3.1.1 Timing of Payments. Subject to Sections 3.2 and 3.3, within five (5) Business Days following the date on which each Tax Benefit Schedule that is required to be delivered by the Corporation to the TRA Holder Representative pursuant to Section 2.3 of this Agreement becomes final in accordance with Section 2.4 of this Agreement, the Corporation shall pay to each relevant TRA Holder the Tax Benefit Payment as determined pursuant to this Section 3.1 that is Attributable to the relevant TRA Holder. Each such Tax Benefit Payment shall be made by wire transfer of immediately available funds to the bank account previously designated by such TRA Holder or as otherwise agreed by the Corporation and such TRA Holder. For the avoidance of doubt, without limiting the Corporation's ability to make offsets against Tax Benefit Payments with respect to a particular TRA Holder to the extent permitted by Section 3.4, the TRA Holders shall not be required under any circumstances to return any portion of any Tax Benefit

Payment previously paid by the Corporation to the TRA Holders (including any portion of any Early Termination Payment).

3.1.2 Amount of Payments. For purposes of this Agreement, a "***Tax Benefit Payment***" with respect to any TRA Holder means an amount, not less than zero, equal to the sum of: (a) the portion of the Net Tax Benefit that is Attributable to such TRA Holder (including Imputed Interest, if any, calculated in respect of such amount); and (b) the Actual Interest Amount and any Default Rate Interest with respect to the Net Tax Benefit described in (a).

3.1.2.1 Attributable. A Net Tax Benefit is "***Attributable***" to an TRA Holder to the extent that it is derived from any Basis Adjustment or Imputed Interest that is attributable to such TRA Holder (whether through an Exchange), determined without regard to any dilutive or antidilutive effect of any contribution to or distribution from the Company after an applicable Exchange.

3.1.2.2 Net Tax Benefit. The "***Net Tax Benefit***" for a Taxable Year equals the amount of the excess, if any, of (a) 85% of the Cumulative Net Realized Tax Benefit as of the end of such Taxable Year over (b) the aggregate amount of all Tax Benefit Payments previously made under this Section 3.1. For the avoidance of doubt, without limiting the Corporation's ability to make offsets against Tax Benefit Payments with respect to a particular TRA Holder to the extent permitted by Section 3.4, if the Cumulative Net Realized Tax Benefit as of the end of any Taxable Year is less than the aggregate amount of all Tax Benefit Payments previously made, no TRA Holder shall be required to return any portion of any Tax Benefit Payment previously made by the Corporation to such TRA Holder.

3.1.2.3 Cumulative Net Realized Tax Benefit. The "***Cumulative Net Realized Tax Benefit***" for a Taxable Year equals the cumulative amount of Realized Tax Benefits for all Taxable Years of the Corporation, up to and including such Taxable Year, net of the cumulative amount of Realized Tax Detriments for the same periods. The Realized Tax Benefit and Realized Tax Detriment for each Taxable Year shall be determined based on the most recent Tax Benefit Schedule or Amended Schedule, if any, in existence at the time of such determination. The computation of the Cumulative Net Realized Tax Benefit shall be adjusted to reflect any applicable Determination with respect to any Realized Tax Benefits and/or Realized Tax Detriments.

3.1.2.4 Realized Tax Benefit. The "***Realized Tax Benefit***" for a Taxable Year equals the excess, if any, of (a) the Hypothetical Tax Liability over (b) the Actual Tax Liability. If all or a portion of the Actual Tax Liability for the Taxable Year arises as a result of an audit by a Taxing Authority of any Taxable Year, such liability shall not be included in determining the Realized Tax Benefit unless and until the Corporation has exhausted all of its rights at the appeals level of the IRS or equivalent agency at the state level or, in the event the Corporation has determined to litigate such matter in Tax Court or other court of competent jurisdiction, unless and until such litigation becomes final (whether pursuant to a decision by the Tax Court or a judgment, decree, or other order by such other court) or has been finally settled or otherwise compromised.

3.1.2.5 Realized Tax Detriment. The "***Realized Tax Detriment***" for a Taxable Year equals the excess, if any, of (a) the Actual Tax Liability over (b) the Hypothetical Tax Liability. If all or a portion of the Actual Tax Liability for the Taxable Year increases as a result of an audit by a Taxing Authority of any Taxable Year, such liability shall not be included in determining the Realized Tax Detriment unless and until the Corporation has exhausted all of its rights at the appeals level of the IRS or equivalent agency at the state level or, in the event the Corporation has determined to litigate such matter in Tax Court or other court of competent jurisdiction, unless and until such litigation becomes final (whether pursuant to a decision by the Tax Court or a judgment, decree, or other order by such other court) or has been finally settled or otherwise compromised.

3.1.2.6 Imputed Interest. The Parties acknowledge that the principles of Sections 1272, 1274, or 483 of the Code, as applicable, and the principles of any similar provision of U.S. state and local tax

law, may, as applicable, apply to cause a portion of any payments by the Corporation to a TRA Holder under this Agreement to be treated as imputed interest ("***Imputed Interest***"). For the avoidance of doubt, the deduction for the amount of Imputed Interest, if any, as determined with respect to any payments made by the Corporation to a TRA Holder shall be excluded in determining the Hypothetical Tax Liability of the Corporation for purposes of calculating Realized Tax Benefits and Realized Tax Detriments pursuant to this Agreement.

3.1.2.7 Actual Interest Amount. The "***Actual Interest Amount***," calculated in respect of the Net Tax Benefit for a Taxable Year, shall be an amount equal to interest calculated at the Agreed Rate from the due date (without extensions) for filing the U.S. federal income Tax Return of the Corporation for such Taxable Year until the date on which the Corporation makes a timely Tax Benefit Payment to the TRA Holder on or before the Final Payment Date as determined pursuant to this Section 3.1.

3.1.2.8 Default Rate Interest. In accordance with Section 5.2, in the event that the Corporation does not make timely payment of all or any portion of a Tax Benefit Payment to a TRA Holder on or before the Final Payment Date as determined pursuant to this Section 3.1, the amount of any "***Default Rate Interest***," calculated and payable in accordance with Section 5.2 (if any) in respect of the Tax Benefit Payment (including previously accrued Imputed Interest and Actual Interest Amounts) for a Taxable Year, shall be equal to interest calculated at the Default Rate from the Final Payment Date for a Tax Benefit Payment as determined pursuant to this Section 3.1 until the date on which the Corporation makes such Tax Benefit Payment to such TRA Holder.

3.1.2.9 The Corporation and the TRA Holders hereby acknowledge and agree that, as of the date of this Agreement and as of the date of any future Exchange that may be subject to this Agreement, the aggregate value of the Tax Benefit Payments cannot be reasonably ascertained for U.S. federal income or other applicable tax purposes. Notwithstanding anything to the contrary in this Agreement, with respect to each Exchange by any TRA Holder, if such TRA Holder notifies the Corporation in writing of a stated maximum selling price (within the meaning of Section 15A.453-l(c)(2) of the Treasury Regulations) to be applied with respect to such Exchange, the amount of the initial consideration received in connection with such Exchange and the aggregate Tax Benefit Payments to such TRA Holder in respect of such Exchange (other than amounts accounted for as interest under the Code) shall not exceed such stated maximum selling price.

3.1.3 Interest. The provisions of this Section 3.1 and Section 5.2 in respect of Default Rate Interest are intended to operate so that interest shall effectively accrue (or, in the case of Imputed Interest, be treated as accruing solely for U.S. federal income or applicable state or local income tax purposes) in respect of the Net Tax Benefit (or Tax Benefit Payment in respect of any Actual Interest Amount or Default Rate Interest) for any Taxable Year as follows:

3.1.3.1 *first*, solely for U.S. federal income or applicable state or local income tax purposes, at the applicable rate used to determine the amount of Imputed Interest under the Code (from the relevant Exchange Date until the due date (without extensions) for filing the U.S. federal income Tax Return of the Corporation for such Taxable Year and, if required under applicable law, through the Final Payment Date for a Tax Benefit Payment as determined pursuant to this Section 3.1);

3.1.3.2 *second*, at the Agreed Rate (from the due date (without extensions) for filing the U.S. federal income Tax Return of the Corporation for such Taxable Year until the Final Payment Date for a Tax Benefit Payment as determined pursuant to this Section 3.1); and

3.1.3.3 *third*, in accordance with Section 5.2, at the Default Rate (from the Final Payment Date for a Tax Benefit Payment as determined pursuant to this Section 3.1 until the date on which the Corporation makes the relevant Tax Benefit Payment to the applicable TRA Holder).

3.2 **No Duplicative Payments**. It is intended that the provisions of this Agreement shall not result in the duplicative payment of any amount (including interest) that may be required under this Agreement and the provisions of this Agreement shall be consistently interpreted and applied in accordance with that intent.

3.3 **Pro-Ration of Payments as Between the TRA Holders**

3.3.1 Insufficient Taxable Income. Notwithstanding anything in this Section 3.1 to the contrary, to the extent that the aggregate potential Realized Tax Benefit of the Corporation with respect to depreciation, amortization or other tax benefits in respect of Basis Adjustments and Imputed Interest is limited in a particular Taxable Year because the Corporation does not have sufficient taxable income, the potential Net Tax Benefit for the Corporation shall be allocated among the TRA Holders in proportion to the respective Tax Benefit Payments that would have been payable if the Corporation had in fact had sufficient taxable income and there had been no such limitation. As an illustration of the intended operation of this Section 3.3.1, if the Corporation had $200 of aggregate potential Realized Tax Benefits in a particular Taxable Year (with $50 of such Realized Tax Benefits being attributable to TRA Holder No. 1 and $150 of such Realized Tax Benefits being attributable to TRA Holder No. 2), such that TRA Holder No. 1 would have potentially been entitled to a Tax Benefit Payment of $10.62 and TRA Holder No. 2 would have been entitled to a Tax Benefit Payment of $31.87 if the Corporation had $200 of actual taxable income (assuming for purposes of this illustration a 25% tax rate), and if the Corporation in fact (for purposes of this illustration) only had $100 of actual taxable income in such Taxable Year, then $25 of the aggregate $100 actual Realized Tax Benefit for the Corporation for such Taxable Year would be allocated to TRA Holder No. 1 and $75 of the aggregate $100 actual Realized Tax benefit for the Corporation would be allocated to TRA Holder No. 2, such that TRA Holder No. 1 would receive a Tax Benefit Payment of $5.31 and TRA Holder No. 2 would receive a Tax Benefit Payment of $15.94. Notwithstanding anything to the contrary in this Section 3.1, in no event shall the aggregate of the portions of the Net Tax Benefit that are Attributable to the TRA Holders exceed 100% of the Net Tax Benefit.

3.3.2 Late Payments. If for any reason the Corporation is not able to timely and fully satisfy its payment obligations under this Agreement with respect to having insufficient taxable income only in respect of a particular Taxable Year, then Default Rate Interest shall begin to accrue pursuant to Section 5.2 and the Corporation and other Parties agree that (a) the Corporation shall pay the Tax Benefit Payments due in respect of such Taxable Year to each TRA Holder pro rata in proportion to the amount of such Tax Benefit Payments, without favoring one obligation over the other, and (b) no Tax Benefit Payment shall be made in respect of any Taxable Year until all Tax Benefit Payments to all TRA Holders in respect of all prior Taxable Years have been made in full.

3.4 **Overpayments**. To the extent the Corporation makes any Tax Benefit Payment to a TRA Holder in respect of a particular Taxable Year in an amount in excess of the amount of such payment that should have been made to such TRA Holder in respect of such Taxable Year (taking into account this Article III) under the terms of this Agreement, then such excess shall be applied to reduce the amount of any subsequent future Tax Benefit Payments to be paid by the Corporation to such TRA Holder and such TRA Holder shall not receive any further Tax Benefit Payments until such TRA Holder has foregone an amount of Tax Benefit Payments equal to such excess. The amount of any excess Tax Benefit Payment shall be deemed to have been paid by the Corporation to the relevant TRA Holders on the original due date for the filing of the subsequent Tax Return to which the excess Tax Benefit Payment relates for purposes of determining the Actual Interest Amount to which such relevant TRA Holders shall be entitled. Notwithstanding the foregoing or anything to the contrary contained in this Agreement, the TRA Holders shall not be required, under any circumstances, to return any portion of any Tax Benefit Payment previously paid by the Corporation to the TRA Holders (including any portion of any Early Termination Payment).

ARTICLE IV
TERMINATION

4.1 **Early Termination of Agreement; Breach of Agreement**.

4.1.1 Corporation's Early Termination Right. The Corporation may completely terminate this Agreement, as and to the extent provided herein, with respect to all amounts payable to the TRA Holders

pursuant to this Agreement by paying to the TRA Holders the Early Termination Payments; *provided* that the Early Termination Payments may be made pursuant to this Section 4.1.1 only if made to all TRA Holders that are entitled to such a payment, and*provided further,* that the Corporation may withdraw any notice to execute its termination rights under this Section 4.1.1 prior to the time at which any Early Termination Payment has been paid. Upon the Corporation's payment of the Early Termination Payments, the Corporation shall not have any further payment obligations under this Agreement, other than with respect to any: (a) prior Tax Benefit Payments that are due and payable under this Agreement but that still remain unpaid as of the date of the Early Termination Notice and that remain unpaid as of the payment of the Early Termination Payments (which Tax Benefit Payments shall not be included in the Early Termination Payments); and (b) current Tax Benefit Payments due for the Taxable Year ending on or including the date of the Early Termination Notice (except to the extent that the amount described in this clause (b) is included in the calculation of the Early Termination Payments or is included in clause (a) above) that remain unpaid as of the payment of the Early Termination Payments. If an Exchange subsequently occurs with respect to Units for which the Corporation has exercised its termination rights under this Section 4.1.1 and paid all amounts owed in connection with the exercise of such rights, the Corporation shall have no obligations under this Agreement with respect to such Exchange.

4.1.2 Acceleration Upon Change of Control. In the event of a Change of Control, the TRA Holder Representative shall have the option, by written notice to the Corporation, to cause the acceleration of all unpaid payment obligations of the Corporation hereunder as calculated pursuant to this Article IV as if an Early Termination Notice had been delivered on the closing date of the Change of Control and utilizing the Valuation Assumptions by substituting the phrase "the closing date of a Change of Control" in each place where the phrase "Early Termination Effective Date" appears. Such obligations shall include, without duplication, but not be limited to, (a) the Early Termination Payments calculated as if an Early Termination Notice had been delivered on the closing date of the Change of Control, (b) any Tax Benefit Payments agreed to by the Corporation and the TRA Holders as due and payable but unpaid as of the Early Termination Notice (which Tax Benefit Payments shall not be included in the Early Termination Payments) and that remain unpaid as of the payment of the Early Termination Payments, and (c) any Tax Benefit Payments due for any Taxable Year ending prior to, with or including the closing date of a Change of Control unpaid as of the Early Termination Notice (except to the extent that any amounts described in this clause (c) are included in the Early Termination Payments or are included in clause (b) above) and that remain unpaid as of the payment of the Early Termination Payments. For the avoidance of doubt, Sections 4.2 and 4.3 shall apply to a Change of Control, *mutatis mutandis.*

4.1.3 Acceleration Upon Breach of Agreement. In the event that the Corporation materially breaches any of its obligations under this Agreement, whether as a result of failure to make any payment when due, failure to honor any other obligation required hereunder, or by operation of law as a result of the rejection of this Agreement in a case commenced under Title 11 of the United States Code (11 U.S.C. § 101 et seq.) (the "***Bankruptcy Code***") or otherwise, then, at the option of the TRA Holder Representative, all obligations of the Corporation hereunder shall be accelerated and become immediately due and payable upon notice of acceleration from the TRA Holder Representative (*provided* that in the case of any proceeding under the Bankruptcy Code or other insolvency statute, such acceleration shall be automatic without any such notice), and such obligations shall be calculated as if an Early Termination Notice had been delivered on the date of such notice of acceleration (or, in the case of any proceeding under the Bankruptcy Code or other insolvency statute, on the date of such breach) and shall include, but not be limited to: (a) the Early Termination Payments calculated as if an Early Termination Notice had been delivered on the date of such acceleration; (b) any prior Tax Benefit Payments that are due and payable under this Agreement but that still remain unpaid as of the date of such acceleration (which Tax Benefit Payments shall not be included in the Early Termination Payments) and that remain unpaid as of the payment of the Early Termination Payments; and (c) any current Tax Benefit Payments due for the Taxable Year ending with or including the date of such acceleration (except to the extent that any amounts described in this clause (c) are included in the Early Termination Payments or are included in clause (b) above) and that remain unpaid as of the payment of the Early Termination Payments. Notwithstanding the foregoing, in the event that the Corporation breaches this

Agreement and such breach is not a breach of a material obligation, the TRA Holder Representative and each TRA Holder shall still be entitled to enforce all of its rights otherwise available under this Agreement, excluding, for the avoidance of doubt, seeking or otherwise obtaining an acceleration of amounts payable under this Agreement pursuant to this Section 4.1.3. For purposes of this Section 4.1.3, and subject to the following sentence, the Parties agree that the failure to make any payment due pursuant to this Agreement within thirty (30) days of the relevant Final Payment Date shall be deemed to be a breach of a material obligation under this Agreement for all purposes of this Agreement, and that it shall not be considered to be a breach of a material obligation under this Agreement to make a payment due pursuant to this Agreement within thirty (30) days of the relevant Final Payment Date. Notwithstanding anything in this Agreement to the contrary, it shall not be a breach of a material obligation of this Agreement if the Corporation fails to make any Tax Benefit Payment within thirty (30) days of the relevant Final Payment Date to the extent that the Corporation has insufficient funds or cannot make such payment as a result of obligations imposed in connection with the Senior Obligations or under applicable law, and cannot obtain sufficient funds to make such payments by taking commercially reasonable actions or would become insolvent as a result of making such payment; *provided* that the interest provisions of Section 5.2 shall apply to such late payment (unless the Corporation does not have sufficient funds to make such payment as a result of limitations imposed by any Senior Obligations, in which case Section 5.2 shall apply, but the Default Rate shall be replaced by the Agreed Rate); and *provided further* that such payment obligation shall nonetheless accrue for the benefit of the TRA Holders and the Corporation shall make such payment at the first opportunity that it has sufficient funds and is otherwise able to make such payment.

4.2 **Early Termination Notice**. If the Corporation chooses to exercise its right of early termination under Section 4.1 above, the Corporation shall deliver to the TRA Holder Representative a notice of the Corporation's decision to exercise such right (an "***Early Termination Notice***"). Upon delivery of the Early Termination Notice or the occurrence of an event described in Section 4.1 (or an early termination pursuant to Section 4.1), the Corporation shall deliver a schedule developed in consultation with the Advisory Firm (the "***Early Termination Schedule***") showing in reasonable detail the calculation of the Early Termination Payment. The Corporation shall also (a) deliver to the TRA Holder Representative supporting schedules and work papers from an Advisory Firm and any additional materials reasonably requested by the TRA Holder Representative that are reasonably necessary in order to understand the calculations that were relevant for purposes of preparing the Early Termination Schedule; and (b) allow the TRA Holder Representative and its advisors to have reasonable access to the appropriate representatives at the Corporation and the applicable Advisory Firm as determined by the Corporation or as reasonably requested by the TRA Holder Representative, in connection with a review of such Early Termination Schedule. The Early Termination Schedule shall become final and binding on each Party forty-five (45) days from the first date on which the TRA Holder Representative received such Early Termination Schedule unless:

4.2.1.1 the TRA Holder Representative within forty-five (45) days after receiving the Early Termination Schedule, provides the Corporation with notice of a material objection to such Early Termination Schedule made in good faith and setting forth in reasonable detail the TRA Holder Representative's material objection (a "***Termination Objection Notice***"); or

4.2.1.2 the TRA Holder Representative provides a written waiver of such right of a Termination Objection Notice within the period described in Section 4.2.1.1 above, in which case such Early Termination Schedule becomes binding on the date the waiver from the TRA Holder Representative is received by the Corporation.

In the event that the TRA Holder Representative timely delivers a Termination Objection Notice pursuant to Section 4.2.1.1 above, and if the Parties, for any reason, are unable to successfully resolve the issues raised in the Termination Objection Notice within thirty (30) days after receipt by the Corporation of the Termination Objection Notice, the Corporation and the TRA Holder Representative shall employ the Reconciliation Procedures. The date on which the Early Termination Schedule becomes final in accordance with this Section 4.2 shall be the "***Early Termination Reference Date***."

4.3 **Payment Upon Early Termination**.

4.3.1 Timing of Payment. Within three (3) Business Days after the Early Termination Reference Date, the Corporation shall pay to each TRA Holder an amount equal to the Early Termination Payment for such TRA Holder. Such Early Termination Payment shall be made by the Corporation by wire transfer of immediately available funds to a bank account or accounts designated by such TRA Holder or as otherwise agreed by the Corporation and such TRA Holder.

4.3.2 Amount of Payment. The "***Early Termination Payment***" payable to a TRA Holder pursuant to and subject to Section 4.3.1 shall equal the present value, discounted by the Early Termination Rate as determined as of the Early Termination Reference Date, of all Tax Benefit Payments that would be required to be paid (and which have not yet been paid prior to the Early Termination Effective Date) by the Corporation to such TRA Holder, whether payable with respect to Units that were Exchanged prior to the Early Termination Effective Date or on or after the Early Termination Effective Date, beginning from the Early Termination Effective Date and using the Valuation Assumptions.

ARTICLE V
SUBORDINATION AND LATE PAYMENTS

5.1 **Subordination**. Notwithstanding any other provision of this Agreement to the contrary, any Tax Benefit Payments or Early Termination Payment required to be made by the Corporation to the TRA Holders under this Agreement shall rank subordinate and junior in right of payment to any principal, interest, or other amounts due and payable in respect of any obligations owed in respect of secured or unsecured unrelated indebtedness for borrowed money of the Corporation and its Subsidiaries ("***Senior Obligations***") and shall rank *pari passu* in right of payment with all current or future unsecured obligations of the Corporation that are not Senior Obligations. To the extent that any payment under this Agreement is not permitted to be made at the time payment is due as a result of this Section 5.1 and the terms of the agreements governing Senior Obligations, such payment obligation nevertheless shall accrue for the benefit of the TRA Holders and the Corporation shall make any such payments at the first opportunity that such payments are permitted to be made in accordance with the terms of the Senior Obligations. Furthermore, each TRA Holder shall enter into any subordination agreements in a form reasonably satisfactory to the TRA Holder Representative in order to effectuate the purposes of this Section 5.1.

5.2 **Late Payments by the Corporation**. Except as otherwise provided in this Agreement, the amount of all or any portion of any Tax Benefit Payment or Early Termination Payment not made to the TRA Holders when due under the terms of this Agreement shall be payable together with any interest thereon, computed at the Default Rate and commencing from the Final Payment Date on which such Tax Benefit Payment or Early Termination Payment was first due and payable to the date of actual payment of such Tax Benefit Payment or Early Termination Payment; *provided* that if any Tax Benefit Payment or Early Termination Payment is not made to the TRA Holders when due under the terms of this Agreement as a result of Section 5.1 and the terms of the agreements governing Senior Obligations, any such interest shall be computed at the Agreed Rate and not the Default Rate.

ARTICLE VI
TAX MATTERS; CONSISTENCY; COOPERATION

6.1 **Participation in the Corporation's Tax Matters**. Except as otherwise provided herein, the Corporation shall have full responsibility for, and sole discretion over, all tax matters concerning the Corporation and its Subsidiaries, including, without limitation, the preparation, filing, or amending of any Tax Return and defending, contesting or settling any audit, contest, or other proceeding pertaining to taxes; *provided, however,* that the Corporation shall not settle or fail to contest any issue pertaining to taxes that is reasonably expected to materially or adversely affect the TRA Holders' rights and obligations under this Agreement without the consent

of the TRA Holder Representative, such consent not to be unreasonably withheld or delayed. The Corporation shall notify the TRA Holder Representative of, and keep him reasonably informed with respect to, any tax audit or other tax contest of the Corporation the outcome of which is reasonably expected to reduce or defer the Tax Benefit Payments payable to any TRA Holder under this Agreement and the TRA Holder Representative shall have the right to (a) discuss with the Corporation, and provide input and comment to the Corporation regarding, any portion of any such tax audit or other tax contest and (b) participate in, at the TRA Holder Representative's expense, any such portion of any such tax audit or other tax contest to the extent it relates to issues the resolution of which would reasonably be expected to reduce or defer the Tax Benefit Payments payable to any TRA Holder under this Agreement. To the extent there is a conflict between this Agreement and either the Equity Purchase Agreement or the Operating Agreement relating to tax matters concerning Covered Taxes and the Corporation, including preparation, filing or amending of any Tax Return and defending, contesting or settling any issue pertaining to taxes, this Agreement shall control solely with respect to the matters governed by this Agreement.

6.2 **Consistency**. Except as otherwise required by applicable law, all calculations and determinations made hereunder, including, without limitation, any Basis Adjustments, the Schedules or the determination of any Realized Tax Benefits or Realized Tax Detriments, shall be made in accordance with the elections, methodologies or positions taken by the Corporation and the Company on their respective Tax Returns. Each TRA Holder shall prepare its Tax Returns in a manner that is consistent with the terms of this Agreement and any related calculations or determinations that are made hereunder, including, without limitation, the Schedules provided under this Agreement, unless otherwise required by applicable law. In the event that an Advisory Firm or Expert is used and is replaced with another Advisory Firm or Expert, such replacement Advisory Firm or Expert shall perform its services under this Agreement using procedures and methodologies consistent with the previous Advisory Firm or Expert, unless otherwise required by applicable law or unless the Corporation and the TRA Holder Representative agree to the use of other procedures and methodologies.

6.3 **Cooperation**. The TRA Holder Representative and each TRA Holder, on the one hand, and the Corporation, on the other hand, shall use commercially reasonable efforts to (a) furnish to the other in a timely manner such information, documents and other materials as the other may reasonably request for purposes of making, reviewing, or approving any determination or computation necessary or appropriate under or with respect to this Agreement, preparing any Tax Return or contesting or defending any audit, examination, controversy or other proceeding with any Taxing Authority, or estimating any future Tax Benefit Payments hereunder, (b) make itself available to the other and its representatives to provide explanations of documents and materials and such other information as may be reasonably requested in connection with any of the matters described in clause (a) above, and (c) reasonably cooperate in connection with any such matter. Subject to Section 6.1, the Corporation shall provide reasonable assistance as reasonably requested by the TRA Holder Representative on behalf of any TRA Holder in connection with such TRA Holder's tax returns or financial reporting materials that are required to be prepared under applicable law or contract and/or the consummation of any assignment or transfer of any of its rights and/or obligations under this Agreement, including, without limitation, providing any information or executing any documentation. The requesting Party shall reimburse the other Party for any reasonable and documented out-of-pocket costs and expenses incurred by such other Party pursuant to this Section 6.3.

ARTICLE VII
MISCELLANEOUS

7.1 **Notices**. Any notice hereunder shall be sent in writing, addressed as specified below, and shall be deemed given: (a) if by hand or recognized courier service, by 5:00 PM on a Business Day, addressee's day and time, on the date of delivery, and otherwise on the first Business Day after such delivery; (b) if by fax or email, on the date that transmission is sent electronically without any "bounce back" or similar error message; or (c) five (5) days after mailing by certified or registered mail, return receipt requested. Notices shall be addressed

to the respective Parties as follows (excluding telephone numbers, which are for convenience only), or to such other address as a Party shall specify to the others in accordance with these notice provisions:

If to the Corporation, the Company or the TRA Holder Representative:

LGM Enterprises, LLC
2860 Jetport Road
Kinston, North Carolina 28504
Attention: Thomas James Segrave, Jr.
Telephone: 252-717-3333
E-mail: jsegrave@flyexclusive.com

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

Wyrick Robbins Yates & Ponton LLP
The Summit
4101 Lake Boone Trail, Suite 300
Raleigh, NC 27607-7506
Attention: Larry E. Robbins
Telephone: 919-865-2800
E-mail: lrobbins@wyrick.com

Any Party may change its address, fax number ore-mail address by giving each of the other Parties written notice thereof in the manner set forth above.

7.2 **Counterparts**. This Agreement may be executed in counterparts, each of which shall constitute an original, but all of which shall constitute one agreement. This Agreement shall become effective upon delivery to each party of an executed counterpart or the earlier delivery to each party of original, photocopied, or electronically transmitted signature pages that together (but need not individually) bear the signatures of all other parties.

7.3 **Entire Agreement; No Third-Party Beneficiaries**. This Agreement sets forth the entire agreement of the parties with respect to the subject matter hereof and thereof and supersedes all prior and contemporaneous understandings and agreements related thereto (whether written or oral), all of which are merged herein. No provision of this Agreement may be explained or qualified by any agreement, negotiations, understanding, discussion, conduct or course of conduct. Except as otherwise expressly stated herein, there is no condition precedent to the effectiveness of any provision hereof or thereof.

7.4 **Governing Law**. This Agreement shall be construed and enforced in accordance with and governed by the laws (both substantive and procedural) of the State of North Carolina, without giving effect to the conflict of laws principles thereof.

7.5 **Severability**. A determination by a court or other governmental authority (including any Taxing Authority) that any provision of this Agreement is legally invalid shall not affect the validity or enforceability of any other provision hereof. The Parties shall cooperate in good faith to substitute (or cause such court or other governmental authority to substitute) for any provision so held to be invalid a valid provision, as alike in substance to such invalid provision as is lawful.

7.6 **Assignments; Amendments; Successors; No Waiver**.

7.6.1 Assignment. Each TRA Holder may assign, sell, pledge, or otherwise alienate or transfer any interest in this Agreement, including the right to receive any Tax Benefit Payments under this Agreement, without the consent of the Corporation, to any Person; *provided* such Person executes and delivers a Joinder

agreeing to succeed to the applicable portion of such TRA Holder's interest in this Agreement and to become a Party and TRA Holder for all purposes of this Agreement (the "***Joinder Requirement***"). For the avoidance of doubt, if a TRA Holder transfers Units in accordance with the terms of the Operating Agreement but does not assign to the transferee of such Units its rights under this Agreement with respect to such transferred Units, such TRA Holder shall continue to be entitled to receive the Tax Benefit Payments arising in respect of a subsequent Exchange of such Units (and any such transferred Units shall be separately identified, so as to facilitate the determination of Tax Benefit Payments hereunder). The Corporation may not assign any of its rights or obligations under this Agreement to any Person (other than any direct or indirect successor (whether by purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of the Corporation) without the prior written consent of each of the TRA Holders (and any purported assignment without such consent shall be null and void).

7.6.2 Amendments. No provision of this Agreement may be amended unless such amendment is approved in writing by (a) the Corporation, (b) the TRA Holder Representative, and (c) TRA Holders who would be entitled to receive at least two-thirds of the Early Termination Payments payable to all TRA Holders in the event the Corporation exercised its rights pursuant to Section 4.1 as of the later of the most recent Exchange Date, in which case such amendment shall be permitted. Notwithstanding the foregoing, no such amendment shall be effective if such amendment would have a disproportionate adverse impact on the payments certain TRA Holders shall or may receive under this Agreement unless all such disproportionately impacted TRA Holders consent in writing to such amendment (such consent not to be unreasonably withheld, conditioned or delayed).

7.6.3 Successors. Except as provided in this Section 7.6, all of the terms and provisions of this Agreement shall be binding upon, and shall inure to the benefit of and be enforceable by, the Parties hereto and their respective successors, assigns, heirs, executors, administrators and legal representatives. The Corporation shall require and cause any direct or indirect successor (whether by purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of the Corporation, by written agreement, expressly to (a) assume and agree to perform this Agreement, in the same manner and to the same extent that the Corporation would be required to perform if no such succession had taken place and (b) become a Party to this Agreement.

7.6.4 Waiver. No provision of this Agreement may be waived unless such waiver is in writing and signed by the Party against whom the waiver is to be effective. No failure by any Party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or any other covenant, duty, agreement, or condition.

7.7 **Titles and Subtitles**. The titles of the sections and subsections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

7.8 **Resolution of Disputes**.

7.8.1 Except for Reconciliation Disputes subject to Section 7.9, any and all disputes which cannot be settled amicably, including any ancillary claims of any Party, arising out of, relating to or in connection with the validity, negotiation, execution, interpretation, performance or non-performance of this Agreement (including the validity, scope and enforceability of this arbitration provision) (each a "***Dispute***") shall be exclusively and definitively resolved through final and binding arbitration pursuant to the provisions of this Section 7.8. Any such arbitration shall be commenced and conducted as follows.

(a) The arbitration tribunal shall be comprised of three (3) individuals, each of whom shall be a lawyer and a resident of the State of North Carolina. The Corporation, as the first party, and the disputing TRA Holder(s), as the second party, each shall name one (1) person to serve on the arbitration tribunal, and the two (2) persons so selected shall choose a third person to serve on the tribunal.

(b) In the event that all of the three members of the arbitration tribunal for any reason are not chosen within thirty (30) days from the date a Party gives notice of a demand for arbitration, any Party thereafter shall have the right to apply to an appropriate court for the appointment by the court, pursuant to N.C. Gen. Stat. § 1-569.11, to such tribunal of an arbitrator or arbitrators to complete the full number of arbitrators on such tribunal. The court shall be bound by the provisions of this Section 7.8. To assist the arbitration tribunal in its function as arbitrator, such tribunal may engage an attorney, certified public accountant, and any other Person to be of assistance in the arbitration of any matter before such tribunal. The expenses of the arbitration tribunal, including those of Persons engaged to be of assistance to such tribunal, shall be borne by the Corporation. Except as herein provided, the provisions of Article 45C of Chapter 1 of the North Carolina General Statutes shall apply to the arbitration proceedings.

(c) The decision of any two (2) members of the arbitral tribunal shall be the decision of such tribunal. The decision of the arbitral tribunal shall be in writing and signed by each member of such tribunal. The venue for any such arbitral proceeding shall be where the Company is then currently headquartered, unless the disputing TRA Holder(s) and the Corporation unanimously agree in writing otherwise.

7.8.2 Notwithstanding the provisions of Section 7.8.1, any Party may bring an action or special proceeding in any court of competent jurisdiction for the purpose of compelling another Party to arbitrate, seeking temporary or preliminary relief in aid of an arbitration hereunder, and/or enforcing an arbitration award and, for the purposes of this Section 7.8.2, each Party (a) expressly consents to the application of Section 7.8.3 to any such action or proceeding, and (b) agrees that proof shall not be required that monetary damages for breach of the provisions of this Agreement would be difficult to calculate and that remedies at law would be inadequate. For the avoidance of doubt, this Section 7.8 shall not apply to Reconciliation Disputes to be settled in accordance with the procedures set forth in Section 7.9.

7.8.3 Each Party irrevocably consents to service of process by means of notice in the manner provided for in Section 7.1. Nothing in this Agreement shall affect the right of any Party to serve process in any other manner permitted by law.

7.8.4 EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY).

7.8.5 In the event that the Parties are unable to agree whether a dispute between them is a Reconciliation Dispute subject to the dispute resolution procedure set forth in Section 7.9 or a Dispute subject to the dispute resolution procedure set forth in this Section 7.8, such disagreement shall be decided and resolved in accordance with the procedure set forth in this Section 7.8.

7.9 **Reconciliation**. In the event that the Corporation and the TRA Holder Representative are unable to resolve a disagreement with respect to a Schedule prepared in accordance with the procedures set forth in Section 2.4, or with respect to an Early Termination Schedule prepared in accordance with the procedures set forth in Section 4.2, within the relevant time period designated in this Agreement (a "***Reconciliation Dispute***"). the Reconciliation Dispute shall be submitted for determination to a nationally recognized expert (the "***Expert***") in the particular area of disagreement mutually acceptable to the disputing Parties. The Expert shall be a partner or principal in a nationally recognized accounting firm, and unless the Corporation and the TRA Holder Representative agree otherwise, the Expert shall not, and the firm that employs the Expert shall not, have any material relationship with the Corporation, the TRA Holder Representative or other actual or potential conflict of interest. If the disputing Parties are unable to agree on an Expert within fifteen (15) days of receipt by the respondents) of written notice of a Reconciliation Dispute, the selection of an Expert shall be treated as a Dispute subject to Section 7.8 and an arbitration panel shall pick an Expert from a nationally recognized accounting firm

that does not have any material relationship with the Corporation, the TRA Holder Representative or other actual or potential conflict of interest. The Expert shall resolve any matter relating to any Schedule or an amendment thereto or the Early Termination Schedule or an amendment thereto within thirty (30) days and shall resolve any matter relating to a Tax Benefit Schedule or an amendment thereto within fifteen (15) days or as soon thereafter as is reasonably practicable, in each case after the matter has been submitted to the Expert for resolution. Notwithstanding the preceding sentence, if the matter is not resolved before any payment that is the subject of a disagreement would be due (in the absence of such disagreement) or any Tax Return reflecting the subject of a disagreement is due, the undisputed amount shall be paid on the date prescribed by this Agreement and such Tax Return may be filed as prepared by the Corporation, subject to adjustment or amendment upon resolution. The Corporation and the TRA Holder Representative shall bear their own costs and expenses of such proceeding, unless (a) the Expert adopts the TRA Holder Representative's position, in which case the Corporation shall reimburse the TRA Holder Representative for any reasonable and documented out-of-pocket costs and expenses in such proceeding (including for the avoidance of doubt any costs and expenses incurred by the TRA Holder Representative relating to the engagement of the Expert or amending any applicable Tax Return), or (b) the Expert adopts the Corporation's position, in which case the TRA Holder Representative on behalf of such TRA Holder(s)) shall reimburse the Corporation for any reasonable and documented out-of-pocket costs and expenses in such proceeding (including for the avoidance of doubt costs and expenses incurred by the Corporation relating to the engagement of the Expert or amending any applicable Tax Return). The Corporation may withhold payments under this Agreement to collect amounts due under the preceding sentence. The Expert shall finally determine any Reconciliation Dispute and the determinations of the Expert pursuant to this Section 7.9 shall be binding on the Corporation, the TRA Holder Representative and the TRA Holders and may be entered and enforced in any court having competent jurisdiction.

7.10 **Withholding**. Notwithstanding anything in this Agreement, the Corporation, or any other applicable withholding agent, shall be entitled to deduct and withhold (or cause there to be deduction or withholding), from any payment that is payable to any TRA Holder (or any other person) pursuant to this Agreement any taxes or other amounts as the Corporation or other applicable withholding agent is required to deduct and withhold with respect to the making of any such payment under the Code or any provision of U.S. state, local or foreign tax law or other applicable tax law. Any such deducted or withheld taxes or other amounts, to the extent paid over to the appropriate Taxing Authority or other governmental entity shall be treated for all purposes of this Agreement as having been paid by the Corporation (and/or other applicable withholding agent) to the relevant TRA Holder or other person in respect of which such deduction or withholding was made. Each TRA Holder or other recipient of any payments hereunder shall provide the Corporation with any applicable tax forms, including IRS Form W-9 or the appropriate series of IRS Form W-8, as applicable, or any other information or certifications reasonably requested by the Corporation or other applicable withholding agent in connection with determining whether any such deductions and withholdings are required under the Code or any provision of U.S. state, local or foreign tax law. Notwithstanding the foregoing, if a withholding obligation arises as a result of a Change of Control or other transaction that causes the Corporation (or its successor) to become a non-U.S. Person (for U.S. federal income tax purpose), any amount payable to a TRA Holder under this Agreement shall be increased such that after all required deductions and withholdings have been made (including such deductions and withholdings applicable to additional sums payable under this sentence) the relevant TRA Holder receives an amount equal to the sum that it would have received had no such deductions or withholdings been made.

7.11 **Admission of the Corporation into a Consolidated Group; Transfers of Corporate Assets**

7.11.1 If the Corporation is or becomes a member of an affiliated or consolidated group of corporations that files a consolidated income Tax Return pursuant to Section 1501 or other applicable Sections of the Code governing affiliated or consolidated groups, or any corresponding provisions of U.S. state or local tax law, then: (a) the provisions of this Agreement shall be applied with respect to the group as a whole; and (b) Tax Benefit Payments, Early Termination Payment, and other applicable items hereunder shall be computed with reference to the consolidated, combined or unitary taxable income of the group as a whole.

7.11.2 If the Corporation, its successor in interest or any member of a group described in Section 7.11.1 or any member of the Company Group transfers one or more Reference Assets to a corporation (or a Person classified as a corporation for U.S. federal income tax purposes) with which such entity does not file a consolidated Tax Return pursuant to Section 1501 of the Code, such entity, for purposes of calculating the amount of any Tax Benefit Payment or Early Termination Payment due hereunder, shall be treated as having disposed of such Reference Asset in a fully taxable transaction on the date of such transfer. The consideration deemed to be received by such entity shall be equal to the fair market value of the transferred Reference Asset as determined by a valuation expert mutually agreed upon by the Corporation and the TRA Holder Representative plus, without duplication, (a) the amount of debt to which any such Reference Assets is subject, in the case of a transfer of an encumbered Reference Asset or (b) the amount of debt allocated to any such Reference Asset, in the case of a transfer of a partnership interest. For purposes of this Section 7.11, a transfer of a partnership interest shall be treated as a transfer of the transferring partner's share of each of the assets and liabilities of that partnership. Notwithstanding anything to the contrary set forth herein, if the Corporation, its successor in interest or any member of a group described in Section 7.11.1, transfers its assets pursuant to a transaction that qualifies as a "reorganization" (within the meaning of Section 368(a) of the Code) in which such entity does not survive or pursuant to any other transaction, in each case, to which Section 381(a) of the Code applies (other than any such reorganization or any such other transaction, in each case, pursuant to which such entity transfers assets to a corporation with which the Corporation, its successor in interest or any member of the group described in Section 7.11.1 (other than any such member being transferred in such reorganization or other transaction) does not file a consolidated Tax Return pursuant to Section 1501 of the Code), the transfer shall not cause such entity to be treated as having transferred any assets to a corporation (or a Person classified as a corporation for U.S. income tax purposes) pursuant to this Section 7.11.2.

7.12 **Change in Law**. Notwithstanding anything herein to the contrary, if, as a result of or, in connection with an actual or proposed change in law, a TRA Holder reasonably believes that the existence of this Agreement could cause adverse tax consequences to such TRA Holder or any direct or indirect owner of such TRA Holder, then at the written election of such TRA Holder in its sole discretion (in an instrument signed by such TRA Holder and delivered to the Corporation and the TRA Holder Representative) and to the extent specified therein by such TRA Holder, this Agreement shall cease to have further effect and shall not apply to such TRA Holder after a date specified by such TRA Holder.

7.13 **Interest Rate Limitation**. Notwithstanding anything to the contrary contained herein, the interest paid or agreed to be paid hereunder with respect to amounts due to any TRA Holder hereunder shall not exceed the maximum rate of non-usurious interest permitted by applicable law (the "***Maximum Rate***"). If any TRA Holder shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the Tax Benefit Payment, or Early Termination Payment, as applicable (but in each case exclusive of any component thereof comprising interest) or, if it exceeds such unpaid non-interest amount, refunded to the Corporation. In determining whether the interest contracted for, charged, or received by any TRA Holder exceeds the Maximum Rate, such TRA Holder may, to the extent permitted by applicable law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the payment obligations owed by the Corporation to such TRA Holder hereunder. Notwithstanding the foregoing, it is the intention of the Parties to conform strictly to any applicable usury laws.

7.14 **Independent Nature of Rights and Obligations**. The rights and obligations of each TRA Holder hereunder are several and not joint with the rights and obligations of any other Person. A TRA Holder shall not be responsible in any way for the performance of the obligations of any other Person hereunder, nor shall a TRA Holder have the right to enforce the rights or obligations of any other Person hereunder (other than the Corporation). Nothing contained herein or in any other agreement or document delivered at any closing, and no action taken by any TRA Holder pursuant hereto or thereto, shall be deemed to constitute the TRA Holders

acting as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the TRA Holders are in any way acting in concert or as a group with respect to such rights or obligations or the transactions contemplated hereby, and the Corporation acknowledges that the TRA Holders are not acting in concert or as a group and shall not assert any such claim with respect to such rights or obligations or the transactions contemplated hereby.

7.15 **Operating Agreement**. This Agreement shall be treated as part of the Operating Agreement as described in Section 761(c) of the Code and Sections 1.704-l(b)(2)(ii)(h) and 1.761-l(c) of the Treasury Regulations.

7.16 **TRA Holder Representative**. By executing this Agreement, each of the TRA Holders shall be deemed to have irrevocably constituted and appointed Thomas James Segrave Jr. (in the capacity described in this Section 7.16 and each successor as provided below, the "***TRA Holder Representative***") as its agent and attorney in fact with full power of substitution to act from and after the date hereof and to do any and all things and execute any and all documents on behalf of such TRA Holders which may be necessary, convenient or appropriate to facilitate any matters under this Agreement, including, but not limited to, and unless otherwise provided by this Agreement: (a) execution of the documents and certificates required pursuant to this Agreement; (b) receipt and forwarding of notices and communications pursuant to this Agreement; (c) administration of the provisions of this Agreement; (d) giving or agreeing to, on behalf of such TRA Holders, any and all consents, waivers, amendments or modifications deemed by the TRA Holder Representative, in its sole and absolute discretion, to be necessary or appropriate under this Agreement and the execution or delivery of any documents that may be necessary or appropriate in connection therewith; (e) taking actions the TRA Holder Representative is expressly authorized to take pursuant to the other provisions of this Agreement; (f) negotiating and compromising, on behalf of such TRA Holders, any dispute that may arise under, and exercising or refraining from exercising any remedies available under, this Agreement or any other agreement contemplated hereby and executing, on behalf of such TRA Holders, any settlement agreement, release or other document with respect to such dispute or remedy; (g) engaging attorneys, accountants, agents or consultants on behalf of such TRA Holders in connection with this Agreement or any other agreement contemplated hereby and paying any fees related thereto; and (h) effectuating the purposes of Section 5.1 hereof. If the TRA Holder Representative is unwilling to so serve, then the person then-serving as the TRA Holder Representative shall be entitled to appoint its successor which such successor shall be subject to the approval of a majority of the TRA Holders. To the fullest extent permitted by law, none of the TRA Holder Representative, any of its Affiliates, or any of the TRA Holder Representative's or Affiliate's directors, officers, employees or other agents (each a "***Covered Person***") shall be liable, responsible or accountable in damages or otherwise to any TRA Holder, the Company, or the Corporation for damages arising from any action taken or omitted to be taken by the TRA Holder Representative or any other Person with respect to the Company or the Corporation, except in the case of any action or omission which constitutes, with respect to such Person, willful misconduct or fraud. Each of the Covered Persons may consult with legal counsel, accountants, and other experts selected by it, and any act or omission suffered or taken by it on behalf of the Company or the Corporation or in furtherance of the interests of the Company or the Corporation in good faith in reliance upon and in accordance with the advice of such counsel, accountants, or other experts shall create a rebuttable presumption of the good faith and due care of such Covered Person with respect to such act or omission; *provided* that such counsel, accountants, or other experts were selected with reasonable care. Each of the Covered Persons may rely in good faith upon, and shall have no liability to the Company, the Corporation or the TRA Holders for acting or refraining from acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture, or other paper or document reasonably believed by it to be genuine and to have been signed or presented by the proper party or parties. For the avoidance of doubt, notwithstanding the foregoing, if a provision of this Agreement provides a right or entitlement of any kind to a TRA Holder, this Section 7.16 shall not override the TRA Holder's ability to exercise or enforce such right or enjoy such entitlement.

7.17 **Non-Effect of Other Tax Receivable Agreements**. If the Corporation enters into any other agreement (for the avoidance of doubt other than the Equity Purchase Agreement, the Operating Agreement, or any related

agreement entered into in connection with the execution of the Equity Purchase Agreement or as contemplated by the Equity Purchase Agreement in connection with the consummation of the transactions contemplated thereby) after the date of the execution of this Agreement that obligates the Corporation to make payments to another party in exchange for tax benefits conferred upon the Corporation, unless otherwise agreed by the TRA Holder Representative, such tax benefits and such payments shall be ignored for all purposes of this Agreement (including for purposes of calculating the Hypothetical Tax Liability and the Actual Tax Liability).

[Signature Pages Follow]

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed on their behalf this Agreement as of the date first written above.

CORPORATION:

EG ACQUISITION CORP.,
a Delaware corporation

By: /s/ Gregg Hymowitz
Name: Gregg Hymowitz
Title: Chief Executive Officer

COMPANY:

LGM ENTERPRISES LLC,
a North Carolina limited liability company

By: /s/ Thomas James Segrave, Jr.
Name: Thomas James Segrave, Jr.
Title: Chief Executive Officer

TRA HOLDER REPRESENTATIVE:

/s/ Thomas James Segrave, Jr.
Thomas James Segrave Jr.

[Signature Page to Tax Receivable Agreement]

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed on their behalf this Agreement as of the date first written above.

TRA HOLDERS:

/s/ Thomas James Segrave, Jr.
Thomas James Segrave Jr.

/s/ Thomas James Segrave, Jr.
Thomas James Segrave, Jr., as Custodian for Laura Grace Segrave

/s/ Thomas James Segrave, Jr.
Thomas James Segrave, Jr., as Custodian for Madison Lee Segrave

/s/ Thomas James Segrave, Jr.
Thomas James Segrave, Jr., as Custodian for Lillian May Segrave

/s/ Thomas James Segrave, Jr.
Thomas James Segrave, Jr., as Custodian for Thomas James Segrave III

[Signature Page to Tax Receivable Agreement]

EXHIBIT A
FORM OF JOINDER AGREEMENT

THIS JOINDER AGREEMENT, dated as of December [●], 2023 (this "***Joinder***"), is delivered pursuant to that certain Tax Receivable Agreement, dated as of December 27, 2023 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "***Tax Receivable Agreement***") by and among EG Acquisition Corp. a Delaware corporation (the "***Corporation***"), LGM Enterprises LLC, a North Carolina limited liability company (the "***Company***"), the TRA Holder Representative (as defined in the Tax Receivable Agreement), and each of the TRA Holders (each as defined in the Tax Receivable Agreement) from time to time party thereto. Capitalized terms used but not otherwise defined herein have the respective meanings set forth in the Tax Receivable Agreement.

1. Upon the execution of this Joinder by the undersigned and delivery hereof to the Corporation, the undersigned hereby is and hereafter shall be a TRA Holder under the Tax Receivable Agreement and a Party thereto, with all the rights, privileges and responsibilities of a TRA Holder thereunder. The undersigned hereby agrees that it shall comply with and be fully bound by the terms of the Tax Receivable Agreement as if it had been a signatory thereto as of the date thereof.

2. All terms and conditions of the Tax Receivable Agreement are hereby incorporated by reference in this Joinder as if set forth herein in full.

3. All notices under the Tax Receivable Agreement to the undersigned shall be direct to:

Name
Address
City, State, Zip Code
Attn:
Facsimile:
E-mail:

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Joinder as of the day and year first above written.

[NAME OF NEW PARTY]

By: _____
Name: _____
Title: _____

Acknowledged and agreed as of the date first set forth above:

EG Acquisition Corp.,
a Delaware corporation

By: _____
Name: _____
Title: _____

Exhibit 10.4

AMENDED AND RESTATED OPERATING AGREEMENT
OF
LGM ENTERPRISES, LLC

(A North Carolina Limited Liability Company)

Dated as of December 27, 2023

THE OWNERSHIP INTERESTS AND UNITS REPRESENTED BY THIS AMENDED AND RESTATED OPERATING AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS. SUCH OWNERSHIP INTERESTS AND UNITS MAY NOT BE SOLD, ASSIGNED OR OTHERWISE DISPOSED OF AT ANY TIME WITHOUT EFFECTIVE REGISTRATION UNDER SUCH ACT AND LAWS OR EXEMPTION THEREFROM, AND COMPLIANCE WITH THE OTHER SUBSTANTIAL RESTRICTIONS ON TRANSFERABILITY SET FORTH HEREIN.

AMENDED AND RESTATED OPERATING AGREEMENT
OF
LGM ENTERPRISES, LLC

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AMENDED AND RESTATED OPERATING AGREEMENT
OF
LGM ENTERPRISES, LLC

THIS AMENDED AND RESTATED OPERATING AGREEMENT (this "***Agreement***") OF LGM ENTERPRISES, LLC, a North Carolina limited liability company (the "***Company***"), is made and entered into and becomes effective as of December 27, 2023 (the "***Effective Date***") by and among the Company, EG Acquisition Corp., a Delaware corporation, as the managing member of the Company (together with any successor managing member permitted pursuant to this Agreement, the "***Managing Member***"), and the Members.

RECITALS:

A. The Company was formed as a North Carolina limited liability company on October 3, 2011 upon the filing of its Articles of Organization with the office of the Secretary of State of the State of North Carolina under and pursuant to the Act.

B. The Company and certain Members hereto previously entered into that certain Operating Agreement of the Company, dated as of October 3, 2011, as amended (the "***Previous Agreement***").

C. In connection with the transactions contemplated by the Purchase Agreement, the Members desire to amend and restate the Previous Agreement in its entirety to, among other things, (i) restructure the capitalization of the Company to (x) authorize the issuance of Common Units to EG Acquisition Corp. and (y) reclassify the Existing Company Interests into Common Units as set forth herein, and (ii) appoint EG Acquisition Corp. as the Managing Member.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I
DEFINITIONS

1.1 Definitions. Unless otherwise expressly provided herein, the following terms with initial capital letters have the meanings set forth below whenever used in this Agreement:

"***Act***" means the North Carolina Limited Liability Company Act, as from time to time amended, and any successor to the Act. Any reference in this Agreement to a specific statutory provision of the Act shall, unless otherwise specifically excluded, include any successor provision(s) to the referenced provision.

"***Adjusted Capital Account Deficit***" means, with respect to the Capital Account of any Member as of the end of any Fiscal Year, the amount by which the balance in such Capital Account is less than zero. For this purpose, such Member's Capital Account balance shall be:

(a) decreased for any items described in Treasury Regulations sections1.704-1(b)(2)(ii)(d)(4), (5), and (6); and

(b) increased for (i) any amount such Member is (A) obligated to restore upon liquidation of the Company pursuant to Treasury Regulations section 1.704-1(b)(2)(ii)(b)(3) or (B) treated as being obligated to restore pursuant to Treasury Regulations section 1.704-1(b)(2)(ii)(c), and (ii) such Member's share of Company Minimum Gain and Member Nonrecourse Debt Minimum Gain.

The foregoing definition of Adjusted Capital Account is intended to comply with the provisions of Regulations section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

"***Affiliate***" means with respect to a specified Person, any Person that directly or indirectly controls, is controlled by, or is under common control with, the specified Person. As used in this definition, the term "***control***" (including, with correlative meanings, the terms "***controlled by***" and "***under common control with***"), means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise, and is not limited, for instance, to the ownership of more than fifty percent (50%) of the voting securities of a corporate Person. For purposes of this Agreement, no Member shall be deemed to be an Affiliate of any other Member solely as a result of membership in the Company.

"***Agreement***" has the meaning given to such term in the Preamble.

"***Articles of Organization***" means the Articles of Organization of the Company filed with the Secretary of State of the State of North Carolina, as amended or restated from time to time.

"***Assumed Tax Rate***" has the meaning set forth in Section 6.3.2.

"***BBA Audit Provisions***" means the provisions for United States federal income tax audits of entities taxable as a partnership in subchapter C of chapter 63 of the Code.

"***Black-Out Period***" means any "black-out" or similar period under the Managing Member's policies covering trading in the Managing Member's securities to which the applicable Redeeming Member is subject (or shall be subject at such time as it owns Class A Common Stock), which period restricts the ability of such Redeeming Member to immediately resell shares of Class A Common Stock to be delivered to such Redeeming Member in connection with a Share Settlement.

"***Board***" means the Board of Directors of the Managing Member.

"***Book Value***" means, with respect to any asset or property of the Company (including any property of any Subsidiary that is treated as a disregarded entity for U.S. federal income tax purposes), the Company's adjusted basis for U.S. federal income tax purposes, except as follows:

(a) The initial Book Value of any asset contributed, or deemed contributed, by a Member to the Company shall be the gross fair market value of such asset at the time of contribution (as determined in good faith by the Managing Member).

(b) If so elected by the Managing Member, the Book Value of all Company assets shall be adjusted to equal their respective gross fair market value as of any time such adjustment would be allowable under Treasury Regulations section 1.704-1(b)(2)(iv)(f) (as determined in good faith by the Managing Member).

(c) The Book Value of any item of Company assets distributed to any Member shall be adjusted to equal the gross fair market value of such asset on the date of distribution (as determined in good faith by the Managing Member).

(d) The Book Value of each item of Company assets shall be increased or decreased to reflect any adjustments to the adjusted basis of such assets pursuant to Sections 734(b) or 743(b) of the Code, but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Treasury Regulations section 1.704-1(b)(2)(iv)(m) and clause (f) of the "Profits and Losses" definition herein or Section 5.2.7 hereof; *provided, however*, that the Book Value shall not be adjusted pursuant to this clause to the extent that the Managing Member determines that an adjustment pursuant to clause (b) above

is necessary or appropriate in connection with a transaction that otherwise would result in an adjustment pursuant to this clause.

If the Book Value of an asset has been determined or adjusted pursuant to clauses (a), (b) and (d), such Book Value shall thereafter be adjusted in accordance with Treasury Regulations section 1.704-1(b)(2)(iv)(g).

"***Capital Account***" means, with respect to any Member, the separate account maintained for such Member in accordance with the provisions of this Agreement.

"***Capital Contribution***" means a contribution of money or other property by a Member to the Company.

"***Cash Settlement***" means an amount of immediately available funds in U.S. dollars equal to the product of (a) the number of Redeemed Units *multiplied by* (b) the average of the daily VWAP of a share of Class A Common Stock for the ten (10) Trading Days immediately prior to the date of delivery of the relevant Redemption Notice.

"***Change of Control***" means the occurrence of any of the following events:

(a) any "person" or "group" (within the meaning of Sections 13(d) and 14(d) of the Exchange Act, but excluding any employee benefit plan of such person and its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan, and excluding the Permitted Holders) becomes the "beneficial owner" (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of shares of Class A Common Stock, Class B Common Stock, preferred stock and/or any other class or classes of capital stock of the Managing Member (if any) representing in the aggregate more than fifty percent (50%) of the voting power of all of the outstanding shares of capital stock of the Managing Member entitled to vote;

(b) the stockholders of the Managing Member approve a plan of complete liquidation or dissolution of the Managing Member or there is consummated an agreement or series of related agreements for the sale or other disposition, directly or indirectly, by the Managing Member of all or substantially all of the Managing Member's assets (including a sale of all or substantially all of the assets of the Company); or

(c) there is consummated a merger or consolidation of the Managing Member with any other corporation or entity, and, immediately after the consummation of such merger or consolidation, the voting securities of the Managing Member immediately prior to such merger or consolidation do not continue to represent, or are not converted into, more than fifty percent (50%) of the combined voting power of, or economic interest in, the then-outstanding voting securities of the Person resulting from such merger or consolidation or, if the surviving company is a Subsidiary, the ultimate parent thereof.

Notwithstanding the foregoing, a "***Change of Control***" shall not be deemed to have occurred by virtue of the consummation of any transaction or series of integrated transactions immediately following which the record holders of the Class A Common Stock, Class B Common Stock, preferred stock and/or any other class or classes of capital stock of the Managing Member immediately prior to such transaction or series of transactions continue to have substantially the same proportionate ownership in and voting control over, and own substantially all of the shares of, an entity which owns all or substantially all of the assets of the Managing Member immediately following such transaction or series of transactions.

"***Change of Control Date***" has the meaning set forth in Section 10.5.1.

"***Change of Control Transaction***" means any Change of Control that was approved by the Board prior to such Change of Control.

"***Class A Common Stock***" means the Class A Common Stock, par value $0.0001 per share, of the Managing Member.

"***Class B Common Stock***" means the Class B Common Stock, par value $0.0001 per share, of the Managing Member.

"***Code***" means the United States Internal Revenue Code of 1986, as amended from time to time, or any corresponding federal tax statute enacted after the date of this Agreement.

"***Common Unit***" means a Unit which entitles the holder thereof to the distributions, allocations, and other rights that are accorded holders of Common Units under this Agreement.

"***Company***" has the meaning given to such term in the preamble to this Agreement.

"***Company Minimum Gain***" has the meaning set forth for "partnership minimum gain" in Treasury Regulations sections1.704-2(b)(2) and 1.704-2(d).

"***Consent***" means the consent to, approval of, or vote in favor of a proposed action by a Member given in accordance withArticle XIII hereof.

"***Corresponding Rights***" means any rights issued with respect to a share of Class A Common Stock or Class B Common Stock pursuant to a "poison pill" or similar stockholder rights plan approved by the Board.

"***Covered Person***" has the meaning set forth inSection 9.1.1.

"***Covered Proceeding***" has the meaning set forth inSection 9.2.2.

"***Direct Exchange***" has the meaning set forth inSection 11.3.1.

"***Dissolution Event***" is defined in Section 12.1.1.

"***Draft Tax Statements***" has the meaning set forth inSection 8.3.2.4.

"***Effective Date***" has the meaning set forth in the Preamble.

"***Equity Securities***" means, with regard to any Person, as applicable, (a) any capital stock, voting, partnership, membership, joint venture or other ownership or equity interests, or other share capital of such Person, (b) any debt or equity securities of such Person, directly or indirectly, convertible into or exchangeable for any capital stock, partnership, membership, joint venture or other ownership or equity interests, or other share capital (whether voting or non-voting, whether preferred, common or otherwise) of such Person or containing any profit participation features with respect to such Person, (c) any rights or options directly or indirectly to subscribe for or to purchase any capital stock, partnership, membership, joint venture or other ownership or equity interests, other share capital of such Person or securities containing any profit participation features with respect to such Person or directly or indirectly to subscribe for or to purchase any securities directly or indirectly convertible into or exchangeable for any capital stock, partnership, membership, joint venture or other ownership interests, other share capital of such Person or securities containing any profit participation features with respect to such Person, (d) any share, unit, ownership interest, appreciation rights, phantom share rights, contingent interest or other similar rights relating to such Person, or (e) any Equity Securities of such Person issued or issuable with respect to the securities referred to in clauses (a) through (d) above in connection with a combination of shares, units or ownership interests, or recapitalization, exchange, merger, consolidation or other reorganization.

"***Estimated Tax Periods***" means the periods from January 1 to March 31, from April 1 to May 31, from June 1 to August 31, and from September 1 to December 31, which may be adjusted by the Managing Member to the extent necessary to take into account changes in estimated tax payment due dates for U.S. federal income taxes under applicable law.

"***Exchange Act***" means the U.S. Securities Exchange Act of 1934, as amended, and any applicable rules and regulations promulgated thereunder, and any successor to such statute, rules or regulations.

"***Exchange Election Notice***" has the meaning set forth in Section 11.3.2.

"***Excluded Instruments***" has the meaning set forth in Section 4.11.

"***Existing Company Interests***" means the issued and outstanding Ownership Interests of the Company immediately prior to the Effective Date.

"***Final Tax Statements***" has the meaning set forth in Section 8.3.2.4.

"***Fiscal Year***" means (a) any twelve (12)-month period commencing on January 1 and ending on December 31 or (b) any portion of the period described in clause (a) of this sentence for which the Company is required to allocate Profits, Losses and other items of Company income, gain, loss or deduction pursuant to Article V, subject to, in either case for tax matters, Section 706 of the Code.

"***Flow-Thru Tax Return***" means an income Tax Return of the Company or its Subsidiaries for which the items of income, deductions, credits, gains or losses are passed through to the direct or indirect equityholders of the Company under applicable tax law (including, for the avoidance of doubt, any IRS Form 1065 of the Company or any of its Subsidiaries).

"***GAAP***" means U.S. generally accepted accounting principles, in effect as of the date of determination thereof.

"***Issuance Items***" has the meaning set forth in Section 5.2.8.

"***Lender***" has the meaning set forth in Section 10.4.2.

"***LLC Tax Costs***" has the meaning set forth in Section 8.1.6.

"***Managing Member***" has the meaning set forth in the Preamble.

"***Managing Member Equity Plan***" means any stock incentive or equity purchase plan or other similar equity compensation plan now or hereafter adopted by the Managing Member.

"***Members***" means the Persons identified as the Members on Exhibit A hereto and such other Persons who may become Members from time to time under the terms of this Agreement, but does not include any Person who has ceased to be a member of the Company. Any reference to a particular Member or holder of an Ownership Interest shall include successors and permitted transferees of such Member. "***Members***" refers to such Persons as a group. At any time that there is only one Member of the Company, the term "***Members***" when used in this Agreement means and refers to the one Member.

"***Member Nonrecourse Debt***" has the meaning set forth for "partner nonrecourse debt" in Treasury Regulations section1.704-2(b)(4).

"***Member Nonrecourse Debt Minimum Gain***" means an amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if such Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Treasury Regulations section 1.704-2(i)(3).

"***Member Nonrecourse Deductions***" has the meaning set forth for "partner nonrecourse deductions" in Treasury Regulations sections1.704-2(i)(1) and 1.704-2(i)(2).

"***Member Representative***" means Thomas James Segrave, Jr.

"***Member Schedule***" has the meaning set forth in Section 7.1.1.

"***Nonrecourse Deductions***" has the meaning set forth in Treasury Regulations section 1.704-2(b)(1).

"***Nonrecourse Liability***" means a liability of the Company for which no Member bears the economic risk of loss within the meaning of Treasury Regulations section 1.752-2.

"***Optionee***" means a Person to whom a Stock Option is granted under any Managing Member Equity Plan.

"***Ownership Interest***" means the entire ownership interest of a Member in the Company at any particular time, including the right of such Member to any and all benefits to which a Member may be entitled under this Agreement and the Act, together with the obligations of such Member to comply with all the terms and provisions of this Agreement with which such Member is required to comply.

"***Partnership Representative***" has the meaning set forth in Section 8.1.1.

"***Percentage Interest***" means, with respect to any Member as of any time, the percentage determined by dividing the number of Units held by the Member as of such time by the total number of Units then outstanding.

"***Permitted Holder***" means (i) the Stockholder Parties (as defined in the Stockholders' Agreement) as of the Effective Date; (ii) any Permitted Transferee (as defined in the Stockholders' Agreement) that becomes party to the Stockholders' Agreement; (iii) any Affiliate of any of the foregoing; or (iv) any "group" (within the meaning of Sections 13(d) and 14(d) of the Exchange Act) in which the Persons referred to in the foregoing clauses beneficially own (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act) in the aggregate, directly or indirectly, a majority of the voting power of the shares of Class A Common Stock and Class B Common Stock beneficially owned by such "group."

"***Permitted Transfer***" has the meaning set forth in Section 10.2.2.

"***Permitted Transferee***" has the meaning set forth in Section 10.2.2.

"***Person***" means any individual, corporation, association, partnership (general or limited), joint venture, trust, estate, limited liability company, or other legal entity or organization, and any government or subdivision thereof or any governmental or regulatory agency.

"***Previous Agreement***" has the meaning set forth in the Recitals.

"***Profits***" and "***Losses***" means, for each Fiscal Year or other applicable period, an amount equal to the Company's taxable income or loss for such Fiscal Year or other applicable period, determined in accordance with Section 703(a) of the Code (but including in taxable income or loss for this purpose all items of income, gain, loss or deduction required to be stated separately pursuant to Section 703(a)(1) of the Code), with the following adjustments:

(a) any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this definition shall be added to such taxable income or loss;

(b) any expenditures of the Company described in Section 705(a)(2)(B) of the Code (or treated as expenditures described in Section 705(a)(2)(B) of the Code pursuant to Treasury Regulations section 1.704-1(b)(2)(iv)(i)) and not otherwise taken into account in computing Profits or Losses pursuant to this definition, any expenditures contemplated by Section 709 of the Code (except for amounts with respect to

which an election is properly made under Section 709(b) of the Code), and any expenditures resulting in a deduction for a loss incurred in connection with the sale or exchange of Company property that is disallowed to the Company under Sections 267(a)(1) or 707(b) of the Code, in each case, shall be subtracted from such taxable income or loss;

(c) in lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account depreciation as computed on the Company's books and records for accounting purposes;

(d) if the Book Value of any Company property is adjusted pursuant to Treasury Regulations section1.704-1(b)(2)(iv)(f), the aggregate amount of such adjustment shall be included and taken into account in computing Profits or Losses pursuant to the terms of this Agreement, as if the Company recognized gain or loss on a sale of such assets at such time equal to the amount of such aggregate adjustments;

(e) upon any actual or deemed distribution to a Member of any Company property (other than cash or cash equivalents) with respect to any Units, there shall be included and taken into account any unrealized gain or unrealized loss attributable to such distributed property, as if such unrealized gain or unrealized loss had been recognized in a sale of such property immediately prior to such distribution for an amount equal to the fair market value of such property;

(f) gain or loss resulting from any disposition of Company property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Book Value of the disposed of property, notwithstanding that the adjusted tax basis of such property differs from its Book Value;

(g) to the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Sections 734(b) or 743(b) of the Code is required pursuant to Treasury Regulations section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Profits or Losses;

(h) notwithstanding any other provision hereunder, any items that are specially allocated pursuant toSections 5.2 and 5.3 of this Agreement shall not be taken into account in computing Profits or Losses; and

(i) such other adjustments shall be made as are reasonably required in the good faith discretion of the Managing Member in order for the allocations under Article V to comply with Section 704(b) of the Code and the Treasury Regulations promulgated thereunder.

Items of Company income, gain, loss, deduction, and expense that are to be specially allocated under any provision hereof shall be computed in a manner consistent with the computation of "Profits and Losses."

"***Pubco Offer***" has the meaning set forth inSection 10.5.2.

"***Purchase Agreement***" means certain that Equity Purchase Agreement, dated as of October 17, 2022, by and among the Company, the Managing Member, the Members, and Sponsor.

"***Redeemed Units***" has the meaning set forth inSection 11.1.1.

"***Redeeming Member***" has the meaning set forth inSection 11.1.1.

"***Redemption***" has the meaning set forth inSection 11.1.1.

"***Redemption Date***" has the meaning set forth inSection 11.1.1.

"***Redemption Notice***" has the meaning set forth inSection 11.1.1.

"***Redemption Right***" has the meaning set forth in Section 11.1.1.

"***Registration Rights Agreement***" means the Registration Rights Agreement, dated the Effective Date, by and among the Managing Member, the Sponsor and the other parties thereto from time to time.

"***Regulatory Allocations***" has the meaning set forth in Section 5.3.

"***Securities Act***" means the U.S. Securities Act of 1933 and the rules promulgated thereunder, each as amended from time to time.

"***Share Settlement***" means a number of shares of Class A Common Stock (together with any Corresponding Rights) equal to the number of Redeemed Units.

"***Sponsor***" means EG Sponsor LLC, a Delaware limited liability company.

"***Stock Option***" has the meaning set forth in Section 4.14.1.

"***Stockholders' Agreement***" means the Stockholders' Agreement, dated as of the Effective Date, by and among the Managing Member and the other parties thereto from time to time.

"***Subsidiary***" means, for any Person, any other Person of which the initial Person directly or indirectly owns more than fifty percent (50%) of the outstanding voting securities or that is required to be consolidated with the initial Person under GAAP. Unless the context otherwise specifically requires, the term "Subsidiary" shall be a reference to a Subsidiary of the Company.

"***Tax Date***" has the meaning set forth in Section 4.14.2.2.

"***Tax Distributions***" has the meaning set forth in Section 6.3.1.

"***Tax Distribution Amount***" has the meaning set forth in Section 6.3.2.

"***Tax Receivable Agreement***" means the Tax Receivable Agreement, dated as of the Effective Date, by and among the Company, the Managing Member and the other parties named therein.

"***Tax Return***" means any return, information return, declaration, or any similar statement, and any amendment thereto, including any attached schedule and supporting information that is filed or required to be filed with any taxing authority in connection with the determination, assessment, collection or payment of a tax.

"***Tax Withholding/Payment Amounts***" has the meaning set forth in Section 6.4.

"***Trading Day***" means a day on which The New York Stock Exchange (NYSE) or such other principal United States securities exchange on which the shares of Class A Common Stock are listed or admitted to trading is open for the transaction of business (unless such trading shall have been suspended for the entire day).

"***Transfer***" means any sale, exchange, transfer, or assignment (including a pledge or other grant of a security interest), whether voluntary or involuntary.

"***Transferee***" has the meaning set forth in Section 10.3.

"***Treasury Regulations***" means the temporary and final regulations promulgated by the United States Department of the Treasury pursuant to and in respect of provisions of the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"***Units***" means each of the Common Units, which collectively constitute all of the Ownership Interests of the Company. Each individual Unit constitutes a fractional part of the Ownership Interest of each Member in the Company representing the relative interest, rights and obligations a Member has with respect to certain economic rights, voting, and other items pertaining to the Company as set forth in this Agreement. Unless otherwise provided herein, references in this Agreement to "Units" of a Member include all or the portion of such Member's Ownership Interest that is represented by or attributable to, or otherwise relates to, such Units. Whole, as well as fractional, numbers of Units may be issued by the Company and/or owned by Members.

"***Upstairs Warrants***" has the meaning set forth in Section 4.11.

"***VWAP***" means the daily per share volume-weighted average price of the Class A Common Stock on the principal U.S. securities exchange on which Class A Common Stock trades, as displayed under the heading Bloomberg VWAP on the Bloomberg page designated for the Class A Common Stock (or its equivalent successor if such page is not available) in respect of the period from the open of trading on such day until the close of trading on such day (or if such volume-weighted average price is unavailable, (a) the per share volume-weighted average price of such Class A Common Stock on such day (determined without regard to afterhours trading or any other trading outside the regular trading session or trading hours), or (b) if such determination is not feasible, the market price per share of Class A Common Stock, in either case as determined by a nationally recognized independent investment banking firm retained in good faith for this purpose by the Managing Member).

"***Warrant Agreements***" has the meaning set forth in Section 4.11.

"***Warrants***" has the meaning set forth in Section 4.11.

1.2 Successor Statutes and Agencies; Global Terms. Any reference contained in this Agreement to specific statutory or regulatory provisions or to specific governmental agencies or entities includes any successor statute or regulation, or agency or Person, as the case may be.

ARTICLE II
FORMATION OF LIMITED LIABILITY COMPANY

2.1 Formation and Tax Classification. The Company has been previously formed as a limited liability company under and pursuant to the Act. Each Member represents and warrants that such Member is duly authorized to join in this Agreement and that the person executing this Agreement on its behalf is duly authorized to do so. The Members intend that the Company shall and shall continue to be classified as a partnership for federal, state and local income and franchise tax purposes, unless and until the Company has only one owner or the Members (other than the Managing Member) give Consent to the Company's making of an affirmative election to be classified for federal income tax purposes as an association taxable as a corporation. Each Member and the Company shall file all tax returns and shall otherwise take all tax and financial reporting positions in a manner consistent with such treatment.

2.2 Continuation of the Company. The Members hereby continue the Company as a limited liability company under the Act and agree to operate the Company on the terms and subject to the conditions and for the purposes and the term set forth herein. The rights and obligations of Members with respect to the Company shall be determined in accordance with the terms and conditions of this Agreement to the greatest extent permitted by law, and where the Act provides for rights and obligations specified in the Act that differ from or are inconsistent with the rights and obligations set forth in this Agreement, such rights and obligations shall be as set forth in this Agreement rather than as set forth in the Act, to the greatest extent permitted by law. As of the Effective Date, any previous agreement for the formation, organization, or governance of the Company (including, but not limited to, the Previous Agreement) is hereby superseded and amended by substituting this Agreement in its

entirety. The Managing Member shall, from time to time, execute or cause to be executed all such certificates, instruments and other documents, and do, make, or cause to be done or made all such filings, recordings, publishings and other acts as the Managing Member may deem necessary or appropriate to comply with the requirements of law for the continuation and operation of the Company in all jurisdictions in which the Company shall desire to conduct its business.

2.3 Company Name. The name of the Company is "LGM Enterprises, LLC." The business of the Company shall be conducted under such name or such other name as shall be designated from time to time by the Managing Member in compliance with the Act.

2.4 Term of Company. The term of the Company commenced on October 3, 2011, the effective date of the filing of the Articles of Organization with the Secretary of State of the State of North Carolina pursuant to the Act. The Company shall continue in existence in perpetuity, unless the Company's Articles of Organization are amended to provide for a definite period of duration, in which case the Company shall continue in existence until the close of business on the last day of such period, or unless the Company is sooner dissolved and its affairs wound up in accordance with the provisions of this Agreement or the Act.

2.5 Purposes. The Company has been formed for the object and purpose of engaging in any lawful act or activity for which a limited liability company may be organized under the Act.

2.6 Title to Company Property. Title to Company property may be held in the name of the Company or a nominee of the Company.

ARTICLE III
MANAGEMENT

3.1 Management of the Company.

3.1.1 The business and affairs of the Company shall be managed by and under the direction of the Managing Member. Except for those acts and things as to which approval by the Members is expressly required by the Articles of Organization, this Agreement, the Act, or other applicable law, including, without limitation, Section 3.6 hereof, the Managing Member shall have full, exclusive, and complete discretion to manage and control the business and affairs of the Company and, except as expressly otherwise provided in this Agreement as it may be amended from time to time, to make all decisions affecting the business and affairs of the Company and to take all such actions as it deems necessary, appropriate, advisable, incidental, or convenient to accomplish the purposes of the Company as set forth herein.

3.1.2 The Managing Member shall have the sole power to bind the Company, except and to the extent that such power is expressly delegated by the Managing Member pursuant to Section 3.2. Any reference in this Agreement to a decision, determination, or other action which may be made or taken by the Managing Member shall mean that such decision, determination, or other action may be made or taken in the sole and absolute discretion of the Managing Member (or in the sole and absolute discretion of any Person to whom the Managing Member has expressly delegated the authority or duty to make or take such decision, determination, or other action pursuant to Section 3.2).

3.1.3 Any instrument regarding a matter approved by the Managing Member and/or Members, as appropriate, may be executed and delivered on behalf of the Company by the Managing Member; no other signature shall be required for any such instrument to be valid, binding, and enforceable against the Company in accordance with its terms. All Persons may rely thereon and shall be exonerated from any and all liability if they deal with the Managing Member on the basis of documents approved and executed on behalf of the Company by the Managing Member.

3.1.4 The Managing Member may not be removed.

3.1.5 Except for the allocations and distributions provided herein with respect to any Units owned by the Managing Member, the Managing Member shall not receive any compensation, whether in the form of a management fee or otherwise, for serving in such capacity.

3.2 Officers. The Managing Member may, from time to time, delegate to one or more Persons (including any other Member, any officer of the Company or of any Member, or any member, partner, shareholder, or Affiliate of any Member) such authority and duties and assign such titles to such Persons as the Managing Member shall determine; *provided*, *however*, that any delegation of authority by the Managing Member hereunder shall not relieve the Managing Member from its duties and responsibilities set forth in the Act or in this Agreement. Any such delegation pursuant to this Section 3.2 may be revoked at any time by the Managing Member.

3.3 No Management by Members. No Member (other than the Managing Member, in its capacity as such) shall take part in the day-to-day management, operation, or control of the business and affairs of the Company. Except and only to the extent expressly provided for in this Agreement and as delegated by the Managing Member, no Member or other Person, other than the Managing Member, shall be an agent of the Company or have any right, power or authority to transact any business in the name of the Company or to act for or on behalf of or to bind the Company. Notwithstanding the foregoing, nothing in this Section 3.3 shall limit the rights of any Person under the Purchase Agreement or the Tax Receivable Agreement.

3.4 Reliance by Third Parties. Any Person dealing with the Company or the Managing Member may rely upon a certificate signed by the Managing Member as to:

(a) the identity of any officers of the Managing Member, any officer of the Company, or any Member thereof;

(b) the existence or non-existence of any fact or facts which constitute a condition precedent to acts by the Managing Member or in any other manner germane to the affairs of the Company;

(c) the Persons who are authorized to execute and deliver any agreement, instrument, or document of or on behalf of the Company; or

(d) any act or failure to act by the Company or as to any other matter whatsoever involving the Company or any Member.

3.5 Personnel; Expenses; Insurance; Reimbursements; Related Party Transactions.

3.5.1 The Company may employ or contract with personnel to carry on the Company's business. Subject to the terms of any employment, consulting, or other contract to which the Company or any of its Subsidiaries is a party and to any other provision of this Agreement, the Managing Member may employ, dismiss from employment, terminate and determine the compensation of any and all employees, agents, independent contractors, attorneys, accountants, and such other persons as it shall determine to be necessary, advisable, incidental, or convenient. Without limiting the generality of the foregoing, the Company may employ or contract any Person who is a Member or a member, partner, shareholder, or Affiliate of a Member, *provided* that such employment or contract are on commercially reasonable terms.

3.5.2 The Managing Member may cause the Company to purchase, at the Company's expense, (a) such liability, casualty, property, life, and other insurance as the Managing Member in its discretion deems necessary, advisable, incidental, or convenient to protect the Company's assets and personnel against loss or claims of any nature, and (b) any insurance covering the potential liabilities of any contractor for, or agent or employee of, the Company or the Managing Member, and any of the officers, directors and employees of the Managing Member or the Company, and potential liabilities of the Managing Member or any other Person serving at the request of the Managing Member as a director and/or officer of a corporation or official of any other Person in which the Company has an investment; *provided*, *however*, that the Managing Member shall not be liable to the Company or other Members for its failure to purchase any insurance or its failure to purchase insurance with adequate coverage.

3.5.3 The Company may reimburse the Members, officers, and employees of the Company for allout-of-pocket expenses incurred by such Persons on behalf of the Company in accordance with such reimbursement policies as may be established by the Managing Member, as such policies may be limited by the terms of any applicable employment agreement and any agreement that may be entered into among the Members amending the terms of this Agreement. In addition, the Company shall reimburse and indemnify and hold harmless the Managing Member for the direct and indirect costs of carrying on its business, including, without limitation, (a) operating, administrative and other similar costs, (b) any insurance, legal, tax, accounting and other professional fees and expenses (but, for the avoidance of doubt, excluding any income tax liabilities of the Managing Member (which shall include any withholding tax liabilities with respect to the Managing Member)), (c) fees and expenses related to any securities offering, investment or acquisition transaction authorized by the Managing Member, (d) other fees and expenses in connection with the maintenance of the existence of the Managing Member, (e) any other liabilities of the Managing Member to the extent permitted by law, and (f) any costs or expenses with respect to directors, officers or employees of the Managing Member. The Managing Member's reasonable determination of which expenses may be reimbursed to a Member or officer of the Company, as applicable, and the amount of such expenses, shall be conclusive and binding on the Members. Such reimbursement shall be treated as an expense of the Company and shall not be deemed to constitute a distributive share of the Profits or a distribution or return of capital to any Member.

3.5.4 The Company may engage in any transaction or contract with any Member or Affiliate of a Member or any employee or officer of such Member or Affiliate of a Member, on such terms and conditions as may be prescribed by the Managing Member in its discretion.

3.6 Restrictions on the Managing Member's Authority. The Managing Member may not take any action in contravention of an express prohibition or limitation of this Agreement without the Consent of the Members (other than the Managing Member), and may not, without limitation:

(a) take any action that would make it impossible to carry on the ordinary business of the Company, except as otherwise provided in this Agreement;

(b) perform any act that would subject a Member to personal liability in any jurisdiction or any other liability except as provided herein or under the Act; or

(c) enter into any contract, mortgage, loan or other agreement that expressly prohibits or restricts (i) the Managing Member or the Company from performing its specific obligations under Section 11.1 or Section 11.3 hereof or (ii) a Member from exercising its rights underSection 11.1 or Section 11.3 hereof to effect a Redemption or a Direct Exchange, respectively.

ARTICLE IV
MEMBERS, UNITS, CAPITAL CONTRIBUTIONS, CAPITAL ACCOUNTS

4.1 Identity of Members. In accordance with and subject to Section 2.1(b) of the Purchase Agreement, EG Acquisition Corp. has contributed or agrees to contribute (or, in respect of clause (c) of the definition thereof is deemed to have contributed) the Closing Date Cash Contribution Amount (as defined in the Purchase Agreement) to the Company, in exchange for which (a) the Company hereby issues a number of Common Units equal to the number of Net Outstanding Buyer Shares (as defined in the Purchase Agreement) and (b) EG Acquisition Corp. is admitted as a Member of the Company. The name and address of each Member as of the Effective Date are set forth on Exhibit A attached hereto, which Exhibit may be amended by the Managing Member without obtaining the Consent of the Members as of the effectiveness of any subsequent transfer or issuance of any Units that is in accordance with this Agreement.

4.2 Units.

4.2.1 As of the Effective Date, (a) each Member's Ownership Interest in the Company shall be represented by Units, which may be divided into one or more types, classes or series, or subseries of any type, class or series, with each type, class or series, or subseries thereof, having the rights and privileges, as determined by the Managing Member in accordance with this Agreement, and (b) the only authorized class of Units is Common Units. The Members shall have no right to vote on any matter, except as specifically set

forth in this Agreement, or as may be required under the Act. Any such vote shall be at a meeting of the Members entitled to vote or in writing as provided herein.

4.2.2 Except as otherwise determined by the Managing Member, the Company shall not cause the Company to in any manner effect any subdivision (by any stock or Unit split, stock or Unit dividend or distribution, reclassification, reorganization, recapitalization or otherwise) or combination (by reverse stock or Unit split, reclassification, reorganization, recapitalization or otherwise) of the outstanding Units or Equity Securities of the Company unless accompanied by a substantively identical subdivision or combination, as applicable, of the outstanding Equity Securities of the Managing Member, with corresponding changes made with respect to any other exchangeable or convertible securities, to maintain at all times a one-to-one ratio between (a) the number of Common Units owned by the Managing Member and the number of outstanding shares of Class A Common Stock, and (b) the number of Common Units owned by any Member (other than the Managing Member), directly or indirectly, and the number of outstanding shares of Class B Common Stock owned by such Member.

4.2.3 Unless the Managing Member otherwise consents, Units shall not be represented by certificates. Notwithstanding the foregoing sentence, the Managing Member shall provide Members with Units represented by certificates to facilitate pledges pursuant to Section 10.4 or Transfers otherwise permitted by Article X of this Agreement.

4.3 Exchange of Existing Company Interests. As of the Effective Date, the Existing Company Interests automatically shall be exchanged into a commensurate number of Common Units pursuant to Section 2.1(a) of the Purchase Agreement. The number of Common Units issued to each holder of Existing Company Interests upon the foregoing exchange shall deemed to be issued and outstanding as of the Effective Date and the holders of such Common Units are Members hereunder.

4.4 Limitation of Liability. Except as provided in the Act or as expressly provided in this Agreement, no Member of the Company shall be obligated personally for any debt, obligation, or liability of the Company or of any other Member solely by reason of being a Member of the Company. In no event shall any Member or former Member (a) be obligated to make any capital contribution or payment to or on behalf of the Company except as expressly provided for in this Agreement, (b) have any liability in its capacity as a Member in excess of such Member's obligation to make capital contributions or other payments expressly provided for in this Agreement or (c) have any liability to return distributions received by such Member from the Company except as otherwise specifically provided in this Agreement or other related agreements, as expressly agreed to in another writing, or as may be required by applicable law.

4.5 Capital Contributions. No Member shall be required to make any Capital Contributions to the Company or to lend any funds to the Company unless all the Members agree. No Member shall have any personal liability for the payment or repayment of any Capital Contribution of any other Member or its predecessor. A Member is not entitled to interest on any Capital Contributions, or to a return of any Capital Contributions, except as specifically provided in this Agreement.

4.6 Capital Accounts. A Capital Account shall be established and maintained for each Member in accordance with Treasury Regulations section 1.704-1(b)(2)(iv) and, to the extent consistent with said Treasury Regulations, in accordance with principles of thisSection 4.6 for items accounted for from and after the date of this Agreement. In the maintenance of Capital Accounts for the Members, the following provisions shall apply:

4.6.1 The Capital Account of each Member shall be credited with: (a) the amount of any Capital Contribution made in cash by such Member; (b) the fair market value (net of any liabilities the Company is considered to assume or take subject to under Section 752 of the Code) of any Capital Contribution made in property other than cash by such Member (as determined in good faith by the Managing Member); (c) allocations to such Member of Profits pursuant to Article V; and (d) any other item required to be credited for proper maintenance of capital accounts by the Treasury Regulations under Section 704(b) of the Code.

4.6.2 A Member's Capital Account shall be debited with: (a) the amount of any cash distributed to such Member; (b) the fair market value (net of liabilities that such Member is considered to assume or take subject to under Section 752 of the Code) of any property other than cash distributed to such Member (as determined in good faith by the Managing Member); (c) allocations to such Member of Losses pursuant to Article V; and (d) any other item required to be debited for proper maintenance of capital accounts by the Treasury Regulations under Section 704(b) of the Code.

4.6.3 The Company may (in the discretion of the Managing Member), upon the occurrence of the events specified in Treasury Regulations section 1.704-1(b)(2)(iv)(f) or as otherwise provided in the Treasury Regulations, increase or decrease the Capital Accounts of the Members in accordance with the rules of such Treasury Regulations and Treasury Regulations section 1.704-1(b)(2)(iv)(g) to reflect a revaluation of Company property. The fair market value of Company property used to determine such increases or decreases shall be determined in good faith by the Managing Member.

4.6.4 Following the date hereof, upon any Permitted Transfer by a Member of all or any portion such Member's Units in accordance with the terms of this Agreement, so much of the Capital Account of the Transferring Member as is attributable to the Units so Transferred shall be Transferred to the Capital Account of the Transferee Member.

4.6.5 The provisions of this Section 4.6 and other portions of this Agreement relating to allocations and the proper maintenance of Capital Accounts are designed and intended to comply with the requirements of Treasury Regulations section 1.704-1(b). The Members intend that such provisions be interpreted and applied in a manner consistent with such Treasury Regulations. The Managing Member is authorized to modify the manner in which the Capital Accounts are maintained if the Managing Member determines, after consultation with the Company's tax advisors, that such modification (a) is required or prudent to comply with the Treasury Regulations and (b) is not likely to have a material adverse effect on the amounts distributable to any Member of the Company.

4.7 Additional Ownership Interests.

4.7.1 The Managing Member shall have the right to cause the Company to create and/or issue additional Units or Equity Securities of the Company (including other classes, groups or series thereof having such relative rights, powers, and/or obligations as may from time to time be established by the Managing Member, including rights, powers, and/or obligations different from, senior to or more favorable than existing classes, groups and series of Units or Equity Securities of the Company), in which event the Managing Member shall have the power to amend this Agreement to reflect such additional issuances and to make any such other amendments as the Managing Member reasonably and in good faith deems necessary to reflect such additional issuances (including amending this Agreement to increase the authorized number of Units or Equity Securities of any class, group or series, to create and authorize a new class, group or series of Units or Equity Securities and to add the terms of such new class, group or series of Units or Equity Securities including economic and governance rights which may be different from, senior to or more favorable than the other existing Units or Equity Securities), in each case without the Consent of any Member. In connection with any issuance of any Units or Equity Securities of the Company pursuant to this Section 4.7.1, each Person who acquires such additional Units or Equity Securities of the Company (a) shall execute a counterpart to this Agreement, accepting and agreeing to be bound by all terms and conditions hereof, and (b) may be required in exchange for such additional Units or Equity Securities of the Company to make a Capital Contribution to the Company in an amount to be determined by the Managing Member.

4.7.2 The Company may issue preferred Ownership Interests, which may have such designations, preferences, and relative, optional or other special rights as shall be fixed by the Managing Member and, notwithstanding any provision to the contrary contained herein, the Managing Member may, without the Consent of any Member, make such amendments to this Agreement as are necessary or appropriate to effect the terms and conditions of any such issuance.

4.7.3 Each Person who subscribes for an additional Ownership Interest and satisfies the conditions established by the Managing Member shall be admitted to the Company as a Member in respect of said

Ownership Interest, effective upon the execution by such Person of a counterpart of this Agreement, without the Consent of the Members.

4.8 Advances. If any Member advances any funds to the Company, the amount of such advance shall neither increase its Capital Account nor entitle it to any increase in its share of the distributions of the Company. The amount of any such advance shall be a debt obligation of the Company to such Member (which may be evidenced by a promissory note) and, unless otherwise specifically provided in this Agreement, shall be repaid to it by the Company with interest at a rate equal to (a) the prime interest rate as published in the Wall Street Journal from time to time or (b) such higher rate as may be approved by the Managing Member, and upon such other commercially reasonable terms and subject to such other conditions as may be determined by the Managing Member. Unless otherwise specifically provided in this Agreement, any such advance shall be payable and collectible only out of the Company's assets or property, and the Members shall not be personally obligated to repay any part thereof. No Person who makes any such loan to the Company shall have or acquire, as a result of making such loan, any direct or indirect interest in the profits, capital or property of the Company, other than as a creditor.

4.9 No Resignation or Withdrawal; No Interest. Except as approved by the Managing Member in its sole discretion or as expressly provided herein, a Member (a) may not resign, withdraw, or dissociate from the Company prior to the dissolution and winding up of the Company in accordance with the provisions of Article XII, except in connection with a Transfer of all of such Member's Ownership Interests, (b) may not receive the return of, or interest on, its Capital Contribution, Capital Account, or other amount, and (c) shall not have the right to petition or to take any action to subject the Company's assets or any part thereof to the authority of any court or other governmental body in connection with any bankruptcy, insolvency, receivership or similar proceeding.

4.10 Nature of Ownership Interest; No Partition. An Ownership Interest shall for all purposes be personal property. A Member has no interest in any of the Company's assets or property. Each Member hereby waives any and all rights that it may have to maintain an action for partition of the Company's assets or property.

4.11 Warrants. On the Effective Date, in connection with the transactions contemplated by the Purchase Agreement, the Company has issued warrants to purchase Common Units (the "***Warrants***") to the Managing Member pursuant to warrant agreements (the "***Warrant Agreements***") entered into between the Company and the Managing Member as of the Effective Date. Upon the valid exercise of a Warrant in accordance with the applicable Warrant Agreement, the Company shall issue to the Managing Member the number of Common Units, free and clear of all liens and encumbrances other than those arising under applicable securities laws and this Agreement, to be issued in connection with such exercise. Excluding warrants, options or similar instruments governed by Section 4.14 (the "***Excluded Instruments***"), which shall be governed by such section, in the event any holder of a warrant (other than an Excluded Instrument) to purchase shares of Class A Common Stock (the "***Upstairs Warrants***") exercises an Upstairs Warrant, then the Managing Member agrees that it shall cause a corresponding exercise (including by effecting such exercise in the same manner, i.e., by payment of a cash exercise price or on a cashless basis) of a Warrant with similar terms held by it, such that the number of shares of Class A Common Stock issued in connection with the exercise of such Upstairs Warrant shall match with a corresponding number of Common Units issued by the Company pursuant to the Warrant Agreements, and the Managing Member agrees that it shall not exercise any Warrants other than in connection with the corresponding exercise of an Upstairs Warrant. In the event an Upstairs Warrant is redeemed, the Company shall redeem a Warrant with similar terms held by the Managing Member.

4.12 Authorization and Issuance of Additional Common Units.

4.12.1 The Company shall undertake all actions, including, without limitation, an issuance, reclassification, distribution, division, combination or recapitalization, with respect to the Common Units, to maintain at all times a one-to-one ratio between the number of Common Units owned by the Managing

Member, directly or indirectly, and the number of outstanding shares of Class A Common Stock, disregarding, for purposes of maintaining the one-to-one ratio, (a) unvested shares of Class A Common Stock, (b) treasury stock or (c) preferred stock or other debt or Equity Securities (including, without limitation, warrants, options or rights) issued by the Managing Member that are convertible into or exercisable or exchangeable for Class A Common Stock (except to the extent the net proceeds from such other Equity Securities, including any exercise or purchase price payable upon conversion, exercise or exchange thereof, has been contributed by the Managing Member to the equity capital of the Company). In the event the Managing Member issues, transfers or delivers from treasury stock or repurchases Class A Common Stock in a transaction not contemplated in this Agreement, the Managing Member shall take all actions such that, after giving effect to all such issuances, transfers, deliveries or repurchases, the number of outstanding Common Units owned by the Managing Member shall equal on a one-for-one basis the number of outstanding shares of Class A Common Stock. In the event the Managing Member issues, transfers or delivers from treasury stock or repurchases or redeems the Managing Member's preferred stock in a transaction not contemplated in this Agreement, the Managing Member shall have the authority to take all actions such that, after giving effect to all such issuances, transfers, deliveries, repurchases or redemptions, the Managing Member holds (in the case of any issuance, transfer or delivery) or ceases to hold (in the case of any repurchase or redemption) Equity Securities in the Company which (in the good faith determination of the Managing Member) are in the aggregate substantially equivalent to the outstanding preferred stock of the Managing Member so issued, transferred, delivered, repurchased or redeemed.

4.12.2 Except as specifically contemplated by this Agreement or otherwise determined by the Managing Member, to maintain at all times a one-to-one ratio between the number of Common Units owned by the Managing Member and the number of outstanding shares of Class A Common Stock, the Company shall not undertake any subdivision (by any Common Unit split, Common Unit distribution, reclassification, recapitalization or similar event) or combination (by reverse Common Unit split, reclassification, recapitalization or similar event) of the Common Units that is not accompanied by an identical subdivision or combination of Class A Common Stock, unless such action is necessary to maintain at all times a one-to-one ratio between the number of Common Units owned, directly or indirectly, by the Managing Member and the number of outstanding shares of Class A Common Stock owned by the Managing Member. In addition, the Company and the Members shall undertake all actions that the Managing Member in its reasonable discretion determines are necessary, including, without limitation, an issuance, reclassification, distribution, division, combination or recapitalization, with respect to the Common Units, to maintain at all times a one-to-one ratio between the number of Common Units owned by any Member (other than the Managing Member), directly or indirectly, and the number of outstanding shares of Class B Common Stock owned by such Member.

4.12.3 The Company shall only be permitted to issue additional Common Units, and/or establish other classes of Ownership Interests to the Persons and on the terms and conditions provided for in Section 4.7, this Section 4.12 or Section 4.14.

4.13 Repurchase or Redemption of Shares of Class A Common Stock. If, at any time, any shares of Class A Common Stock are repurchased or redeemed (whether by exercise of a put or call, automatically or by means of another arrangement) by the Managing Member, then the Managing Member shall cause the Company, immediately prior to such repurchase or redemption of Class A Common Stock, to redeem a corresponding number of Common Units held by the Managing Member, at an aggregate redemption price equal to the aggregate purchase or redemption price of the shares of Class A Common Stock being repurchased or redeemed by the Managing Member (plus any expenses related thereto) and upon such other terms as are the same for the shares of Class A Common Stock being repurchased or redeemed by the Managing Member. Notwithstanding the foregoing, the provisions of this Section 4.13 shall not apply in the event that such repurchase of shares of Class A Common Stock is paired with a stock split or stock dividend such that after giving effect to such repurchase and subsequent stock split or stock dividend there shall be outstanding an equal number of shares of Class A Common Stock as were outstanding prior to such repurchase and subsequent stock split or stock

dividend. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make any repurchase or redemption if such repurchase or redemption would violate any applicable law.

4.14 Managing Member Equity Awards.

4.14.1 Options Granted to Service Providers. If at any time or from time to time, an option to purchase shares of Class A Common Stock that was granted under any Managing Member Equity Plan to an employee or other service provider of the Company or its Subsidiaries (or any stock appreciation right or similar award, collectively, a "***Stock Option***") is duly exercised:

4.14.1.1 For each share of Class A Common Stock with respect to which the Stock Option is exercised, the Managing Member shall be considered to have sold to the Optionee, and the Optionee shall be considered to have purchased from the Managing Member, for a cash price per share equal to the value of a share of Class A Common Stock at the time of the exercise, a number of shares of Class A Common Stock equal to the quotient of (x) the per share exercise price of such Stock Option divided by (y) the value of a share of Class A Common Stock at the time of such exercise (provided, that if such Stock Option is exercised on a cashless basis, no such shares of Class A Common Stock shall be considered to have been purchased by the Optionee pursuant to this Section 4.14.1.1).

4.14.1.2 The Managing Member shall be considered to have sold to the Company (or if the Optionee is an employee of, or other service provider to, a Subsidiary of the Company, the Managing Member shall be considered to have sold to such Subsidiary), and the Company (or such Subsidiary, as applicable) shall be considered to have purchased from the Managing Member, a number of shares of Class A Common Stock equal to the excess of (x) the number of shares of Class A Common Stock as to which such Stock Option is being exercised over (y) the number of shares of Class A Common Stock sold to the Optionee pursuant to Section 4.14.1.1 hereof (provided, that if such Stock Option is exercised on a cashless basis, the Managing Member shall be considered to have sold to the Company (or an applicable Subsidiary of the Company) the number of shares of Class A Common Stock into which such Stock Option is settled on a cashless basis). The purchase price per share of Class A Common Stock for such sale of shares of Class A Common Stock to the Company (or such Subsidiary) shall be the fair market value of a share of Class A Common Stock as of the date of exercise of such Stock Option (as determined in good faith by the Managing Member).

4.14.1.3 The Company shall be considered to have transferred to the Optionee (or if the Optionee is an employee of, or other service provider to, a Company Subsidiary, the Subsidiary shall transfer to the Optionee) at no additional cost to such Optionee and as additional compensation to such Optionee, the number of shares of Class A Common Stock described in Section 4.14.1.2.

4.14.1.4 The Managing Member shall be considered to have made a Capital Contribution to the Company in an amount equal to all proceeds considered to have been received by the Managing Member pursuant to Section 4.14.1.1 and Section 4.14.1.2 in connection with the exercise of such Stock Option. The Managing Member shall receive for such Capital Contribution, a number of Common Units equal to the number of shares of Class A Common Stock for which such Stock Option was exercised (or, if such Stock Option is exercised on a cashless basis, the number of shares of Class A Common Stock into which such Stock Option is settled on a cashless basis).

4.14.2 Restricted Stock Granted to Service Providers. If at any time or from time to time, in connection with any Managing Member Equity Plan, any shares of Class A Common Stock are issued to an employee of the Company or its Subsidiaries (including (a) any shares of Class A Common Stock that are subject to forfeiture in the event such employee terminates his or her employment with the Company or any Subsidiary, and (b) any shares of Class A Common Stock issued in settlement of restricted stock units or any other non-Stock Option award under a Managing Member Equity Plan) in consideration for services performed for the Company or any Subsidiary:

4.14.2.1 the Managing Member shall issue such number of shares of Class A Common Stock as are to be issued to such employee in accordance with the applicable Managing Member Equity Plan;

4.14.2.2 on the date (such date, the "***Tax Date***") that the value of such shares is includible in taxable income of such employee, the following events shall be deemed to have occurred: (a) the Managing Member shall be deemed to have contributed such shares of Class A Common Stock to the Company (and, if such employee is an employee of, or other service provider to, a Subsidiary, the Company shall be deemed to have contributed such shares to such Subsidiary) for an equivalent amount of Common Units and (b) the Company (or such Subsidiary) shall be deemed to have delivered such shares of Class A Common Stock to such employee.

4.14.3 Future Managing Member Equity Plans. Nothing in this Agreement shall be construed or applied to preclude or restrain the Managing Member from adopting, modifying or terminating stock incentive plans for the benefit of employees, directors or other business associates of the Managing Member, the Company or any of their respective Affiliates. The Members acknowledge and agree that, in the event that any such plan is adopted, modified or terminated by the Managing Member, the Managing Member and the Company and their Affiliates shall be entitled to administer such plans in a manner consistent with the provisions of this Section 4.14, and that the Managing Member and the Company may make any amendments that are necessary or advisable to this Section 4.14 to accommodate such administration, without the requirement of any further Consent or acknowledgement of any other Member.

ARTICLE V
ALLOCATIONS

5.1 Allocations of Profits and Losses.

5.1.1 After giving effect to the special allocations set forth inSections 5.2 and 5.3 hereof, Profits and Losses (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Section 703(a)(1) of the Code shall be included in Profits and Losses) for any Fiscal Year shall be allocated as follows:

5.1.1.1 Profits and Losses for such Fiscal Year shall be allocated to the Capital Accounts of the Members so as to ensure, to the maximum extent possible, that the Capital Accounts of the Members as of the end of such Fiscal Year, as increased by the sum of the amounts described in clause (b) of the definition of "Adjusted Capital Account Deficit" herein with respect to such Member as of the end of such Fiscal Year, are equal to the aggregate distributions that the Members would be entitled to receive if all of the assets of the Company were sold for their Book Value (without any adjustment being deemed to be made to the Book Value of the Company's assets in respect of the presumed liquidation thereof), the liabilities of the Company were paid in full (except that Nonrecourse Liabilities and Member Nonrecourse Debts shall be paid only to the extent, with respect to each asset subject to such a liability, the amount of the liability does not exceed the Book Value), and the remaining proceeds were distributed as of the end of such Fiscal Year in accordance with the order and priority set forth in Article XII. The allocations made pursuant to this Section 5.1.1.1 are intended to comply with the provisions of Section 704(b) of the Code and the Treasury Regulations thereunder.

5.1.1.2 In the event that the allocation of Losses pursuant toSection 5.1.1.1 above would result in a Member having an Adjusted Capital Account Deficit at the end of any Fiscal Year, and at such time there are other Members who would not, as a result of such allocation, have an Adjusted Capital Account Deficit, then all Losses in excess of the amount that can be allocated until the foregoing circumstance occurs shall instead be allocated among the Members not having Adjusted Capital Account Deficits on a proportionate basis until each such Member would similarly be caused to have an Adjusted Capital Account Deficit. At such time as a further allocation of Losses cannot be made without causing a Member to have an Adjusted Capital Account Deficit, then all remaining Losses for such Fiscal Year shall be allocated to the Members in accordance with their respective Percentage Interests, unless and except to the extent that the Managing Member, upon consultation with the Company's professional tax advisors, determines that another manner is required under Section 704 of the Code and the Treasury Regulations thereunder.

5.1.2 If during any Fiscal Year there is a change in any Member's Percentage Interests as a result of the admission of one or more Members, the withdrawal of a Member, or a Transfer of an Ownership Interest, the Profits, Losses, or any other item allocable to the Members under this Agreement for the Fiscal Year shall, subject to the terms of the Purchase Agreement, be allocated among the Members so as to reflect their varying interests in the Company during the Fiscal Year, using any permissible method convention or extraordinary item under Section 706 of the Code and the Treasury Regulations promulgated thereunder, as reasonably selected by the Managing Member in consultation with the Members. In furtherance of the foregoing, any such permissible method, convention or extraordinary item selected by the Managing Member shall be set forth in a dated, written statement maintained with the Company's books and records. The Members hereby agree that any such selection by the Managing Member is made by "agreement of the partners" within the meaning of Treasury Regulations section 1.706-4(f).

5.2 Regulatory Allocations. The following special allocations shall be made in the following order:

5.2.1 Except as otherwise provided in Treasury Regulations section 1.704-2(f), notwithstanding any other provision of this Article V, if there is a net decrease in Company Minimum Gain during any Fiscal Year, each Member shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Member's share of the net decrease in Company Minimum Gain, determined in accordance with Treasury Regulations section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Treasury Regulations sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section 5.2.1 is intended to comply with the minimum gain chargeback requirement in Treasury Regulations section 1.704-2(f) and shall be interpreted consistently therewith.

5.2.2 Except as otherwise provided in Treasury Regulations section 1.704-2(i)(4), notwithstanding any other provision of this Article V, if there is a net decrease in Member Nonrecourse Debt Minimum Gain attributable to a Member Nonrecourse Debt during any Fiscal Year, each Member who has a share of the Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Treasury Regulations section 1.704-2(i)(5), shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Year) in an amount equal to such Member's share of the net decrease in Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Treasury Regulations section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Treasury Regulations sections 1.704-2(i)(4) and 1.704-2(j)(2). This Section 5.2.2 is intended to comply with the minimum gain chargeback requirement in Treasury Regulations section 1.704-2(i)(4) and is to be interpreted consistently therewith.

5.2.3 If any Member unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulations sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), or 1.704-1(b)(2)(ii)(d)(6), items of Company income and gain shall be specially allocated to each such Member in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, any Adjusted Capital Account Deficit of such Member as quickly as possible; *provided*, *however*, that an allocation pursuant to this Section 5.2.3 shall be made only if and to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article V have been tentatively made as if this Section 5.2.3 were not in the Agreement. This Section 5.2.3 is intended to constitute a "qualified income offset" within the meaning of Treasury Regulations section 1.704-1(b)(2)(ii)(d) and is to be interpreted consistently therewith.

5.2.4 If any Member has a deficit Capital Account at the end of any Fiscal Year that is in excess of the sum of (a) the amount such Member is obligated to restore pursuant to any provision of this Agreement, and (b) the amount such Member is deemed to be obligated to restore pursuant to the penultimate sentences of Treasury Regulations sections 1.704-2(g)(1) and 1.704-2(i)(5), each such Member shall be specially

allocated items of Company income and gain in the amount of such excess as quickly as possible; *provided*, *however*, that an allocation pursuant to this Section 5.2.4 shall be made only if and to the extent that such Member would have a deficit Capital Account in excess of such sum after all other allocations provided for in this Article V have been made as if Section 5.2.3 hereof and this Section 5.2.4 were not in the Agreement.

5.2.5 Nonrecourse Deductions for any Fiscal Year shall be allocated *pro rata* among the Members in accordance with their respective Percentage Interests, unless and except to the extent that the Managing Member, upon consultation with the Company's professional tax advisors, determines that another manner is required under Section 704 of the Code and the Treasury Regulations thereunder.

5.2.6 Any Member Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Member that bears the economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Treasury Regulations section 1.704-2(i)(1).

5.2.7 To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Sections 734(b) or 743(b) of the Code is required, pursuant to Treasury Regulations sections 1.704-1(b)(2)(iv)(m)(2) or 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Member in complete liquidation of such Member's Units in the Company, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis), and such gain or loss shall be specially allocated: (i) if Treasury Regulations section 1.704-1(b)(2)(iv)(m)(2) applies, to the Members in accordance with how they would share the allocated item of gain or loss if it were included in computing the Profits or Losses in the Company for the period in which the adjustment occurs; or (ii) if Treasury Regulations section 1.704-1(b)(2)(iv)(m)(4) applies, to the Member to which such distribution was made.

5.2.8 Any income, gain, loss, or deduction realized as a direct or indirect result of the issuance of an Unit by the Company to a Member (the "***Issuance Items***") shall be allocated among the Members so that, to the extent possible, the net amount of such Issuance Items, together with all other allocations under this Agreement to each Member, shall be equal to the net amount that would have been allocated to each such Member if the Issuance Items had not been realized.

5.2.9 Allocations and other adjustments with respect to any "non-compensatory options" (as defined in Treasury Regulations section 1.721-2(f)), shall be made in accordance with the Treasury Regulations including Treasury Regulations section 1.721-2.

5.3 Curative Allocations. The allocations set forth in Section 5.2.1 through and including Section 5.2.7 (the "***Regulatory Allocations***") are intended to comply with certain requirements of Treasury Regulations sections 1.704-1(b) and 1.704-2. The Regulatory Allocations may not be consistent with the manner in which the Members intend to allocate Profits and Losses of the Company or make distributions. Accordingly, notwithstanding the other provisions of this Article V, but subject to the Regulatory Allocations, income, gain, deduction and loss shall be reallocated among the Members so as to eliminate the effect of the Regulatory Allocations and thereby cause the respective Capital Accounts of the Members to be in the amounts (or as close thereto as possible) they would have been if Profits and Losses (and such other items of income, gain, deduction and loss) had been allocated without reference to the Regulatory Allocations. In general, the Members anticipate that this shall be accomplished by specially allocating other Profits and Losses (and such other items of income, gain, deduction and loss) among the Members so that the net amount of the Regulatory Allocations and such special allocations to each such Member is zero. In exercising its discretion under this Section 5.3, the Managing Member shall take into account future Regulatory Allocations that, although not yet made, are likely to be made and offset other prior Regulatory Allocations.

5.4 Tax Allocations.

5.4.1 The income, gains, losses, deductions and credits of the Company shall be allocated, for federal, state and local income tax purposes, among the Members in accordance with the allocation of such income,

gains, losses, deductions and credits among the Members for computing their Capital Accounts; provided that if any such allocation is not permitted by the Code or other applicable law, the Company's subsequent income, gains, losses, deductions and credits shall be allocated among the Members so as to reflect as nearly as possible the allocation set forth herein in computing their Capital Accounts.

5.4.2 Items of Company taxable income, gain, loss and deduction with respect to any property contributed to the capital of the Company shall be allocated among the Members in accordance with Section 704(c) of the Code and the Treasury Regulations thereunder so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its Book Value using any proper method reasonably selected by the Managing Member. For the avoidance of doubt and without limiting the foregoing, the traditional method as described in Treasury Regulations section 1.704-3(b) shall be applied with respect to each asset contributed (or deemed contributed) or otherwise owned by the Company as of the Effective Date.

5.4.3 If the Book Value of any Company asset is adjusted pursuant to Section 4.6.3, subsequent allocations of items of taxable income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Book Value using any proper method reasonably selected by the Managing Member.

5.4.4 Allocations of tax credits, tax credit recapture, and any items related thereto shall be allocated to the Members as reasonably determined by the Managing Member taking into account the principles of Treasury Regulations section 1.704-1(b)(4)(ii).

5.4.5 For purposes of determining a Member's share of the Company's "excess nonrecourse liabilities" within the meaning of Treasury Regulations section 1.752-3(a)(3), such excess nonrecourse liabilities shall be allocated *pro rata* among the Members in accordance with their respective Percentage Interests, unless and except to the extent that the Managing Member, upon consultation with the Company's professional tax advisors, determines that another manner is required under Section 752 of the Code and the Treasury Regulations thereunder.

5.4.6 Allocations pursuant to this Section 5.4 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses distributions or other items.

ARTICLE VI
DISTRIBUTIONS

6.1 Distributions. Subject to Section 6.5 hereof and any nondiscretionary restrictions or limitations regarding distributions imposed on the Company by the Act or under any loan agreements, other financing documents, or other contracts or agreements to which the Company or its property may be subject, the Managing Member may, in its sole discretion, cause the Company to make distributions of cash or other property in such aggregate amounts as the Managing Member may determine, at any time and from time to time. Except for distributions in connection with the dissolution and liquidation of the Company (to which the provisions of Article XII apply), such distributions, after reducing the distributable cash or other property for any required Tax Distributions to be made pursuant to Section 6.3, shall be made *pro rata* to the Members in accordance with their respective Percentage Interests.

6.2 Distributions In-Kind. To the extent that the Company makes *pro rata* distributions of property in-kind to the Members, the Company shall be treated as making a distribution equal to the fair market value of such property for purposes of Section 6.1 and such property shall be treated as if it were sold for an amount equal to its fair market value. Any resulting gain or loss shall be allocated to the Members' Capital Accounts in accordance with Article V. The fair market value of such property shall be determined in good faith by the Managing Member.

6.3 Tax Distributions.

6.3.1 If the total distributions of cash and/or other property (based on the fair market value of such other property as determined in good faith by the Managing Member) that otherwise would be distributable to any Member for an Estimated Tax Period (or portion thereof), but without regard to this Section 6.3, are less than the applicable Tax Distribution Amount for such Estimated Tax Period (or portion thereof), then, to the extent available, the Managing Member shall cause the Company to make distributions to such Member ("***Tax Distributions***"), provided that such Tax Distributions are made *pro rata* to the Members in accordance with their respective Percentage Interests, in an amount equal to such underage, at least five (5) days prior to the date on which any estimated tax payments are due, in order to permit such Member to timely pay its estimated tax obligations for such Estimated Tax Period (or portion thereof) (and solely in the case of Managing Member, to satisfy its obligations under the Tax Receivable Agreement).

6.3.2 The applicable "***Tax Distribution Amount***" for a Member for an Estimated Tax Period (or portion thereof) shall be equal to (a) the product of (i) the highest combined effective federal and state income tax rate applicable to an individual or corporate resident in the State of North Carolina, whichever is higher, (after giving effect to income tax deductions (if allowable) for state and local income taxes and excluding, for this purpose, any reduction in rate attributable to Section 199A of the Code) for such Estimated Tax Period (or portion thereof) (the "***Assumed Tax Rate***"), and (ii) the aggregate amount of taxable income or gain of the Company that is allocated or is estimated to be allocated to such Member for U.S. federal income tax purposes for such Estimated Tax Period (or portion thereof) reduced, but not below zero, by any tax deduction, loss, or credit previously allocated to such Member and not previously taken into account for purposes of the calculation of the amount of any Tax Distribution Amount *plus* (b) solely with respect to Managing Member, to the extent the amounts described in clause (a) are not sufficient to timely meet its obligations pursuant to the Tax Receivable Agreement, any incremental amount required to permit the Managing Member to timely meet its obligations pursuant to the Tax Receivable Agreement (with all Tax Distribution Amounts updated to reflect the final Company tax returns for each applicable taxable year).

6.3.3 The Managing Member may adjust the Assumed Tax Rate as it reasonably determines is necessary to take into account the effect of any changes in applicable tax law. Tax Distribution Amounts pursuant to this Section 6.3 shall be computed without regard to the effect of any special basis adjustments or resulting adjustments to taxable income made pursuant to Sections 734(b), 743(b), and 754 of the Code. The Assumed Tax Rate shall be the same for all Members, regardless of the actual combined income tax rate of the Member or its direct or indirect owners. The Managing Member shall make, in its reasonable discretion, equitable adjustments (downward (but not below zero) or upward) to the Members' Tax Distributions (but in any event *pro rata* to the Members in accordance with their respective Percentage Interests) to take into account increases or decreases in the number of Common Units held by each Member during the relevant period.

6.3.4 All Tax Distributions shall be treated for all purposes under this Agreement as advances against, and shall offset and reduce dollar-for-dollar, subsequent distributions under Section 6.1.

6.4 Amounts Withheld. To the extent the Company (or any entity in which the Company holds a direct or indirect interest) or the Managing Member is required by law to deduct or withhold any amounts or to make tax payments (including, without limitation, any imputed underpayments under the Code, or similar amounts under state, local, or non-U.S. law) on behalf of or with respect to any Member or in respect of any Redemption, Direct Exchange, conversion of any interest into a Unit, or any other acquisition of Units or Ownership Interests by any Person, or if any entity in which the Company holds a direct or indirect interest is required to withhold on amounts payable to the Company or its Subsidiaries as a result of the status (e.g., based on tax residency or treaty qualification status) of a Member, the Managing Member may deduct or withhold or cause the Company (or other applicable withholding agent) to deduct or withhold any such amounts and to make any such tax payments as so required without any gross-up payments owed to the applicable Member or other Person. All such amounts deducted or withheld, or to be deducted or withheld, or payments made, or to be made, on behalf of a Member or

as a result of the status of a Member ("***Tax Withholding/Payment Amounts***") shall, at the option of the Managing Member, (a) be promptly paid to the Company (or the Managing Member, as applicable) by the Member or other Person on whose behalf such Tax Withholding/Payment Amounts were made or are to be made (either before the deduction or withholding (e.g. if there is no cash payment from which to withhold) or payment is required to be made or after the Managing Member, the Company (or other applicable withholding agent) undertakes such deduction or withholding or makes such tax payment), or (b) be repaid by reducing the amount of the current or next succeeding distribution or distributions which would otherwise have been made to such Member or, if such distributions are not sufficient for that purpose, by so reducing the proceeds of liquidation otherwise payable to such Member. Whenever the Managing Member selects option (b) pursuant to the preceding sentence for repayment of a Tax Withholding/Payment Amount by a Member, for all other purposes of this Agreement such Member shall be treated as having received all distributions (whether before or upon liquidation) unreduced by the amount of such Tax Withholding/Payment Amount. At the reasonable request of the Managing Member, the Company, or any applicable withholding agent, the Members (or other applicable Persons) shall provide the Managing Member, the Company, or other applicable withholding agent with any necessary tax forms, including Internal Revenue Service Form W-9 or the appropriate series of Internal Revenue Service FormW-8, as applicable, or any other information or form that is relevant to determine whether any deduction or withholding is required. To the fullest extent permitted by law, each Member hereby agrees to indemnify and hold harmless the Company, the Managing Member, and the other Members from and against any liability (including, without limitation, any liability for taxes, penalties, additions to tax, interest or imputed underpayments under Section 6232(a) of the Code, or similar amounts under state, local, or non-U.S. law) with respect to income attributable to or distributions or other payments or property deliverable to such Member, including any amounts required to be deducted or withheld in respect thereof. Each Member's obligations under this Section 6.4 shall survive the dissolution, liquidation and winding up of the Company for the applicable statute of limitations period and shall survive any partial or complete transfer or redemption of a Member's Units or Ownership Interest in the Company. To the extent any amounts are deducted or withheld and paid over to the appropriate taxing authority pursuant to this Section 6.4, such amounts shall be treated as having been paid to the Person to whom such amounts would otherwise have been required to be paid.

6.5 Limitations on Distribution. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make a distribution to any Member if such distribution would violate applicable law or the terms of any indebtedness of the Company.

6.6 Right of Set-Off. The Managing Member shall have the right to cause the Company to apply all or any portion of any amount of a distribution otherwise distributable to a Member against any advances or other sums then due and owing to the Company from or on behalf of such Member, including, without limitation, advances under Section 6.4 that are not repaid. The portion of any such distribution so applied as a set-off against amounts due and owing shall, even though not physically distributed to the Member, be treated as a distribution with respect to the Member's Units for purposes of this Agreement, including, but not limited to, the determination of the Member's Capital Account balance and the amount of future allocations and distributions to which the Member is entitled. In addition, to the extent the amount applied is being set off for payment of an unpaid Capital Contribution, the amount shall be treated as a Capital Contribution by the Member as of the date of the distribution so applied.

ARTICLE VII
BOOKS AND RECORDS

7.1 Books, Record and Financial Statements.

7.1.1 The number and type of Units issued to each Member shall be set forth opposite such Member's name on the schedule of Members of the Company held by the Company in its books and records (the "***Member Schedule***"). The Member Schedule shall be maintained by the Managing Member on behalf of

the Company in accordance with this Agreement. When any Units or other Equity Securities of the Company are issued, repurchased, redeemed, converted or Transferred in accordance with this Agreement, the Member Schedule shall be amended by the Managing Member to reflect such issuance, repurchase, redemption or Transfer, the admission of additional Members or substitute Members and the resulting Percentage Interest of each Member. Following the date hereof, no Person shall be admitted as a Member and no additional Units shall be issued except as expressly provided herein.

7.1.2 At all times during the continuance of the Company, the Managing Member shall cause the Company to maintain, at its principal place of business, separate books of account for the Company that shall show a true and accurate record of all costs and expenses incurred, all charges made, all credits made and received and all income derived in connection with the operation of the Company's business in accordance with GAAP consistently applied, and, to the extent inconsistent therewith, in accordance with this Agreement.

7.1.3 All of the records and books of account of the Company, in whatever form maintained, shall at all times be maintained at the principal office of the Company and shall be open to the inspection and examination of the Members or their representatives during reasonable business hours. Such right of inspection and examination may be exercised through any agent or employee of a Member designated by it or by an attorney or independent certified public accountant designated by such Member. Such Member shall bear all expenses incurred in any examination made on behalf of such Member.

7.2 Accounting Methods. For financial reporting purposes and for purposes of determining Profits and Losses and other items required to be allocated pursuant to Article V, the books and records of the Company shall be kept on the accrual method of accounting, in accordance with GAAP consistently applied, and to the extent inconsistent therewith, in accordance with this Agreement. Such books and records and the entries therein shall reflect all Company transactions and be appropriate for the Company's business.

7.3 Audit. The financial statements of the Company, or of the Managing Member if such statements are prepared solely on a consolidated basis with the Managing Member, shall be audited at the end of each Fiscal Year by the Company's independent certified public accountant, with each such audit to be accompanied by a report of such accountant containing its opinion, addressed and provided to each of the Members. The cost of such audits shall be an expense of the Company. A copy of any such audited financial statements and accountant's report, and any management letters from such accountants, shall be provided to the Members promptly upon receipt by the Company thereof. The Managing Member may select and change the Company's independent public accountants.

ARTICLE VIII
TAX MATTERS

8.1 Partnership Representative.

8.1.1 The Managing Member is hereby designated as the "partnership representative" pursuant to Section 6223 of the Code for U.S. federal income and applicable state and local income tax purposes (the "***Partnership Representative***"). For each taxable year in which the Partnership Representative is an entity, the Company shall appoint the "designated individual" identified by the Partnership Representative to act on its behalf in accordance with the applicable Treasury Regulations or analogous provisions of state or local law. Each Member, by execution of this Agreement, hereby consents to the appointment of the Managing Member as Partnership Representative as set forth herein and agrees to execute, certify, acknowledge, deliver, swear to, file and record, at the appropriate public offices, such documents as may be necessary or appropriate to evidence such consent and agrees to take, and that the Managing Member is authorized to take (or cause the Company to take), such other actions as may be necessary pursuant to Treasury Regulations or other Internal Revenue Service or Treasury guidance or applicable state or local law to cause such designation.

8.1.2 Subject to the terms of this Agreement and the Purchase Agreement, the Partnership Representative shall have the power and authority to (a) make any election under Sections 6221-6241 of the Code, and (b) shall have all other rights and powers granted under the BBA Audit Provisions with respect to the Company and its Members. If the Partnership Representative causes the Company to make an election under Section 6226(a) of the Code or any successor provision (or any analogous provision of state, local, or non-U.S. law), each Member who was a Member of the Company for U.S. federal income tax purposes for the "reviewed year" (within the meaning of Section 6225(d)(1) of the Code or similar concept under applicable state, local law, or non-U.S. law), shall take any adjustment to income, gain, loss, deduction, credit, or otherwise (as determined in the notice of final partnership adjustment or similar concept under applicable state, local, or non-U.S. law) into account as provided for in Section 6226(b) of the Code (or similar concept under applicable state, local, or non-U.S. law).

8.1.3 Each Member agrees to cooperate in good faith with the Partnership Representative with respect to its rights and responsibilities hereunder, including timely providing any information and complying with any requirements that are necessary or advisable to reduce the amount of any tax, interest, penalties or similar amounts the cost of which is (or would otherwise be) borne by the Company (directly or indirectly), or to make any election permitted by this Agreement and the Code or other relevant tax law unless such Member is restricted from providing such information under any applicable law. Subject to the foregoing, each Member shall provide the Partnership Representative with reasonable advance notice prior to treating any Company item inconsistently on such Member's tax return with the treatment of the item on the Company's tax return or prior to independently acting with respect to tax audits, examinations, or other proceedings affecting the Company.

8.1.4 The Partnership Representative shall, within ten (10) days of the receipt of any notice from the Internal Revenue Service in any administrative proceeding at the Company level relating to the determination of any Company item of income, gain, loss, deduction or credit, mail a copy of such notice to each Member.

8.1.5 In connection with any of the actions set forth in thisSection 8.1, the Partnership Representative, after consulting with the Company's tax or accounting advisors, has the authority to determine the proper tax and accounting treatment of such action in the Partnership Representative's reasonable discretion and in reliance upon the applicable Code and Treasury Regulations promulgated thereunder.

8.1.6 Any direct, out-of-pocket expense incurred by the Partnership Representative in carrying out the obligations hereunder shall be allocated to and charged to the Company as an expense of the Company for which the Partnership Representative shall be reimbursed. In addition, if the Company incurs any liability for taxes, interest, or penalties by reason of an Internal Revenue Service audit under the BBA Audit Provisions or a similar liability by reason of an audit by a state, local, or other government tax authority (the "***LLC Tax Costs***"), then the Partnership Representative may require the Members (including any former Member) to whom such liability relates, as reasonably apportioned and determined in good faith by the Managing Member based on consultation and advice from the Company's professional tax advisors, to pay, and each such Member (including any former Member) hereby agrees to pay, such amount to the Company of the LLC Tax Costs as is attributable to the Ownership Interest of the current or former Member for the taxable period at issue. Any such amount shall not be treated as a Capital Contribution for purposes of any provision herein that affects distributions to the Members, and shall not be treated as a Capital Contribution in any respect except for the limited purpose of crediting the holder's Capital Account therefor if and as may be required by the Treasury Regulations or other applicable federal tax authority.

8.1.7 Any such amount not paid by a current or former Member at the time reasonably requested by the Partnership Representative shall accrue interest at the rate set by the Partnership Representative (not to exceed the maximum rate permitted by law), compounded monthly, until paid, and such current or former Member shall also be liable to the Company for any damages resulting from a delay in making such payment beyond the date such payment is reasonably requested by the Partnership Representative, and for this purpose the fact that the Company could have paid this amount with other funds shall not be taken into

account in determining such damages. Without reduction in the obligation of a current or former Member under this Section 8.1, any amount paid by the Company that is attributable to a current or former Member, as determined by the Partnership Representative in its reasonable discretion, and that is not paid by such a current or former Member as provided herein, may be treated as a distribution, or other payment of any amount payable or to be paid, by the Company to such a current or former Member. To the fullest extent permitted by law, each Member hereby agrees to indemnify and hold harmless the Company and the other Members from and against any liability for LLC Tax Costs allocated to such Member with respect to the Units of such Member.

8.1.8 The Company shall not be obligated to pay any fees or other compensation to the Partnership Representative in its capacity as such. However, the Company shall reimburse and indemnify and hold harmless the Partnership Representative (and any "designated individual") for any and all out-of-pocket costs and expenses (including reasonable attorneys and other professional fees) incurred by it in its capacity as Partnership Representative (or "designated individual").

8.1.9 This Section 8.1 shall be interpreted to apply to Members and former Members and shall survive the transfer of a Member's Ownership Interest, the termination of this Agreement, and the termination, dissolution, liquidation and winding up of the Company.

8.2 Section 754 Election. The Company (and to the extent provided in the Tax Receivable Agreement, each Subsidiary of the Company that is treated as a partnership for U.S. federal income tax purposes) shall have in effect an election under Section 754 of the Code for the taxable year in which the date of this Agreement occurs and shall maintain and keep such election in effect at all times. Each Member shall, upon request of the Partnership Representative, supply the information necessary to give effect to any such election.

8.3 Other Tax Matters.

8.3.1 Tax Returns.

8.3.1.1 The Managing Member shall arrange for the preparation and filing of all tax returns required to be filed by the Company in accordance with the procedures set forth in this Section 8.3.1.

8.3.1.2 For any taxable period that ends on or before, or includes, the Effective Date, the Managing Member shall (a) cause the tax returns of the Company for such taxable period to be prepared in a manner consistent with the past practices of the Company, unless otherwise required by applicable law, and (b) submit such tax returns to the Member Representative for review no later than thirty (30) days prior to the due date for filing such tax returns (taking into account applicable extensions) and all reasonable comments received from the Member Representative no later than five (5) days prior to the due date for filing any such tax returns (taking into account applicable extensions) shall be incorporated in such tax returns.

8.3.1.3 On or before April 15, June 15, September 15, and December 15 of each Fiscal Year (or, if the due dates for estimated tax payments applicable to the Members or their equityholders are modified after the date of this Agreement, on or before such modified due dates), the Company shall send to each Person who was a Member at any time during the prior quarter, an estimate of information that each such Member reasonably requires in connection with discharging its tax reporting and estimated tax payment obligations.

8.3.1.4 As soon as reasonably practicable after the end of a Fiscal Year, the Managing Member shall cause the Company to provide to the Member Representative, on behalf of each Member, a statement showing an estimate of each Member's state tax apportionment information and each Member's estimated allocations of taxable income, gains, losses, deductions and credits for such Fiscal Year and, as soon as reasonably practicable following the end of the prior Fiscal Year, the Managing Member shall cause the Company to provide to the Member Representative, on behalf of each Member, a statement showing each Member's final state tax apportionment information and allocations

to the Members of taxable income, gains, losses, deductions and credits for such Fiscal Year and a completed Internal Revenue Service Schedule K-1 (and, if applicable, completed Schedules K-2 and K-3) (the statements referred to in this sentence, collectively, the "***Draft Tax Statements***"). For as long as the Member Representative holds 10% or more of the outstanding Common Units of the Company, (i) upon delivery of any Draft Tax Statements to the Member Representative, the Member Representative shall have thirty (30) days to review the applicable Draft Tax Statements and provide any comments to the Managing Member on such Draft Tax Statements and (ii) the Managing Member shall incorporate all reasonable comments received from the Member Representative during the thirty (30) day review period and such statements, reflecting the Member Representative's reasonable comments, shall be the ("***Final Tax Statements***"). The Managing Member shall cause the Company to deliver Final Tax Statements to each applicable Member within five (5) days of such statements becoming Final Tax Statements.

8.3.1.5 For as long as the Member Representative holds 10% or more of the outstanding Common Units of the Company, (i) at least thirty (30) days prior to the due date for the filing of any tax return of the Company or any Company Subsidiary, the Managing Member shall send a draft of such tax return, which shall be prepared consistently with any applicable Final Tax Statements, to the Member Representative for the Member Representative's review and comment and (ii) the Managing Member shall incorporate all reasonable comments received from the Member Representative at least five (5) days prior to the due date for the filing of any such tax return.

8.4 Adverse Tax Consequences. Notwithstanding anything to the contrary in this Agreement, the Purchase Agreement, the Previous Agreement, the Registration Rights Agreement, the Stockholders' Agreement, the Tax Receivable Agreement or the Warrant Agreements, the Managing Member shall have the authority to, and shall, take any steps it determines are necessary or appropriate to prevent the Company from being taxable as a corporation for U.S. federal income tax purposes. In furtherance of the foregoing, except with the consent of the Managing Member, no Transfer by a Member of its Units (including any Redemption, Direct Exchange, conversion of any Ownership Interest into a Unit or any other acquisition of Units by any Person or the Company) may be made to or by any Person if such Transfer, Redemption, Direct Exchange, conversion, acquisition or other action could result in the Company being unable to qualify for one or more of the "safe harbors" set forth in Regulations Section 1.7704-1 (or such other guidance subsequently published by the Internal Revenue Service setting forth safe harbors under which interests will not be treated as "readily tradable on a secondary market (or the substantial equivalent thereof)" within the meaning of Section 7704 of the Code).

8.5 Post-Closing Covenants. Without the prior written consent of the Member Representative (not to be unreasonably withheld, conditioned or delayed), with respect to any Flow-Thru Tax Returns of the Company or any Subsidiary of the Company, the Managing Member shall not cause or permit the Company or any Subsidiary of the Company to (a) make, change or revoke any election of the Company or any Subsidiary of the Company with retroactive effect to any taxable period (or portion thereof) ending on or before the Effective Date, or (b) initiate discussion, voluntary disclosure or examination with any taxing authority regarding such taxes or tax returns of the Company or any Subsidiary of the Company for any taxable period (or portion thereof) ending on or before the Effective Date.

ARTICLE IX
LIABILITY, EXCULPATION AND INDEMNIFICATION

9.1 Exculpation.

9.1.1 A "***Covered Person***" shall mean any Member, any Affiliate of a Member, any partner, shareholder, member, director, officer, agent, or employee of any Member or of any Affiliate of any Member, the Managing Member, any director, officer, agent, or employee of the Company or of any of its Subsidiaries, and any Person who, at the request of the Company serves in any capacity on behalf of another

entity, including, without limitation, any director, officer or employee of the Managing Member. No Covered Person shall be liable to the Company or any other Covered Person for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of authority conferred on such Covered Person by this Agreement, except (a) a Covered Person shall be liable for any such loss, damage or claim incurred by reason of such Covered Person's gross negligence, willful misconduct, or knowing violation of the law or of this Agreement, (b) as provided in the Act in the case of the Managing Member for any liability or damages therefor arising by reason of the failure of the Managing Member to comply with the duties and standards of conduct set forth under section 57D-3-21 of the Act, as modified or eliminated by this Agreement, or as otherwise imposed by the Act or other applicable law, or (c) as provided in the Act in the case of the Managing Member or a Member in the circumstances provided in section 57D-4-06(b)(2) of the Act.

9.1.2 A Covered Person shall be fully protected in relying in good faith upon the records of the Company (or such other entity which he or she serves) and upon such information, opinions, reports or statements presented to the Company (or such other entity which he or she serves) by any Person as to matters the Covered Person reasonably believes are within such other Person's professional or expert competence and who in the reasonable belief of such Covered Person has been selected with reasonable care by or on behalf of the Company (or such other entity which he or she serves), including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses, or any other facts pertinent to the existence and amount of assets from which distributions to Members might properly be paid.

9.1.3 Any repeal or modification of this Section 9.1 shall not adversely affect the right or protection of the Managing Member or a Member existing at the time of such repeal or modification.

9.2 Indemnification by the Company.

9.2.1 To the fullest extent permitted by law, the Company shall indemnify any Covered Person to the extent and in the manner specified in this Section 9.2; *provided*, *however*, that no Member is to be reimbursed or indemnified by the Company for any federal, state or local income, estate, gift or other taxes imposed on the Member or its ultimate owners by reason of (a) such Member's having, selling or otherwise transferring any Units or Ownership Interest in the Company or (b) allocation of income or gain from the Company or the Company's being treated as a flow-through entity, and not a separate taxable entity, for purposes of income tax laws.

9.2.2 A Covered Person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of alleged acts or omissions in his capacity as a Covered Person (a "***Covered Proceeding***"), other than a Covered Proceeding brought by or in the right of the Company or the Members generally, shall be indemnified and held harmless by the Company from and against all losses, claims, damages, liabilities, costs, expenses (including reasonable legal fees and expenses), judgments, fines, settlements, and other amounts which the Covered Person may actually and reasonably incur in connection with or by reason of such Covered Proceeding, by reason of any acts, omissions, or alleged acts or omissions committed directly or indirectly on behalf of the Company (whether or not the Covered Person is still acting in such capacity at the commencement of or during such Covered Proceeding), except to the extent that such act or omission was done fraudulently or in bad faith or as a result of willful and wanton misconduct or gross negligence or except to the extent that, with respect to any criminal action or proceeding, such Person had reasonable cause to believe his conduct was unlawful. The termination of any Covered Proceeding by judgment, order, conviction, plea, settlement, or its equivalent, shall not of itself create a presumption that the act or omission was done fraudulently or in bad faith or as a result of wanton or willful misconduct or, with respect to any criminal Covered Proceeding, that the Person had reasonable cause to believe that his conduct was unlawful.

9.2.3 A Covered Person who was or is a party, or is threatened to be made a party, by reason of alleged acts or omissions in his capacity as a Covered Person, to any Covered Proceeding brought by or in the right

of the Company or of the Members generally to procure a judgment in its or their favor, shall be indemnified and held harmless as set forth in Section 9.2.2 to the extent that such Covered Person acted in good faith and in a manner such Covered Person reasonably believed to be in or not opposed to the best interests of the Company. If the Covered Person shall have been adjudicated by final and nonappealable order in such Covered Proceeding to be liable to the Company or to the Members generally, then the indemnification provided for in the preceding sentence shall apply only to the extent that the tribunal having jurisdiction over such Covered Proceeding shall determine that, despite the adjudication of liability, in view of all the circumstances of the case, the Covered Person is fairly and reasonably entitled to such indemnification.

9.2.4 The Company shall pay, (a) from the inception of a Covered Proceeding and for its entire duration, all costs and expenses of the Covered Person with respect to such Covered Proceeding as they become due, including without limitation reasonable legal fees and expenses, and (b) in connection with the termination of a Covered Proceeding (whether or not appellate or other review proceedings are taken or contemplated), all judgments, fines, settlement payments, other costs and expenses (including reasonable legal fees and expenses) and other amounts incurred by the Covered Person, provided that in each case described in clause (a) or (b), the Covered Person shall have delivered to the Company a written undertaking to repay all such amounts to the Company to the extent it is determined, as provided in Section 9.2.2 or Section 9.2.3, that the Covered Person is not entitled to indemnification with respect to part or all of the amounts paid.

9.2.5 The Managing Member shall control the defense of any Covered Person in a Covered Proceeding as well as any settlement with respect to such Covered Person, including, without limitation, the selection and direction of counsel. The Covered Person shall not consent to the entry of any judgment or other dispositive order or to any settlement without the consent of the Managing Member. The Managing Member and counsel selected by it shall not consent to the entry of any judgment or other dispositive order as to the Covered Person which does not provide for a complete and unconditional release of all liability in favor of the Covered Person.

9.2.6 The obligations of the Company under this Section 9.2 shall be enforceable solely against the assets of the Company, and not against the assets of any Member, of any securityholder of the Managing Member, or of any officer, director, agent, or employee of the Company or the Managing Member. The provisions of this Section 9.2 are solely for the benefit of the Covered Person and his, her, or its heirs, personal representatives, successors, and assigns.

9.2.7 The rights and remedies granted a Covered Person by this Section 9.2 shall be in addition to, and not in lieu of, (a) any and all rights and remedies available to a Covered Person against the Company or any other Person, whether conferred by any provision of law, by any agreement, bylaw, articles of incorporation, or other document, or by any resolution or other action, and (b) any and all rights and claims available to a Covered Person under any policy of insurance. Amounts payable under this Section 9.2 shall not be reduced or deferred by reason of any such other rights, remedies, or claims which may be available to a Covered Person, provided however, that a Covered Person shall have only one satisfaction with respect to amounts incurred, and provided further, that the Company shall be subrogated to a Covered Person's claims against other Persons and under any policy of insurance, to the extent of payments made by the Company to such Covered Person under this Section 9.2. Notwithstanding anything herein to the contrary, no Person shall be entitled to any rights under this Section 9.2 without the prior written consent of the Managing Member.

9.2.8 The indemnification provided by this Section 9.2 shall: (a) be deemed exclusive of any other rights to which a Person seeking indemnification may be entitled under any statute, agreement, or otherwise, (b) continue as to a Person who ceases to be the Managing Member or a Member; (c) inure to the benefit of the estate, heirs, executors, administrators, or other successors of an indemnitee; and (d) not be deemed to create any rights for the benefit of any other Person.

9.3 Insurance. The Company may purchase and maintain such insurance with such coverages on behalf of Covered Persons and such other Persons as the Managing Member may determine, against any liability that may

be asserted against or expenses that may be incurred by any such Person in connection with the activities of the Company (or such other entity which he or she serves), regardless of whether the Company (or such entity) would have the power to indemnify such Person against such liability under the provisions of this Agreement. The Managing Member and the Company may enter into indemnity contracts with Covered Persons or other parties and adopt written procedures pursuant to which arrangements are made for the advancement of expenses and the funding of obligations under Section 9.2.2 above and containing such other procedures regarding indemnification as are appropriate, provided that such contracts and procedures shall not be in derogation of the protections provided by this Article IX. No Covered Person shall be permitted to make a claim under any insurance coverage purchased and maintained by the Company without the prior written consent of the Managing Member. For the avoidance of doubt, any costs or liabilities under any indemnity contract entered into by the Managing Member with a Covered Person shall be paid by the Company.

9.4 Fiduciary Duties and Obligations. Except to the extent required by the Act, neither the Members nor the Managing Member shall have fiduciary duties of loyalty or otherwise with respect to the Company.

ARTICLE X
RESTRICTIONS ON TRANSFERS OF OWNERSHIP INTERESTS

10.1 Transfers by the Managing Member. Except as otherwise provided in this Agreement, including in Sections 4.11, 4.12, 4.13 and 10.5, the Managing Member may not Transfer all or any part of its Ownership Interest without the Consent of the Members (other than the Managing Member) holding at least a majority of the aggregate Common Units then outstanding and held by such Members.

10.2 Transfers by Members.

10.2.1 Except as set forth in Section 10.2.2, Section 10.4 or Section 10.5, to the fullest extent permitted by law, no Member may Transfer all or any part of such Member's Ownership Interests without the prior written consent of the Managing Member, which consent may be given or withheld in the Managing Member's sole and absolute discretion. Unless a Transferee is admitted as a substitute Member in accordance with Section 10.3, a Transfer by a Member of all or any part of such Member's Ownership Interests shall not release such Member from any of such Member's obligations or liabilities hereunder or limit the Managing Member's rights with respect to such Member of any nature whatsoever arising under this Agreement; *provided*, that any such Transferee shall be entitled to allocations and distributions with respect to its Ownership Interests but shall not have any of the other rights of a Member under this Agreement.

10.2.2 The restrictions contained in the first sentence of Section 10.2.1 shall not apply to any of the following (each, a "***Permitted Transfer***" and each Transferee, a "***Permitted Transferee***"): (a)(i) a Transfer pursuant to a Redemption in accordance with Article XI or (B) a Transfer by a Member to another Member, the Company or any of its Subsidiaries, (ii) a Transfer to an Affiliate of, or owner of an equity interest in, a Member (including any distribution by such Member to its members, partners or shareholders or any redemption of the equity interests in such Member held by one or more of its members, partners or shareholders, and any related distributions or redemptions by such members, partners or shareholders to their respective members, partners or shareholders) or (iii) any Transfer of equity or other interests in such Member (including, for the avoidance of doubt, any Transfers of equity or other interests in the Managing Member) so long as such Transfer is consistent with the terms of any agreement with the Managing Member and/or the Company; *provided*, *however*, that (A) the restrictions contained in this Agreement shall continue to apply to the transferred Ownership Interests after any Permitted Transfer of such Ownership Interests, and (B) in the case of the foregoing clause (ii), prior to such Transfer the transferor shall deliver a written notice to the Managing Member, which notice shall disclose in reasonable detail the identity of the proposed Permitted Transferee. Any attempted transfer of Ownership Interests that does not comply with the provisions of this Section 10.2.2 shall be void *ab initio* and shall not be recognized by the Company for any purpose.

10.3 Certain Provisions Applicable to Transfers. Any Person who acquires Ownership Interests in accordance with this Agreement ("***Transferee***") shall be admitted as a Member upon the satisfaction of the following conditions:

10.3.1 the Transferee agrees to be bound by all the terms and provisions of this Agreement applicable to it;

10.3.2 the Transferor and Transferee execute and acknowledge such other instruments, in form and substance satisfactory to the Managing Member, as the Managing Member may deem necessary or desirable to effect such substitution; and

10.3.3 such Transfer does not (A) cause the Company to become a "publicly traded partnership," as such term is defined in Section 469(k)(2) or 7704 of the Code, or (B) cause the Company to become subject to regulation or inspection under the Bank Holding Company Act of 1956, as amended.

For purposes of this Article X, a transaction shall be deemed to be a Transfer, irrespective of its form, if it has economic effect which is substantially equivalent to that of a Transfer under the relevant circumstances.

10.4 Pledges. A holder of Common Units may pledge or grant a security interest in such Common Units subject to the following conditions:

10.4.1 such holder provides thirty (30) days' prior written notice of the pledge or grant to the Managing Member;

10.4.2 such pledge or grant of security interest shall be made in connection with a bona fide extension of credit by a Person (the "***Lender***") who in the ordinary course of such Person's business engages in such extensions of credit; and

10.4.3 prior to completing such pledge or grant of security interest, such holder shall deliver to the Managing Member an undertaking or other instrument reasonably satisfactory to the Managing Member (and for the benefit of each holder of Common Units) in which the Lender acknowledges and agrees that the exercise by the Lender of remedies involving Transfer of ownership of such shares or of rights appurtenant thereto shall be a Transfer subject to all the terms of conditions of this Agreement.

Notwithstanding the foregoing, the Managing Member may prevent a holder from pledging or granting a security interest in its Common Units if it determines that the exercise of the Lender's remedies could cause a Transfer otherwise prohibited by this Agreement, including a Transfer prohibited by Section 10.3.2.

10.5 Certain Transactions with Respect to the Managing Member.

10.5.1 In connection with a Change of Control Transaction, each Member shall, and the Managing Member shall have the right, in its sole discretion, to require each Member to effect a Redemption of all or a portion of such Member's Common Units, pursuant to which such Common Units shall be exchanged for shares of Class A Common Stock (or economically equivalent cash or securities of a successor entity), *mutatis mutandis*, in accordance with the Redemption provisions of Article XI and otherwise in accordance with this Section 10.5.1. Any such Redemption pursuant to this Section 10.5.1 shall be effective immediately prior to the consummation of such Change of Control Transaction (and, for the avoidance of doubt, shall be contingent upon the consummation of such Change of Control Transaction and shall not be effective if such Change of Control Transaction is not consummated) (the date of such Redemption pursuant to this Section 10.5.1, the "***Change of Control Date***"). From and after the Change of Control Date, (a) the Common Units subject to such Redemption shall be deemed to be transferred to the Managing Member on the Change of Control Date and (b) each such Member shall cease to have any rights with respect to the Common Units subject to such Redemption (other than the right to receive shares of Class A Common Stock (or economically equivalent cash or equity securities in a successor entity) pursuant to such Redemption). In the event of an expected Change of Control Transaction, the Managing Member shall

provide written notice of an expected Change of Control Transaction to all Members within the earlier of (i) five (5) business days following the execution of a definitive agreement providing for such Change of Control Transaction and (ii) ten (10) business days before the proposed date upon which the contemplated Change of Control Transaction is to be effected, including in such notice such information as may reasonably describe the Change of Control Transaction, subject to applicable law or regulation, including the date of execution of such agreement or such proposed effective date, as applicable, the amount and types of consideration to be paid for shares of Class A Common Stock in the Change of Control Transaction and any election with respect to types of consideration that a holder of shares of Class A Common Stock, as applicable, shall be entitled to make in connection with a Change of Control Transaction (which election shall be available to each Member on the same terms as holders of shares of Class A Common Stock). Following delivery of such notice and on or prior to the Change of Control Date, the Members shall take all actions reasonably requested by the Managing Member to effect such Redemption, including taking any action and delivering any document required pursuant to this Section 10.5.1 to effect such Redemption.

10.5.2 In the event that a tender offer, share exchange offer, issuer bid, take-over bid, recapitalization, or similar transaction with respect to Class A Common Stock (a "***Pubco Offer***") is proposed by the Managing Member or is proposed to the Managing Member or its stockholders and approved by the Board or is otherwise effected or to be effected with the consent or approval of the Board, the Managing Member shall provide written notice of the Pubco Offer to all Members within the earlier of (a) five (5) business days following the execution of an agreement (if applicable) with respect to, or the commencement of (if applicable), such Pubco Offer and (b) ten (10) business days before the proposed date upon which the Pubco Offer is to be effected, including in such notice such information as may reasonably describe the Pubco Offer, subject to applicable law or regulation, including the date of execution of such agreement (if applicable) or of such commencement (if applicable), the material terms of such Pubco Offer, including the amount and types of consideration to be received by holders of shares of Class A Common Stock in the Pubco Offer, any election with respect to types of consideration that a holder of shares of Class A Common Stock, as applicable, shall be entitled to make in connection with such Pubco Offer, and the number of Common Units held by such Member that is applicable to such Pubco Offer. The Members shall be permitted to participate in such Pubco Offer by delivering a written notice of participation that is effective immediately prior to the consummation of such Pubco Offer (and that is contingent upon consummation of such offer), and shall include such information necessary for consummation of such offer as requested by the Managing Member. In the case of any Pubco Offer that was initially proposed by the Managing Member, the Managing Member shall use reasonable best efforts to enable and permit the Members to participate in such transaction to the same extent or on an economically equivalent basis as the holders of shares of Class A Common Stock, and to enable such Members to participate in such transaction without being required to exchange Common Units prior to the consummation of such transaction.

10.5.3 In the event that a transaction or proposed transaction constitutes both a Change of Control Transaction and a Pubco Offer, the provisions of Section 10.5.1 shall take precedence over the provisions of Section 10.5.2 with respect to such transaction, and the provisions of Section 10.5.2 shall be subordinate to provisions of Section 10.5.1, and may only be triggered if the Managing Member elects to waive the provisions of Section 10.5.1.

ARTICLE XI
REDEMPTION

11.1 Redemption Right of a Member.

11.1.1 Each Member (other than the Managing Member and its Subsidiaries) shall be entitled to cause the Company to redeem (a "***Redemption***") its Common Units in whole or in part (the "***Redemption Right***") at any time and from time to time and, to the extent applicable to such Member, following the waiver or expiration of the Lock-Up Period (as defined in the Stockholders' Agreement), relating to the shares of the

Managing Member that may be applicable to such Member. A Member desiring to exercise its Redemption Right (each, a "***Redeeming Member***") shall exercise such right by giving written notice (the "***Redemption Notice***") to the Company with copies to the Managing Member. The Redemption Notice shall specify the number of Common Units (the "***Redeemed Units***") that the Redeeming Member intends to have the Company redeem and a date, not less than three (3) business days nor more than ten (10) business days after delivery of such Redemption Notice (unless and to the extent that the Managing Member in its sole discretion agrees in writing to waive such time periods), on which exercise of the Redemption Right shall be completed (the "***Redemption Date***"); *provided*, *however*, that the Company, the Managing Member and the Redeeming Member may change the number of Redeemed Units and/or the Redemption Date specified in such Redemption Notice to another number and/or date by mutual agreement signed in writing by each of them; *provided further, however*, that the Redemption may be conditioned (including as to timing) by the Redeeming Member on the closing of an underwritten distribution of the shares of Class A Common Stock that may be issued in connection with such proposed Redemption. Subject to Section 11.3 and unless the Redeeming Member has revoked or delayed a Redemption as provided inSection 11.1.2, on the Redemption Date (to be effective immediately prior to the close of business on the Redemption Date):

11.1.1.1 the Redeeming Member shall Transfer and surrender, free and clear of all liens and encumbrances the Redeemed Units to the Company (including any certificates representing the Redeemed Units if they are certificated); and

11.1.1.2 the Company shall (a) cancel the Redeemed Units, (b) in consideration for the surrender of the Redeemed Units, at the option of the Managing Member, either (i) transfer the Share Settlement to the Redeeming Member or (ii) pay the Cash Settlement to the Redeeming Member, and (c) if the Units are certificated, issue to the Redeeming Member a certificate for a number of Common Units equal to the difference (if any) between the number of Common Units evidenced by the certificate surrendered by the Redeeming Member pursuant Section 11.1.1 and the Redeemed Units.

11.1.2 A Redeeming Member shall be entitled to revoke its Redemption Notice or delay the consummation of a Redemption if any of the following conditions exists:

11.1.2.1 any registration statement pursuant to which the resale of the Class A Common Stock to be registered for such Redeeming Member at or immediately following the consummation of the Redemption shall have ceased to be effective pursuant to any action or inaction by the Securities Exchange Commission or no such resale registration statement has yet become effective;

11.1.2.2 the Managing Member shall have failed to cause any related prospectus to be supplemented by any required prospectus supplement necessary to effect such Redemption;

11.1.2.3 the Managing Member shall have exercised its right to defer, delay or suspend the filing or effectiveness of a registration statement and such deferral, delay or suspension shall affect the ability of such Redeeming Member to have its Class A Common Stock registered at or immediately following the consummation of the Redemption;

11.1.2.4 the Redeeming Member is in possession of any material non-public information concerning the Managing Member, the receipt of which results in such Redeeming Member being prohibited or restricted from selling Class A Common Stock at or immediately following the Redemption without disclosure of such information (and the Managing Member does not permit disclosure of such information);

11.1.2.5 any stop order relating to the registration statement pursuant to which the Class A Common Stock was to be registered by such Redeeming Member at or immediately following the Redemption shall have been issued by the Securities Exchange Commission;

11.1.2.6 there shall have occurred a material disruption in the securities markets generally or in the market or markets in which the Class A Common Stock is then traded;

11.1.2.7 there shall be in effect an injunction, a restraining order or a decree of any nature of any governmental authority that restrains or prohibits the Redemption;

11.1.2.8 the Managing Member shall have failed to comply in all material respects with its obligations under the Registration Rights Agreement, and such failure shall have affected the ability of such Redeeming Member to consummate the resale of Class A Common Stock to be received upon such Redemption pursuant to an effective registration statement; or

11.1.2.9 the Redemption Date would occur three (3) business days or less prior to, or during, a Black-out Period;

If a Redeeming Member delays the consummation of a Redemption pursuant to this Section 11.1.2, the Redemption Date shall occur on the fifth (5th) business day following the date on which the condition(s) giving rise to such delay cease to exist (or such other day as the Managing Member, the Company and such Redeeming Member may agree in writing).

11.1.3 The number of shares of Class A Common Stock (together with any Corresponding Rights) applicable to any Share Settlement shall not be adjusted on account of any distributions previously made with respect to the Redeemed Units or dividends previously paid with respect to Class A Common Stock; *provided, however*, that if a Redeeming Member causes the Company to redeem Redeemed Units and the Redemption Date occurs subsequent to the record date for any distribution with respect to the Redeemed Units but prior to payment of such distribution, the Redeeming Member shall be entitled to receive such distribution with respect to the Redeemed Units on the date that it is made notwithstanding that the Redeeming Member Transferred and surrendered the Redeemed Units to the Company prior to such date.

11.1.4 In the case of a Share Settlement, in the event a reclassification or other similar transaction occurs following delivery of a Redemption Notice, but prior to the Redemption Date, as a result of which shares of Class A Common Stock are converted into another security, then a Redeeming Member shall be entitled to receive the amount of such other security (and, if applicable, any Corresponding Rights) that the Redeeming Member would have received if such Redemption Right had been exercised and the Redemption Date had occurred immediately prior to the record date of such reclassification or other similar transaction.

11.1.5 Notwithstanding anything to the contrary contained herein, neither the Company nor the Managing Member shall be obligated to effectuate a Redemption if such Redemption could (as determined in the reasonable discretion of the Managing Member) cause the Company to be treated as a "publicly traded partnership" or to be taxed as a corporation pursuant to Section 7704 of the Code or successor provisions of the Code.

11.2 Contribution of the Managing Member. In the case of a Share Settlement, unless the Redeeming Member has timely revoked or delayed a Redemption as provided in Section 11.1.2, subject to Section 11.5, on the Redemption Date (to be effective immediately prior to the close of business on the Redemption Date) (a) the Managing Member shall make a Capital Contribution to the Company (in the form of the Share Settlement), and (b), the Company shall issue to the Managing Member a number of Common Units equal to the number of Redeemed Units surrendered by the Redeeming Member.

11.3 Direct Exchange Right of the Managing Member.

11.3.1 Notwithstanding anything to the contrary in this Article XI (without limitation to the rights of the Members under this Article XI, including the right to revoke a Redemption Notice), the Managing Member may, in its sole and absolute discretion, elect to effect on the Redemption Date the exchange of Redeemed Units for the Share Settlement or the Cash Settlement, as applicable, through a direct exchange of such Redeemed Units and the Share Settlement or the Cash Settlement, as applicable, between the Redeeming Member, on the one hand, and the Managing Member, on the other hand (a "***Direct Exchange***"), rather than contributing the Share Settlement or the Cash Settlement, as applicable, to the Company for purposes of the Company to redeem the Redeemed Units from the Redeeming Member in consideration of the Share Settlement or the Cash Settlement, as applicable. Upon such Direct Exchange pursuant to this Section 11.3, the Managing Member shall acquire the Redeemed Units and shall be treated for all purposes of this Agreement as the owner of such Units.

11.3.2 The Managing Member may, at any time prior to a Redemption Date, deliver written notice (an "***Exchange Election Notice***") to the Company and the Redeeming Member setting forth its election to exercise its right to consummate a Direct Exchange; *provided*, that such election is subject to the limitations set forth in Article XI and does not unreasonably prejudice the ability of the parties to consummate a Redemption or Direct Exchange on the Redemption Date. An Exchange Election Notice may be revoked by the Managing Member at any time; *provided*, that any such revocation does not unreasonably prejudice the ability of the parties to consummate a Redemption or Direct Exchange on the Redemption Date. The right to consummate a Direct Exchange in all events shall be exercisable for all of the Redeemed Units that would have otherwise been subject to a Redemption.

11.3.3 Except as otherwise provided by this Section 11.3, a Direct Exchange shall be consummated pursuant to the same timeframe as the relevant Redemption would have been consummated if the Managing Member had not delivered an Exchange Election Notice and as follows:

11.3.3.1 the Redeeming Member shall Transfer and surrender, free and clear of all liens and encumbrances, the Redeemed Units to the Managing Member;

11.3.3.2 in consideration for the Transfer and surrender of the Redeemed Units, the Managing Member shall, at its option, either (i) transfer the Share Settlement to the Redeeming Member or (ii) pay the Cash Settlement to the Redeeming Member; and

11.3.3.3 the Company shall (x) register the Managing Member as the owner of the Redeemed Units and (y) if the Units are certificated, issue to the Redeeming Member a certificate for a number of Common Units equal to the difference (if any) between the number of Common Units evidenced by the certificate surrendered by the Redeeming Member pursuant to this Section 11.3 and the Redeemed Units, and issue to the Managing Member a certificate for the number of Redeemed Units acquired from the Redeeming Member pursuant to this Section 11.3.

11.4 Reservation of Shares of Class A Common Stock; Listing; Certificate of Incorporation. At all times the Managing Member shall reserve and keep available out of its authorized but unissued Class A Common Stock, solely for the purpose of issuance upon a Share Settlement in connection with a Redemption, such number of shares of Class A Common Stock as shall be issuable upon any such Share Settlement pursuant to a Redemption; *provided* that nothing contained herein shall be construed to preclude the Managing Member from satisfying its obligations in respect of any such Share Settlement pursuant to a Redemption by delivery of purchased Class A Common Stock (which may or may not be held in the treasury of the Managing Member). Subject to the terms of the Registration Rights Agreement, the Managing Member shall deliver Class A Common Stock that has been registered under the Securities Act with respect to any Share Settlement pursuant to a Redemption to the extent a registration statement is effective and available with respect to such shares. The Managing Member shall use its commercially reasonable efforts to list the Class A Common Stock required to be delivered upon any such Share Settlement pursuant to a Redemption prior to such delivery upon each national securities exchange upon which the outstanding shares of Class A Common Stock are listed at the time of such Share Settlement pursuant to a Redemption (it being understood that any such shares may be subject to transfer restrictions under applicable securities laws). The Managing Member covenants that all shares of Class A Common Stock issued in connection with a Share Settlement pursuant to a Redemption shall, upon issuance, be validly issued, fully paid and non-assessable. The provisions of this Article XI shall be interpreted and applied in a manner consistent with any corresponding provisions of the Managing Member's certificate of incorporation (if any).

11.5 Effect of Exercise of Redemption. This Agreement shall continue notwithstanding the consummation of a Redemption by a Member and all rights set forth herein shall continue in effect with respect to the remaining Members and, to the extent the Redeeming Member has any remaining Common Units following such Redemption, the Redeeming Member. No Redemption shall relieve a Redeeming Member of any prior breach of this Agreement by such Redeeming Member.

11.6 Tax Treatment. Unless otherwise required by applicable law including a determination of an applicable taxing authority that is final, the parties hereto agree to treat any Redemption or Direct Exchange as a direct

exchange between the Managing Member and the Redeeming Member for U.S. federal and applicable state and local income tax purposes and each of the Company, the Managing Member and the applicable Redeeming Members and their respective Affiliates shall report any Redemption or Direct Exchange consistent therewith for all U.S. federal and applicable state and local income tax purposes unless otherwise required by applicable law including a determination of an applicable taxing authority that is final.

ARTICLE XII
DISSOLUTION

12.1 Dissolution.

12.1.1 The Company shall be dissolved and its affairs shall be wound up upon the occurrence of the first of any of the following events (a "***Dissolution Event***"): (a) if the Company's Articles of Organization are subsequently amended to provide for a definite period of duration for the Company's existence, the close of business on the last day of such period, (b) the written agreement of all the Members; or (c) dissolution required by operation of law. Notwithstanding any provision of the Act, the Company shall not dissolve prior to the occurrence of a Dissolution Event as set forth above.

12.1.2 Upon the dissolution of the Company, the business and affairs of the Company shall terminate and be wound up, and the assets of the Company shall be liquidated under this Article XII. Dissolution of the Company shall be effective as of the day on which the event occurs giving rise to the dissolution, but the Company shall not terminate until there has been a complete winding up and liquidation of the Company's business and affairs, and the assets of the Company have been distributed as provided in Section 12.3. Until such time, the Members shall continue to share Profits and Losses and other items required to be allocated under Article V in the same manner as before the dissolution of the Company. Upon dissolution of the Company, the Managing Member may cause any part or all of the assets of the Company to be sold in such manner as the Managing Member may determine in an effort to obtain the best prices for such assets; *provided*, *however*, that the Managing Member may, in its discretion, distribute assets of the Company in kind to the Members to the extent practicable.

12.1.3 Upon the dissolution of the Company, the Managing Member shall promptly notify each of the Members of such dissolution.

12.2 Articles of Dissolution. In connection with a Dissolution Event and the commencement of winding up of the Company, the Managing Member (or such other Person or Persons as the Act may require or permit) shall file Articles of Dissolution with the Secretary of State of the State of North Carolina as may be required under the Act. In addition, at that time or such other time or times as may be required in connection with the Company's dissolution and winding up, the Managing Member (or such other Person or Persons as may be responsible for the Company's liquidation) shall make any other filings, cancel any other filings that are required to, or should, be canceled, and take such other actions as may be necessary to wind up and liquidate the Company.

12.3 Liquidation Priorities. In settling accounts after dissolution of the Company, the assets of the Company shall be paid in the following order and priority:

(a) first, to the creditors of the Company, in the order of priority as provided by law, excluding to Members with respect to their Units or Capital Contributions, but including Members on account of any loans made to, or other debts owed to them by, the Company;

(b) next, to the establishment of such reserves for contingent liabilities and costs of liquidation as the Managing Member may reasonably determine; and

(c) the balance, if any, to the Members, after giving effect to all contributions, distributions and allocations for all periods, in accordance with Section 6.1.

Distributions upon liquidation of the Company (or any Member's Ownership Interest in the Company) and related adjustments shall be made by the end of the taxable year of the liquidation (or, if later, within ninety (90) days after the date of such liquidation) or at such other time as may be permitted by the Treasury Regulations.

12.4 Winding Up. A reasonable time shall be allowed for the orderly winding up of the business and affairs of the Company and the liquidation of its assets pursuant to Section 12.3 in order to minimize any losses otherwise attendant upon such winding up and liquidation. The Company must set aside adequate reserves to discharge all costs, expenses, and liabilities theretofore incurred or for which the Company has committed prior to the date of termination so that all distributions in kind to Members shall be free and clear of such costs, expenses, and liabilities. The distribution of cash and/or property to a Member in accordance with the provisions of Section 12.3 constitutes a complete return to the Members of their Capital Contributions and a complete distribution to the Members of and with respect to their Ownership Interest and all the Company's property. To the extent that a Member returns funds to the Company, such Member has no claim against any other Member for those funds.

12.5 Claims of the Members. Members and former Members shall look solely to the Company's assets for the return of their Capital Contributions, and if the assets of the Company remaining after payment of or due provision for all debts, liabilities and obligations of the Company are insufficient to return such Capital Contributions, the Members and former Members shall have no recourse against the Company or any other Member.

12.6 No Deficit Restoration Obligation. Notwithstanding anything to the contrary in this Agreement, upon a liquidation within the meaning of Treasury Regulations section 1.704-1(b)(2)(ii)(g), if any Member has a Adjusted Capital Account Deficit (after giving effect to all contributions, distributions, allocations, and other Capital Account adjustments for all fiscal years, including the fiscal year in which the liquidation occurs), such Member shall not have any obligation to make any Capital Contribution to the Company, and the negative balance of such Member's Capital Account shall not be considered a debt owed by such Member to the Company or to any other Person for any purpose whatsoever.

ARTICLE XIII
PROCEDURES FOR ACTIONS AND CONSENTS OF MEMBERS

13.1 Procedures for Actions and Consents of Members. The actions requiring Consent of any Member or Members pursuant to this Agreement, including Section 3.6 hereof, or otherwise pursuant to applicable law, are subject to the procedures set forth in thisArticle XIII.

13.2 Actions and Consents of Members.

13.2.1 Meetings of the Members may be called only by the Managing Member to transact any business that the Managing Member determines. The call shall state the nature of the business to be transacted. Notice of any such meeting shall be given to all Members entitled to act at the meeting not less than ten (10) days nor more than sixty (60) days prior to the date of such meeting. Members may vote in person or by proxy at such meeting. Unless approval by a different number or proportion of the Members is required by this Agreement, the affirmative vote of Members holding a majority of the outstanding Units held by the Members entitled to act on any proposal shall be sufficient to approve such proposal at a meeting of the Members. Whenever the vote, consent or approval of Members is permitted or required under this Agreement, such vote, consent or approval may be given at a meeting of Members by written Consent in accordance with the procedure prescribed in Section 13.2.2 hereof.

13.2.2 Any action requiring the Consent of any Member or group of Members pursuant to this Agreement or that is required or permitted to be taken at a meeting of the Members may be taken without a

meeting if a consent in writing or by electronic transmission setting forth the action so taken or consented to is given by Members whose affirmative vote would be sufficient to approve such action or provide such Consent at a meeting of the Members. Such consent may be in one instrument or in several instruments, and shall have the same force and effect as the affirmative vote of such Members at a meeting of the Members. Such consent shall be filed with the Managing Member. An action so taken shall be deemed to have been taken at a meeting held on the effective date so specified by the Managing Member. For purposes of obtaining a Consent in writing or by electronic transmission, the Managing Member may require a response within a reasonable specified time, but not less than fifteen (15) days, and failure to respond in such time period shall constitute a Consent to the Managing Member's recommendation with respect to the proposal; *provided*, *however*, that an action shall become effective at such time as requisite Consents are received even if prior to such specified time.

13.2.3 Each Member entitled to act at a meeting of the Members may authorize any Person or Persons to act for it by proxy on all matters in which a Member is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. Each proxy must be signed by the Member or its attorney-in-fact. Every proxy shall be revocable in the discretion of the Member executing it, such revocation to be effective upon the Company's receipt of written notice of such revocation from the Member executing such proxy, unless such proxy states that it is irrevocable and is coupled with an interest.

13.2.4 The Managing Member may set, in advance, a record date for the purpose of determining the Members (a) entitled to Consent to any action, (b) entitled to receive notice of or vote at any meeting of the Members, or (c) in order to make a determination of Members for any other proper purpose. Such date, in any case, shall not be prior to the close of business on the day the record date is fixed and shall be not more than ninety (90) days and, in the case of a meeting of the Members, not less than five (5) days, before the date on which the meeting is to be held or Consent is to be given. If no record date is fixed, the record date for the determination of Members entitled to notice of or to vote at a meeting of the Members shall be at the close of business on the day on which the notice of the meeting is sent, and the record date for any other determination of Members shall be the effective date of such Member action, distribution or other event. When a determination of the Members entitled to vote at any meeting of the Members has been made as provided in this section, such determination shall apply to any adjournment at such meeting.

13.2.5 Each meeting of Members shall be conducted by the Managing Member or such other Person as the Managing Member may appoint pursuant to such rules for the conduct of the meeting as the Managing Member or such other Person deems appropriate in its sole and absolute discretion. Without limitation of the foregoing, meetings of Members may be held at the same time as and as part of, and conducted in the same manner as, the meetings of the Managing Member's stockholders.

ARTICLE XIV
MISCELLANEOUS

14.1 Notices. All notices provided for in this Agreement shall be in writing, duly signed by the party giving such notice, addressed as follows:

(a) If given to the Company, to the Managing Member at the address for such Member set forth on Exhibit A; and

(b) If given to any Member or any of such Member's members or shareholders, at its address set forth on Exhibit A.

All notices required or permitted by this Agreement shall be given by overnight first-class mail, postage prepaid, sent by commercial overnight courier service or by electronic mail (with a subject indicating that it is a notice pursuant to this Agreement). Any such notice shall be deemed to have been duly given or made and to have become legally effective, in each case, only at the time of receipt thereof by both the primary Person to whom it is directed and each Person to whom a copy is required to be sent in

accordance with Exhibit A. Any provision in this Agreement referring to the "giving" or "delivery" of a notice shall be construed in accordance with the preceding sentence.

14.2 Waiver. No consent or waiver, express or implied, by the Company, the Managing Member, or any Member to or for any breach or default by the Company, the Managing Member, or any Member in the performance by the Company, Managing Member, or such Member of his, her, or its obligations under this Agreement may be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by the Company, the Managing Member, or such Member of the same or any other obligations of the Company, the Managing Member, or such Member under this Agreement. Failure on the part of the Company, Managing Member, or any Member to complain of any act or failure to act of the Company, any Manager, or any Members or to declare the Company, any Manager, or any Members in default, regardless of how long such failure continues, shall not constitute a waiver by the Company, a Manager, or such Member of his, her, or its rights hereunder.

14.3 Cumulative Remedies. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

14.4 Binding Effect. Subject to other applicable provisions of this Agreement, this Agreement shall be binding upon and inure to the benefit of the parties and, to the extent permitted by this Agreement, their successors, heirs, legal representatives and assigns. Whenever any provision of this Agreement refers to a Member, such provision shall be deemed to refer also to any Transferee of an Ownership Interest of such Member, subject to other applicable provisions of this Agreement.

14.5 Interpretation. All references to "this Agreement" include the exhibits, schedules, and appendixes hereto. Throughout this Agreement, nouns, pronouns and verbs shall be construed as masculine, feminine, neuter, singular or plural, whichever shall be applicable. All references herein to Sections, subsections, paragraphs or clauses, or to exhibits, schedules or appendixes, shall refer to corresponding provisions of this Agreement. Use of the word "including" shall mean "including without limitation," unless otherwise stated.

14.6 Severability. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted. Each provision of this Agreement is intended to be severable. If any term or provision of this Agreement or the application thereof to any Person or circumstance is held to be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other Persons or circumstances shall not be affected thereby, and the intent of this Agreement shall be enforced to the greatest extent permitted by law.

14.7 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, 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.

14.8 Integration. This Agreement and all Exhibits hereto, together with all other agreements that shall become effective on the Effective Date, constitute the entire agreement among the parties hereto pertaining to the subject matter hereof and shall supersede all prior agreements and understanding pertaining hereto.

14.9 Amendments. Except as otherwise specifically provided in this Agreement, this Agreement may be amended, supplemented, waived or modified in whole or in part only by the written consent of all the Members (with the Managing Member acting with the approval of a majority of the disinterested directors of its Board of Directors).

14.10 Headings. The headings and subheadings in this Agreement are included for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

14.11 Governing Law. The substantive laws of the State of North Carolina govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of North Carolina or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of North Carolina.

14.12 Consent to Jurisdiction. Each party to this Agreement hereby irrevocably submits to the exclusive jurisdiction of any state or federal court sitting in the State of Delaware in any action or proceeding arising out of or relating to this Agreement, and each party hereby irrevocably agrees that all claims asserted in such action or proceeding shall be heard and determined in any such court. Each party further irrevocably waives any objection which such party may now or hereafter have to the venue of the state or federal court in the State of Delaware having jurisdiction, and irrevocably agrees not to assert that such court is an inconvenient forum.

14.13 Creditors. None of the provisions of this Agreement are for the benefit of or may be enforceable by any creditors of the Company or of any of its Affiliates, and no creditor that makes a loan to the Company or any of its Affiliates may have or acquire (except pursuant to the terms of a separate agreement executed by the Company in favor of such creditor) at any time, as a result of making the loan, any direct or indirect interest in Company profits, losses, gains, distributions, capital, or property other than as a secured creditor or unsecured creditor, as the case may be.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered in such form as to be binding as of the date first above written.

COMPANY:

LGM ENTERPRISES, LLC,
a North Carolina limited liability company

By: /s/ Thomas James Segrave, Jr.
Name Thomas James Segrave, Jr.
Title: Chief Executive Officer

MANAGING MEMBER:

EG ACQUISITION CORP.,
a Delaware corporation

By: /s/ Gregg Hymowitz
Name Gregg Hymowitz
Title: Chief Executive Officer

[Signature Page to Amended and Restated Operating Agreement]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered in such form as to be binding as of the date first above written.

MEMBERS:

/s/ Thomas James Segrave, Jr.
Thomas James Segrave, Jr.

/s/ Thomas James Segrave, Jr., as Custodian for Laura Grace Segrave
Thomas James Segrave, Jr. as Custodian for Laura Grace Segrave

/s/ Thomas James Segrave, Jr., as Custodian for Madison Lee Segrave
Thomas James Segrave, Jr. as Custodian for Madison Lee Segrave

/s/ Thomas James Segrave, Jr., as Custodian for Lillian May Segrave
Thomas James Segrave, Jr. as Custodian for Lillian May Segrave

/s/ Thomas James Segrave, Jr., as Custodian for Thomas James Segrave, III
Thomas James Segrave, Jr. as Custodian for Thomas James Segrave, III

[Signature Page to Amended and Restated Operating Agreement]

EXHIBIT A
NAMES AND ADDRESSES OF THE MEMBERS

If to the Company or the Managing Member:
2860 Jetport Road, Kinston, North Carolina 28504

If to the Members:

1. Member: Thomas James Segrave, Jr.
   Address: 2860 Jetport Road, Kinston, North Carolina 28504
2. Member: Thomas James Segrave, Jr., as Custodian for Laura Grace Segrave
   Address: 2860 Jetport Road, Kinston, North Carolina 28504
3. Member: Thomas James Segrave, Jr., as Custodian for Madison Lee Segrave
   Address: 2860 Jetport Road, Kinston, North Carolina 28504
4. Member: Thomas James Segrave, Jr., as Custodian for Lillian May Segrave
   Address: 2860 Jetport Road, Kinston, North Carolina 28504
5. Member: Thomas James Segrave, Jr., as Custodian for Thomas James Segrave III
   Address: 2860 Jetport Road, Kinston, North Carolina 28504

MEMBER SCHEDULE

Member	Common Units
Thomas James Segrave, Jr.	57,530,000
Thomas James Segrave, Jr., as Custodian for Laura Grace Segrave	600,000
Thomas James Segrave, Jr., as Custodian for Madison Lee Segrave	600,000
Thomas James Segrave, Jr., as Custodian for Lillian May Segrave	600,000
Thomas James Segrave, Jr., as Custodian for Thomas James Segrave III	600,000
EG Acquisition Corp.	16,924,976

CERTAIN INFORMATION IDENTIFIED WITH THE MARK "(***)" HAS BEEN EXCLUDED FROM THIS EXHIBIT BECAUSE SUCH INFORMATION IS BOTH (I) NOT MATERIAL AND (II) WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.

Exhibit 10.6

Execution Version

SENIOR SECURED NOTE

This Senior Secured Note (this "***Note***") is entered into as of December 1, 2023 (the "***Closing Date***") by and among LGM Enterprises, LLC, a North Carolina limited liability company (the "***Borrower***"), FlyExclusive Jet Share, LLC, a North Carolina limited liability company ("***Jet Share***"), as a guarantor (in such capacity, the "***Guarantor***" and, together with the Borrower, the "***Obligors***"), ETG FE LLC, a Delaware limited liability company or its registered assigns, as the initial holder of this Note (in such capacity, the "***Initial Noteholder***"), any Noteholders party hereto from time to time, Kroll Agency Services Limited, a company incorporated under the laws of England and Wales, as administrative agent (in such capacity, the "***Administrative Agent***") and Kroll Trustee Services Limited, a company incorporated under the laws of England and Wales, as collateral agent (in such capacity, the "***Collateral Agent***" and, together with the Administrative Agent, each an "***Agent***" and collectively, the "***Agents***").

FOR VALUE RECEIVED, and subject to the terms and conditions set forth herein, the Borrower hereby unconditionally promises to pay, to the Noteholders, the initial principal amount of $15,714,286 and any applicable interest and as may be decreased by any applicable prepayment of principal (such principal amount at any time outstanding, as so increased or decreased from time to time, the "***Outstanding Principal Amount***"), together with all accrued and unpaid interest thereon as provided in this Note.

1. **DEFINITIONS; INTERPRETATION**.

1.1 Definitions. Capitalized terms used herein shall have the meanings set forth in **Annex A** attached hereto.

1.2 Interpretation. For purposes of this Note (a) the words "include," "includes," and "including" shall be deemed to be followed by the words "without limitation;" (b) the word "or" is not exclusive; (c) the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to this Note as a whole; (d) the Borrower or Jet Share will be deemed to have "knowledge" of a particular fact or matter if any board member, officer or key employee of any Obligor or any Subsidiary has actual knowledge of such fact or matter or could have acquired actual knowledge of such fact or matter in the ordinary course of performance of such Person's duties in such role or after reasonable investigation with respect to such fact or matter, and (e) unless otherwise expressly provided, references to agreements and other contractual instruments shall be deemed to include all subsequent amendments, restatements and other modifications thereto, but only to the extent such amendments, restatements and other modifications are entered into in accordance with any applicable restrictions set forth in this Note. The definitions given for any defined terms in this Note shall apply equally to both the singular and plural forms of the terms defined. Unless the context otherwise requires, references herein to Schedules, Exhibits, and Sections mean the Schedules, Exhibits, and Sections of this Note. This Note shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

2. **COLLATERAL**. The payment and performance of the Secured Obligations are secured on a first lien basis (except for Permitted Liens) by the "Pledged Collateral" (as defined in the Pledge Agreement) and the "Mortgage Collateral" (as defined in each Aircraft Mortgage) (collectively, the "***Collateral***").

3. **PAYMENTS OF PRINCIPAL; FEES**.

3.1 Payment at Maturity. The aggregate Outstanding Principal Amount, all accrued and unpaid interest, and all other Secured Obligations, including accrued and unpaid fees and expenses, payable under this Note shall be due and payable on the Maturity Date. No amount repaid or prepaid under this Note may be reborrowed.

3.2 Voluntary Prepayments. Subject to **Section 3.4**, the Borrower may voluntarily prepay the Secured Obligations in full or in part by providing ten (10) days' prior written notice to the Administrative Agent and the Noteholders. Such amounts voluntarily prepaid are to be distributed by the Administrative Agent to the Noteholders in accordance with **Section 5.1**. Any voluntary prepayment pursuant to this **Section 3.2** shall be subject a Make-Whole Fee (as defined below) to be paid to Administrative Agent (for the account of the Noteholders on a pro rata basis to their outstanding Loans). Partial prepayments shall be made in minimum amounts of $1,000,000 or a multiple of that amount.

3.3 Mandatory Prepayments. Following the occurrence of any Prepayment Event, at the option of the Majority Noteholders exercisable at any time after such Prepayment Event, the Borrower shall prepay the Outstanding Principal Amount of the Loan, all accrued and unpaid interest, and all other amounts in cash such that Payment in Full shall have occurred with respect to the Secured Obligations. Notwithstanding the foregoing, following the occurrence of a Prepayment Event, the Secured Obligations shall continue to accrue interest pursuant to **Section 4** until Payment in Full.

3.4 Make-Whole Fee. If the Borrower makes any voluntary prepayment prior to the Maturity Date, the Borrower shall pay to the Administrative Agent (for the account of the Noteholders on a pro rata basis to their outstanding Loans) a non-refundable make-whole fee (the "***Make-Whole Fee***") on the date of such prepayment (the "***Make-Whole Date***") calculated as follows:

E = X*(YZ/360)

where:

E: means the Make-Whole Fee payable pursuant to this **Section 3.4**.

X: means the Outstanding Principal Amount of the Loans being prepaid as of the Make-Whole Date.

Y: means the number of days during the period commencing on the applicable Make-Whole Date and ending on the date that the Maturity Date.

Z: means the interest rate applicable to the Loans on the Make-Whole Date.

3.5 Back End Fee. On the date that Payment in Full occurs (whether on the Maturity Date, by acceleration or otherwise) (such date, as used in this **Section 3.5**, the "***Back End Date***"), the Borrower shall pay to the Administrative Agent (for the account of the Noteholders in accordance with their Pro Rata Shares) a non-refundable back end fee in an amount equal to one percent (1.00%) of the initial Outstanding Principal Amount of the Loans funded on the Closing Date (the "***Back End Fee***"). Such Back End Fee shall be fully earned, and shall be due and payable in full on cash on the Back End Date.

4. **INTEREST**.

4.1 Interest Rate. The Outstanding Principal Amount shall accrue interest daily at the Applicable Rate, subject to**Section 4.3**.

4.2 Interest Payments. All accrued and unpaid interest shall be due and payable in arrears (a) on the last day of each calendar month, commencing with the last day of the first calendar month following the Closing Date and continuing until Payment in Full occurs in accordance with the terms of this Note and (b) on the date on which Payment in Full occurs (each such day, subject to **Section 5.3**, a "***Payment Date***").

4.3 Default Interest. At any time after the occurrence of an Event of Default, all outstanding Secured Obligations under this Note shall thereafter bear interest at the Default Rate.

4.4 Computation of Interest. All computations of interest shall be made on the basis of three-hundred sixty (360) days, unless such interest shall exceed the Highest Lawful Rate, in which case interest shall be computed on the basis of a year of three-hundred sixty five (365) or three- hundred sixty six (366) days, as the case may be, and the actual number of days elapsed. Interest shall accrue on the Outstanding Principal Amount of the Loan on the day on which the Loan is made, and shall not accrue on the Outstanding Principal Amount of the Loan for the day that Payment in Full occurs.

4.5 Interest Rate Limitation. If at any time and for any reason whatsoever, the interest rate payable on the Loan shall exceed the maximum rate of interest permitted to be charged by the Noteholders to the Borrower under applicable Law, such interest rate shall be reduced automatically to the maximum rate of interest permitted to be charged under applicable Law.

5. **PAYMENT MECHANICS**.

5.1 Manner of Payments. All cash payments of interest and principal shall be made in lawful money of the United States of America no later than 11:00 AM, New York time on the applicable Payment Date by wire transfer of immediately available funds to the account of the Administrative Agent specified on the Administrative Agent's signature page or such other account as is specified by the Administrative Agent in writing to the Borrower from time to time. Promptly following receipt thereof, the Administrative Agent shall distribute any such payments received by it to the account of each Noteholder specified on such Noteholder's signature page or such other account as is specified by such Noteholder in writing to the Administrative Agent from time to time.

5.2 Application of Payments. All payments made under this Note shall be applied *first* to the payment of any fees, expenses, and reimbursements of the Administrative Agent outstanding hereunder or under the Note Documents, *second* to the payment of any fees, expenses and reimbursement of the Noteholders outstanding hereunder on a pro rata basis, *third* to accrued and unpaid interest under the Note on a pro rata basis, and *fourth* to the payment of the Outstanding Principal Amount under the Note on a pro rata basis.

5.3 Business Day Convention. Whenever any payment to be made hereunder shall be due on a day that is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension will be taken into account in calculating the amount of interest payable under this Note.

5.4 Rescission of Payments. If at any time any payment made by the Borrower under this Note is rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, or reorganization of the Borrower or otherwise, the Borrower's obligation to make such payment shall be reinstated as though such payment had not been made.

5.5 Pro Rata Sharing. If any Noteholder shall obtain any payment or other recovery (whether voluntary, mandatory, involuntary, by application of set-off or otherwise) on account of principal of or interest on the Note in excess of such Noteholder's Pro Rata Share prior to giving effect to such payment or recovery, then such Noteholder shall purchase from the other Noteholders such participations in the principal and interest Secured Obligations on the Note owed to them as shall be necessary to cause such purchasing Noteholder to share the excess payment or other recovery ratably with each of them; provided that if all or any portion of the excess payment or other recovery is thereafter recovered from such purchasing Noteholder, the purchase shall be rescinded and the purchase price restored to the extent of such recovery.

5.6 Taxes.

(a) Applicable Law. For purposes of this **Section 5.6**, the term "applicable law" includes FATCA.

(b) Payments Free of Taxes. Any and all payments by or on account of any obligation of any Obligor hereunder or under any other Note Document shall be made free and clear of and without deduction or withholding for any Taxes except as required by applicable law. If any Obligor, the Personal Guarantor or the Administrative Agent is required by applicable law to deduct or withhold any Taxes from such payments, then the applicable Obligor, the Personal Guarantor, or the Administrative Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the amount payable by the such Obligor, the Personal Guarantor or the Administrative Agent shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional amounts payable under this **Section 5.6**), the applicable Noteholder receives an amount equal to the amount it would have received had no such deduction or withholding been made.

(c) Payment of Other Taxes by Borrower. Without limiting the provisions of **clause (a)** above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable Law.

(d) Indemnification by Borrower. Without duplication of any amounts required to be paid in **Section 5.6(b)**, the Borrower shall indemnify the Noteholder, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this **Section 5.6**) paid or payable by the Noteholder, or required to be withheld or deducted from a payment to or for the benefit of the Noteholder and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by the Noteholder shall be conclusive absent manifest error.

(e) Evidence of Payments. As soon as practicable after any payment of Taxes by any Obligor or the Personal Guarantor, as the case may be, to a Governmental Authority pursuant to this **Section 5.6**, the applicable Obligor or Personal Guarantor shall deliver to the Noteholder the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the relevant return reporting such payment or other evidence of such payment reasonably satisfactory to the Noteholder.

(f) Treatment of Certain Refunds. If the Noteholder determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this **Section 5.6** (including by the payment of additional amounts pursuant to this **Section 5.6**), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this **Section 5.6** with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of the Noteholder and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of the Noteholder, shall repay to the Noteholder the amount paid over pursuant to this **clause (f)** (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that the Noteholder is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this **clause (f)**, in no event will the Noteholder be required to pay any amount to an indemnifying party pursuant to this **clause (f)** the payment of which would place the Noteholder in a less favorable net after-Tax position than the Noteholder would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This **clause (f)** shall not be construed to require the Noteholder to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person or take other actions that, in the reasonable judgment of the Noteholder, would be adverse to its commercial interests.

(g) Increased Costs. If any Change in Law shall subject the Noteholder to any Taxes (other than (1) Indemnified Taxes, (2) Taxes described in **clause (b)** of the definition of Excluded Taxes, and (3) Connection Income Taxes) on this Note or any principal, interest or other obligations, or reserves or other liabilities, relating to or arising under any Note Document, and the result of any of the foregoing shall be to increase the cost or expense to such Noteholder of

making, converting to, continuing, or maintaining any Note, or to reduce the amount of any sum received or receivable by such Noteholder hereunder or under any Note Document (whether of principal, interest or any other amount), then, upon the request of such Noteholder, the Borrower will pay to such Noteholder within ten (10) days after Noteholder's request such additional amount or amounts as will compensate such Noteholder (in whole) for such additional costs incurred or reductions suffered.

(h) Status of Noteholders. Any Noteholder that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Note Document shall deliver to the Borrower, at the time or times reasonably requested by the Borrower, such properly completed and executed documentation reasonably requested by the Borrower as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Noteholder, if reasonably requested by the Borrower, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower as will enable the Borrower to determine whether or not such Noteholder is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in **clause (h)(i)**, **clause (h)(ii)**, and **clause (h)(iv)** of this **Section 5.6** as applicable) shall not be required if in the Noteholder's reasonable judgment such completion, execution or submission would subject such Noteholder to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Noteholder. Without limiting the generality of the foregoing:

(i) any Noteholder that is a U.S. Person shall deliver to the Borrower on or about the date on which such Noteholder becomes a Noteholder under this Note (and from time to time thereafter upon the reasonable request of the Borrower), executed copies of IRS Form W-9 certifying that such Noteholder is exempt from U.S. federal backup withholding tax;

(ii) any Foreign Noteholder shall, to the extent it is legally entitled to do so, deliver to the Borrower (in such number of copies as shall be requested by the recipient) on or about the date on which such Foreign Noteholder becomes a Noteholder under this Note (and from time to time thereafter upon the reasonable request of the Borrower), whichever of the following is applicable:

(A) in the case of a Foreign Noteholder claiming the benefits of an income Tax treaty to which the United States is a party (x) with respect to payments of interest under any Note Document, executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Note Document, IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(B) executed copies of IRS Form W-8ECI;

(C) in the case of a Foreign Noteholder claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of **Exhibit B-1** to the effect that such Foreign Noteholder is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, or a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code (a "***U.S. Tax Compliance Certificate***") and (y) executed copies of IRS Form W-8BEN or IRS Form W 8BEN-E; or

(D) to the extent a Foreign Noteholder is not the beneficial owner, executed copies of IRS FormW-8IMY, accompanied by IRS Form W-8ECI, IRS Form W- 8BEN, IRS Form W 8BEN-E, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Noteholder is a partnership and one or more direct or indirect partners of such Foreign Noteholder are claiming the portfolio interest exemption, such Foreign Noteholder may provide a U.S. Tax Compliance Certificate substantially in the form of **Exhibit B-2** on behalf of each such direct and indirect partner;

(iii) any Foreign Noteholder shall, to the extent it is legally entitled to do so, deliver to the Borrower (in such number of copies as shall be requested by the recipient) on or about the date on which such Foreign Noteholder becomes a Noteholder under this Note (and from time to time thereafter upon the reasonable request of the Borrower), executed copies of any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Law to permit the Borrower to determine the withholding or deduction required to be made; and

(iv) if a payment made to a Noteholder under any Note Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Noteholder were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or Section 1472(b) of the Code, as applicable), such Noteholder shall deliver to the Borrower at the time or times prescribed by law and at such time or times reasonably requested by the Borrower such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower as may be necessary for the Borrower to comply with their obligations under FATCA and to determine that such Noteholder has complied with such Noteholder's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment.

(i) The Parties agree that this Note will be issued with original issue discount for U.S. federal income tax purposes. The Parties further agree that (a) the Loans shall be treated as indebtedness and (b) the Loans shall not be treated as a contingent payment debt instrument within the meaning of Section 1.1275-4 of the Treasury Regulations. None of the Parties will, except as required by applicable Law, file any tax return on a basis inconsistent with, or take any position in any tax audit or other proceeding inconsistent with, such treatment or allocation described in this **Section 5.6(i)**.

(j) Each Party's obligations under this **Section 5.6** shall survive any assignment of rights by, or the replacement of, the Noteholder, the termination of this Note and the repayment, satisfaction or discharge of all obligations under this Note or any other Note Document.

6. **CONDITIONS PRECEDENT AND CONDITION SUBSEQUENT**. The obligations of the Initial Noteholder to purchase this Note and pay the respective purchase price therefor on the Closing Date are subject to the satisfaction of the following conditions:

6.1 Conditions Precedent. On or prior to the Closing Date, the Noteholders, the Administrative Agent or the Collateral Agent, as the case may be, shall have received the following:

(a) Note Documents. The Noteholders and the Agents shall have received a duly executed copy of each applicable Note Document required to be delivered by the Obligors and the Personal Guarantor on the Closing Date, in each case, in form and substance satisfactory to the Majority Noteholders, together with any other documents reasonably requested by the Majority Noteholders. In connection with the execution and delivery of the Security Instruments delivered by the Obligors on the Closing Date, the Majority Noteholders and the Collateral Agent shall (a) be reasonably satisfied that the Security Instruments will, upon recording, create first priority, perfected Liens on the Collateral (except for Permitted Liens and Liens on the Post Closing Aircraft (as defined below)) and (b) have received certificates, together with undated, blank stock powers for each such certificate, representing one-hundred percent (100%) of the issued and outstanding Equity Interests of Jet Share, to the extent such Equity Interests are certificated.

(b) Textron Purchase Agreement. The Textron Purchase Agreement and all other material agreements delivered in connection therewith shall each be in form and substance satisfactory to the Majority Noteholders and shall each have been executed on or prior to the Closing Date and delivered to the Noteholders and be in full force and effect in accordance with their respective terms. No provision thereof shall have been modified or waived in any respect determined by the Majority Noteholders to be material, in each case, without the consent of the Majority Noteholders. The Borrower shall have delivered to the Administrative Agent (a) a copy of the bill of sale in respect of the Closing Date Aircraft conveying good and marketable title to the Borrower, (b) evidence of technical acceptance of such Aircraft by the Borrower and (c) a certificate of airworthiness of such Aircraft.

(c) Security Instruments. The Noteholders and the Collateral Agent shall have received a duly executed copy of the Pledge Agreement and the Aircraft Mortgage in respect of the Closing Date Aircraft, in each case, in form and substance satisfactory to the Majority Noteholders, together with any other documents reasonably requested by the Majority Noteholders. The Collateral Agent shall be reasonably satisfied that any such Aircraft Mortgage will, upon recording with the FAA and in the International Registry, create a first priority, perfected Lien on such Aircraft.

(d) Corporate Existence; Authority. The Noteholders shall have received a certificate of the Obligors, dated the Closing Date and executed by the Obligors, which certificate shall (a) certify that attached thereto is a true and complete copy of the resolutions or written consents of the managers, members or other governing body (including any committee thereof) of each Obligor authorizing the execution, delivery and performance of the Note Documents to which it is a party, and that such resolutions or written consents have not been modified, rescinded or amended and are in full force and effect, (b) identify by name and title and bear the signatures of

the authorized officer or authorized signatory of each Obligor authorized to sign the Note Documents to which it is a party, (c) certify that attached thereto is a true and complete copy of (x) the certificate of organization or certificate of incorporation of each Obligor certified by the relevant authority of the jurisdiction of organization of such Obligor and (y) a true and correct copy of its bylaws, limited liability company agreement, partnership agreement or other governing document of such Obligor and that such documents or agreements have not been further amended and (d) a certificate dated as of a recent date from the relevant authority of the jurisdiction of organization of each Obligor, evidencing the good standing of such Obligor.

(e) Senior Lender Consent. The Noteholders shall have received a consent and/or amendment satisfactory to the Majority Noteholders from the Senior Lender consenting to, among other things, the issuance of this Note and the transactions contemplated hereby.

(f) Third Party Consents and Approvals. The Noteholders shall have received satisfactory evidence that each Obligor has obtained all required consents and approvals of all Persons to its execution, delivery and performance of the Note Documents to which it is a party and the consummation of the transactions contemplated hereby or thereby.

(g) Due Diligence. The Majority Noteholders shall have completed, to their satisfaction, all legal, tax, environmental, business and other due diligence with respect to the business, assets, liabilities, operations and condition (financial or otherwise) (including review of any Material Agreements) of the Obligors in scope and determination satisfactory to the Majority Noteholders and, other than changes occurring in the ordinary course of business, no information or materials are or should have been available to such Obligor as of the Closing Date that have not been disclosed to the Majority Noteholders and are otherwise materially inconsistent with the material previously provided to the Majority Noteholders for their due diligence review of the Obligors.

(h) Textron Payoff and Lien Release. The Collateral Agent and the Noteholders shall have received evidence reasonably satisfactory to the Majority Noteholders evidencing that the Textron Debt evidenced by the Textron Note will be paid in full and terminated and the Liens securing the obligations thereunder will be released substantially contemporaneously with the effectiveness of this Note and the incurrence of the Loans hereunder.

(i) Lien Searches. (a) The Collateral Agent and the Noteholders shall have received (i) appropriate UCC, FAA and International Registry search results reflecting no prior Liens encumbering the Collateral (other than the Post Closing Aircraft), other than those being assigned or released on or prior to the Closing Date, if any, or Liens permitted hereunder and (ii) evidence satisfactory to the Majority Noteholders (including mortgage releases and UCC-3 financing statement terminations, if so required) that all Liens (other than Liens permitted hereunder) associated with the limited liability company membership interest of Jet Share or encumbering the Collateral have been released or terminated, subject only to the funding of the Loans on the Closing Date hereunder and the filing of applicable terminations and releases and (b) the Borrower shall have, or shall have caused to be (i) filed the UCC-1 financing statement in the appropriate filing office, (ii) filed the Aircraft Mortgage in respect of the Closing Date Aircraft with the FAA and (iii) registered the Lien created thereby on the International Registry.

(j) Legal Opinion. The Initial Noteholders, the Agents and their respective counsel shall have received an original executed copy of the written legal opinion of (a) Wyrick Robbins Yates & Ponton LLP, as counsel to the Obligors, as to due authorization of the Note and the other Note Documents by the Obligors, creation and perfection of the Liens created by the Security Instruments (other than any Aircraft Mortgage), no registration as an "investment company", margin regulations, customary corporate housekeeping matters, government approvals, no conflicts and enforceability of this Note or the other Note Documents, dated as of the Closing Date and in form and substance satisfactory to the Majority Noteholders and (b) FAA counsel as to registration of the Closing Date Aircraft on the FAA registry and creation and perfection of the Lien created by the Aircraft Mortgage in respect thereof, including by filing such Aircraft Mortgage with the FAA and on the International Registry, each such opinion shall be dated as of the Closing Date and shall be in form and substance satisfactory to the Majority Noteholders.

(k) No Default. As of the Closing Date, no default or Event of Default shall have occurred or be continuing.

(l) Fees. The Borrower shall have paid (a) all upfront fees in an amount equal to two percent (2.00%) of the initial Outstanding Principal Amount on the Closing Date and any other fees then due and payable to the Noteholders and (b) all fees then due and payable to the Agents pursuant to that certain letter agreement between Agents and the Borrower dated as of the Closing Date (the "***Agent Fee Letter***").

6.2 Condition Subsequent. No later than December 31, 2023 (or such later date as is agreed by the Majority Noteholders in their sole discretion following any delivery delay by Textron, the "***Post Closing Acquisition Date***"), Jet Share shall have acquired the Post Closing Aircraft in accordance with the Textron Purchase Agreement, and on or prior to the date of such acquisition, the following conditions shall have been satisfied:

(a) Textron Purchase Agreement. The Textron Purchase Agreement and all other material agreements delivered in connection therewith shall continue to be in full force and effect in accordance with their respective terms. No provision thereof shall have been modified or waived in any respect determined by the Majority Noteholders to be material, in each case, without the consent of the Majority Noteholders. The Borrower shall have delivered to the Administrative Agent (a) a copy of the bill of sale in respect of the Post Closing Aircraft conveying good and marketable title to the Borrower, (b) evidence of technical acceptance of such Aircraft by the Borrower and (c) a certificate of airworthiness of such Aircraft.

(b) Security Instruments. The Noteholders and the Collateral Agent shall have received a duly executed copy of the Aircraft Mortgage in respect of the Post Closing Aircraft, in form and substance satisfactory to the Majority Noteholders, together with any other documents reasonably requested by the Majority Noteholders. The Collateral Agent shall be reasonably satisfied that any such Aircraft Mortgage will, upon recording with the FAA and in the International Registry, create a first priority, perfected Lien on such Aircraft.

(c) Lien Searches. (a) The Collateral Agent and the Noteholders shall have received (i) bring-down UCC, FAA and International Registry search results reflecting no prior Liens encumbering the Post Closing Aircraft, other than those being assigned or released on or prior to the Post Closing Acquisition Date, if any, or Liens permitted hereunder and (ii) evidence satisfactory to the Majority Noteholders (including mortgage releases and UCC-3 financing statement terminations, if so required) that all Liens (other than Permitted Liens) encumbering the Post Closing Aircraft have been released or terminated, subject only to the filing of applicable terminations and releases and (b) the Borrower shall have, or shall have caused to be (i) filed the UCC-1 financing statement in the appropriate filing office, (ii) filed the Aircraft Mortgage in respect of the Post Closing Aircraft with the FAA and (iii) registered the Lien created thereby on the International Registry.

(d) Legal Opinion. The Initial Noteholders, the Agents and their respective counsel shall have received an original executed copy of (a) a bring down written legal opinion of Wyrick Robbins Yates & Ponton LLP, as counsel to the Obligors, as to due authorization of the Aircraft Mortgage in respect of the Post Closing Aircraft by Jet Share, creation and perfection of the Liens created by the Security Instruments (other than any Aircraft Mortgage), government approvals, no conflicts and enforceability of such Aircraft Mortgage, dated as of the Post Closing Acquisition Date and in form and substance satisfactory to the Majority Noteholders and (b) the written legal opinion of FAA counsel as to registration of the Post Closing Aircraft on the FAA registry and creation and perfection of the Lien created by the Aircraft Mortgage in respect thereof, including by filing such Aircraft Mortgage with the FAA and on the International Registry, each such opinion shall be dated as of the Post Closing Acquisition Date and shall be in form and substance satisfactory to the Majority Noteholders.

7. **REPRESENTATIONS AND WARRANTIES OF THE OBLIGORS** Each Obligor hereby represents and warrants to the Noteholders on the date hereof and on the Post Closing Acquisition Date, as of the date hereof or such subsequent date, as applicable, as follows:

7.1 Existence; Power and Authority; Compliance with Laws. Each Obligor (a) is a limited liability company, partnership or corporation duly organized, validly existing, and in good standing (to the extent that such concept applies) under the laws of the state of its jurisdiction of organization, (b) has the requisite power and authority, and the legal right, to own, lease, and operate its properties and assets and to conduct its business as it is now being conducted, except as would not be reasonably expected to, individually or in the aggregate, be material to the Borrower, and (c) has the requisite power and authority to execute and deliver this Note and the other Note Documents, and to perform its obligations hereunder and thereunder. Except where such violation would not reasonably be expected to be materially adverse to any Obligor or any of their respective Subsidiaries, taken as a whole, each such Obligor and Subsidiary is in compliance with all applicable Laws.

7.2 Authorization; Execution and Delivery. The execution and delivery of this Note and the other Note Documents by the Obligors party thereto and the performance of their respective obligations hereunder and thereunder have been duly authorized by all necessary organizational action in accordance with all applicable Laws. Each Obligor has duly executed and delivered this Note and the other Note Documents to which it is a party.

7.3 No Approvals. No consent or authorization of, filing with, notice to, or other act by, or in respect of, any Governmental Authority or any other Person is required in order for the Obligors to execute, deliver, or perform any of their obligations under this Note or the other Note Documents except (a) such as have been obtained or made and are in full force and effect, (b) filings necessary to perfect Liens created under the Note Documents, (c) compliance with any applicable requirements of the Securities Exchange Act of 1934, as amended or the Securities Act, (d) the appropriate filings and approvals under the rules of the NYSE and (d) other actions or filings the absence or omission of which would not, individually or in the aggregate be reasonably expected to materially and adversely affect or to prevent or materially delay the Obligor's ability to consummate the transactions contemplated hereunder.

7.4 No Violations. The execution and delivery of this Note and the other Note Documents and the consummation by the Obligors of the transactions contemplated hereby and thereby do not and will not (a) violate any Law applicable to such Obligor or by which any of its properties or assets may be bound; (b) contravene the terms of the charter, bylaws, or other organizational documents of such Obligor; or (c) violate, conflict with or result in any breach, default or contravention of, or the creation of any Lien under, any Material Agreement, in the cases of **clause (a)** and **clause (c)**, except as would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

7.5 Enforceability. Each of the Note and the other Note Documents is a valid, legal, and binding obligation of each Obligor party thereto, enforceable against such Obligor in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium, or similar laws of general applicability relating to or affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

7.6 No Litigation. Except as disclosed on **Schedule 7.6**, no action, suit, litigation, investigation, or proceeding of, or before, any arbitrator or Governmental Authority is pending or, to the knowledge of any Obligor, threatened by or against such Obligor or any of their respective Subsidiaries or any of their respective property or assets (a) with respect to the Note, the other Note Documents, or any of the transactions contemplated hereby or thereby or (b) that would reasonably be expected to, individually or in the aggregate, to materially adversely affect the Obligors and their Subsidiaries, taken as a whole.

7.7 Anti-Money Laundering. The operations of the Obligors and their Subsidiaries are and have been conducted at all times in compliance in all material respects with applicable laundering statutes in all applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Authority (collectively, the "***Money Laundering Laws***"), and no action involving any Obligor or any Subsidiary with respect to the Money Laundering Laws is pending or, to the knowledge of such Obligor, threatened.

7.8 Anti-Corruption Laws and Sanctions. The Obligors and their Subsidiaries, and to the Obligors' and their Subsidiaries' knowledge, their respective, directors, officers, employees and agents, are in compliance in all material respects with all applicable Anti-Corruption Laws and in compliance in all respects with applicable Sanctions. None of the Obligors nor any Subsidiary, or to the knowledge of such Obligor, any director, officer, employee or agent of such Obligor and its Subsidiaries (in their capacity as such) is currently located, organized or resident to any Sanctioned Country. None of the Obligors, any Subsidiary or to such Obligor's knowledge, any director, officer, employee or agent of such Obligor or Subsidiary, is a Sanctioned Person. No use of proceeds of the Loan or other transaction contemplated by this Note will be used by any Obligor to violate any Anti-Corruption Law or applicable Sanctions.

7.9 ERISA. No ERISA Event has occurred in the five (5) year period prior to the date hereof or is reasonably expected to occur that, when taken together with all other such ERISA Events for which material liability is reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect. The present value of all accumulated benefit obligations under each Plan (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of such Plan, and the present value of all accumulated benefit obligations of all underfunded Plans (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87 or subsequent recodification thereof, as applicable) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of all such underfunded Plans, in each case, in an amount that would reasonably be expected to have a Material Adverse Effect.

7.10 Regulatory. No Obligor is an "investment company" within the meaning of the Investment Company Act of 1940. No Obligor is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying Margin Stock, and no part of the proceeds of the Loan will be used to buy or carry any Margin Stock.

7.11 Taxes. As of the date hereof, the Borrower is classified as a "partnership" (and not a "publicly traded partnership" within the meaning of Code Section 7704) for U.S. federal and applicable state income Tax purposes, and each of its Subsidiaries is classified as either a "partnership" or an entity that is "disregarded" as separate from the Borrower for such purposes. Except as disclosed on **Schedule 7.11**, each Obligor and each Subsidiary has timely filed or caused to be filed all material Tax returns required to have been filed by it, and each Obligor and each Subsidiary has paid or caused to be paid all material Taxes required to have been paid by it, except (a) Taxes that are being contested in good faith by appropriate proceedings, and for which such Obligor or such Subsidiary, as applicable, has set aside on its books (which, as of the Closing Date, to the extent outstanding as of the date of the applicable Financial Statement, are reflected on such Financial Statement) adequate reserves, or (b) to the extent that the failure to do so would not reasonably be expected to result in a Material Adverse Effect. No Tax liens (other than Liens described in **Section 9.2(e)**) have been filed and no claims are being asserted by any Governmental Authority with respect to any Taxes of any Obligor or Subsidiary that would reasonably be expected to result in a Material Adverse Effect. No Obligor nor any Subsidiary is a party to or otherwise bound by any Tax sharing, indemnification, allocation or similar agreement (excluding any written, commercial agreement entered into in the ordinary course of business and not primarily relating to Taxes or Tax sharing or indemnification (but which contains customary Tax indemnification provisions)). Notwithstanding anything to the contrary herein or in any other Note Document, all Parties to this Note covenant and agree that for all federal, state, local and franchise tax purposes the Note constitutes a debt instrument which is not a contingent payment debt instrument within the meaning of Treasury Regulation Section 1.1275-4. This Note is not intended to create, and shall never be construed as creating, a partnership, association, trust, joint venture or other similar relationship between or among the Noteholders, the Agents, any Obligor or any Subsidiary. Each Party agrees not to take any position that is inconsistent with the foregoing sentences on any Tax return or in any audit or other administrative or judicial proceeding, except as otherwise required pursuant to a "determination" under Section 1313(a) of the Code.

7.12 Solvency. Immediately after the consummation of the transactions to occur on the Closing Date, with respect to the Obligors and their respective Subsidiaries, taken as a whole, (a) the fair value of their assets is greater than the amount of their liabilities (including disputed, contingent and unliquidated liabilities) as that value is established and liabilities evaluated in accordance with GAAP; (b) the present fair saleable value of their assets are not less than the amount that will be required to pay the probable liability on their debts as they become absolute and matured; (c) they do not intend to, and nor do they believe that they will, incur debts or liabilities beyond their ability to pay as those debts and liabilities mature; and (d) they are not engaged in or are about to engage in business or a transaction for which their property would constitute unreasonably small capital.

7.13 Environmental Matters. Except as disclosed on **Schedule 7.13**, no Obligor nor any Subsidiary has received notice of any claim with respect to any Environmental Liability or knows of any basis for any Environmental Liability. Except with respect to any other matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, and except as disclosed on **Schedule 7.13**, none of the Obligors nor any Subsidiary (A) has since failed to materially comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (B) has become subject to any Environmental Liability, (C) has received notice of any claim with respect to any Environmental Liability or (D) knows of any basis for any Environmental Liability.

7.14 Insurance. Each Obligor and each Subsidiary maintains, with financially sound and reputable insurance companies, insurance in such amounts, with such deductibles, and covering such risks as are adequate and customarily maintained by companies engaged in the same or similar businesses operating in the same or similar locations. **Schedule 7.14** sets forth a description of all material current property and liability insurance policies maintained by or on behalf of the Obligors as of the Closing Date.

7.15 Financial Statements. The Financial Statements, copies of each of which have been delivered to the Noteholders, were prepared in accordance with GAAP (subject, in the case of any such unaudited statements, to the absence of footnotes and to normal year-end adjustments) and present fairly in all material respects the consolidated financial condition the Obligors and their Subsidiaries as at the dates covered in the Financial Statements and the results of their operations for the periods then ended.

7.16 Disclosure. The Obligors have disclosed to the Noteholders all agreements, instruments and corporate or other restrictions to which any Obligor or any Subsidiary is subject, and all other matters known to it, that, in each case, individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect. None of the reports, financial statements, certificates or other information furnished by or on behalf of any Obligor or any Subsidiary to the Noteholders in connection with the negotiation of this Note or any other Note Document contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, each Obligor represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time delivered.

7.17 Employment Matters. The hours worked by and payments made to employees of the Obligors and their respective Subsidiaries and Affiliates have been in compliance with applicable Law in all material respects. There are no labor strikes, lockouts or material slowdowns against any such Obligor or any such Subsidiary or Affiliate pending or, to such Obligor's knowledge, threatened.

7.18 Material Agreement. None of the Obligors are in material default under any Material Agreement. Set forth on **Schedule 7.18** is a complete and correct list of all Material Agreements as of the Closing Date.

7.19 Debt; Affiliate Transactions.

(a) Set forth on **Schedule 7.19(a)** is a complete and correct list of all written contracts or agreements relating to Debt of the Obligors and their respective Subsidiaries outstanding as of the Closing Date (other than the Secured Obligations and the Senior Obligations), except any such written contract or agreement relating to Debt with an aggregate outstanding principal amount not exceeding $250,000.

(b) Set forth on **Schedule 7.19(b)** is a complete and correct list of all Affiliate Transactions (as defined below) as of the Closing Date.

7.20 Textron Purchase Agreement. The Borrower hereby represents and warrants to the Noteholders, as of the date hereof, the representations and warranties of Exclusive Jets, LLC set forth in Article 7 of the Textron Purchase Agreement are true and correct.

7.21 Title; Liens. Each Obligor has good legal or beneficial title to its assets, including in the case of Jet Share, the Aircraft, which is to be held by Jet Share in accordance with this Note and the transactions contemplated hereby (if applicable, upon it acquiring the same), and none of the Collateral is subject to any Lien, except for Liens permitted under **Section 9.2**. No Obligor has assigned, conveyed, pledged or otherwise transferred to any other Person any of its right, title or interest in the Collateral except in accordance with or as permitted by the Note Documents.

7.22 Security Interest. On the Closing Date, the security interest in the Aircraft created pursuant to the Aircraft Mortgage on such date will be validly created and, upon the taking of the perfection actions set forth in **Section 6.1(c)** no other action is required to be taken by any Person in order for the full benefit of the security interest in such Aircraft created thereby to vest in the Collateral Agent on behalf of the Noteholders on a perfected first-priority basis, and such perfection actions will have been duly taken or provided for. The security interest in the other Collateral will have been validly created and perfected in favor of the Collateral Agent on behalf of the Noteholders on the Closing Date.

7.23 EXCLUSIVITY OF REPRESENTATIONS AND WARRANTIES. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS **SECTION 7**, NONE OF THE OBLIGORS, ANY AFFILIATE OF THE SUCH PERSON, OR ANY OTHER PERSON MAKES, AND EACH OBLIGOR EXPRESSLY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, IN CONNECTION WITH THIS NOTE AND THE NOTE DOCUMENTS. FOR THE AVOIDANCE OF DOUBT, THE REPRESENTATIONS AND WARRANTIES EXPRESSLY AND SPECIFICALLY SET FORTH IN THIS **SECTION 7** OF THIS NOTE ARE SOLELY MADE BY THE OBLIGORS.

8. **AFFIRMATIVE COVENANTS**. Until Payment in Full, each Obligor shall:

8.1 Financial Statements. Furnish to the Noteholders, as soon as available, but in any event not later than forty five (45) days after the end of each calendar quarter (commencing with the calendar quarter ending December 31, 2023 and each quarter ending March 31, June 30, September 30 and December 31 thereafter), the unaudited consolidated balance sheet of Borrower and its Subsidiaries as at the end of such quarter and the related unaudited consolidated statements of income and of cash flows for such quarter and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the previous year, certified by an officer of Borrower as being fairly stated in all material respects (subject to normal year-end audit adjustments).

8.2 Notices. Promptly, and in any event within five (5) Business Days, give notice to the Noteholders of:

(a) any event of default or material breach under, or any material modification of or amendment to, any Material Agreement;

(b) any litigation, investigation, or proceeding that may exist at any time between any Obligor or any of its Subsidiaries and any Governmental Authority or other Person;

(c) any Prepayment Event;

(d) any event of loss or material damage event with respect to any Aircraft; and

(e) any development or event that has had or would reasonably be expected to have a Material Adverse Effect.

8.3 Maintenance of Existence and Property. (a) Preserve, renew, and maintain in full force and effect each Obligor's and its Subsidiaries' respective corporate or organizational existence and (b) take all reasonable action to maintain all rights, privileges, and franchises necessary or desirable in the normal conduct of such Obligor's and its Subsidiaries' respective business, except, in each case, where the failure to do so would not reasonably be expected to have a Material Adverse Effect. Maintain and preserve all of such Obligor's and its Subsidiaries' respective property useful and necessary in their respective business in good working order and condition, ordinary wear and tear and casualty events excepted.

8.4 Compliance. (a) Comply in all material respects with all Laws applicable to each Obligor and its Subsidiaries and their respective business and its obligations under its Material Agreements and (b) maintain in effect and enforce policies and procedures designed to achieve compliance in all material respects by such Obligor and its Subsidiaries and their respective directors, officers, employees and agents with all Anti-Corruption Laws and applicable Sanctions.

8.5 Payment Obligations. Pay, discharge, or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all the Obligors' and their respective Subsidiaries' Tax and other material obligations of whatever nature, except where the amount or validity thereof is currently being contested diligently and in good faith by appropriate proceedings, and reserves in conformity with GAAP with respect thereto have been provided, as of the Closing Date, to the extent outstanding as of the date of the applicable Financial Statement, on such Financial Statement, and will be provided, following the Closing Date, on the financial statements delivered pursuant to **Section 8.1**.

8.6 Notices of Events of Default. As soon as possible and in any event within one (1) Business Day after it becomes aware that an Event of Default has occurred, notify the Noteholders in writing of the nature and extent of such Event of Default and the action, if any, it has taken or proposes to take with respect to such Event of Default.

8.7 Material Agreements. (a) Perform and observe, and cause its Subsidiaries to perform and observe, all the terms and provisions of each Material Agreement to be performed or observed by such Obligor and its Subsidiaries, (b) maintain each such Material Agreement in full force and effect and (c) enforce each such Material Agreement in accordance with its terms.

8.8 Maintenance of Insurance. Maintain insurance with respect each Obligor and its Subsidiaries' property and business on terms, conditions and insured values reasonably acceptable to Majority Noteholders, with financially sound and reputable insurance companies, in such amounts and covering such risks as are usually insured against by similar companies engaged in the same or a similar business. With respect to each Aircraft, such insurance will (a) be on an "Agreed Value" basis, (b) include a AVN67B endorsement, (b) name the Collateral Agent as contract party or loss payee under the hull insurance, (c) name the Agents and the Noteholders as additional insureds under the liability insurance, (d) have hull coverage in an amount no less than 110% of the Outstanding Principal Amount in respect of the applicable Aircraft, (e) provide coverage at least as comprehensive as LSW555D (or equivalent), (f) other than customary deductibles, no self-insurance shall be permitted and (h) to obtain a Broker's Letter of Undertaking addressed to the Agents.

8.9 Books and Records; Inspections.

(a) Keep proper books of records and accounts in which full, true, and correct entries in conformity with GAAP and all requirements of Law shall be made of all dealings and transactions and assets in relation to each Obligor's its Subsidiaries' respective business and activities.

(b) Permit the Noteholders to visit any of the Obligor's and their respective Subsidiaries' properties and examine and make abstracts from any of their respective books and records at any reasonable time and as often as may reasonably be desired, and to discuss their respective business operations, properties, and financial and other condition with their respective officers and employees and their respective independent public accountants, at any reasonable time and as often as may reasonably be desired.

8.10 Post Closing Matters. The Obligors shall satisfy the requirements set forth in **Section 6.2** on or before the respective date specified for each such requirement or such later date as is agreed by the Majority Noteholders in their sole discretion.

8.11 Further Assurances.

(a) Upon the request of the Majority Noteholders, promptly execute and deliver such further instruments and do or cause to be done such further acts as may be necessary or advisable to (i) carry out the intent and purposes of this Note and the other Note Documents; (ii) correct any material defect or error that may be discovered in any Note Document or in the execution, acknowledgement, filing, or recordation thereof; and (iii) assure, convey, grant, assign, transfer, preserve, protect, and confirm more effectively to the Noteholders, the rights granted or now or hereafter intended to be granted to the Noteholders under any Note Document.

(b) Upon the request of the Majority Noteholders, promptly following any request therefor, furnish to the Noteholders such other information regarding the operations, business affairs and financial condition of the Borrower or any of its Subsidiaries, or compliance with the terms of any Note Document, as the Majority Noteholders may reasonably request.

(c) With respect to any property constituting Equity Interests in Jet Share acquired after the date hereof, as to which the Collateral Agent, for the benefit of the Noteholders, does not have a perfected Lien, promptly and in any event within thirty (30) days of acquiring such property: (i) execute and deliver to the Collateral Agent and the Noteholders such supplements or amendments to the Pledge Agreement or such other documents as the Majority Noteholders deem reasonably necessary or advisable to grant to the Collateral Agent for the benefit of the Noteholders a first-priority security interest in such property (except for Permitted Liens) and (ii) take all actions reasonably necessary or advisable to grant to the Collateral Agent for the benefit of the Noteholders a first-priority security interest in such property.

8.12 Loan to Value Ratio. On the date of any sale of an Aircraft or fractional ownership interests therein permitted under **Section 9.6(a)** or **Section 9.6(b)**, the Borrower shall deliver to the Administrative Agent a certificate calculating on a pro forma basis giving effect to such sale the ratio of (a) the Outstanding Principal Amount after application of any mandatory prepayments required to be made pursuant to **Section 9.6(a)** or **Section 9.6(b)** to (b) to the sum of the then current Retail Value of the Aircraft owned in whole or fractionally by Jet Share following such sale, multiplied in the case of fractional ownership in an Aircraft by the ownership percentage retained by Jet Share in such Aircraft. If such ratio exceeds eighty-five percent (85%), then the Borrower shall, on such date, pay to the Administrative Agent the amount required such that the ratio is equal to or less than eighty-five percent (85%).

9. **NEGATIVE COVENANTS**. Until Payment in Full, the Obligors shall not, and shall not permit any Subsidiary to:

9.1 Debt. Incur, create, or assume any Debt, except:

(a) Debt existing under this Note;

(b) Debt constituting the Senior Obligations;

(c) Debt existing as of the Closing Date to the extent set forth in **Schedule 7.19(a)**, and any refinancings, modifications, renewals, and extensions of any such Debt; provided that, as a result of such refinancing, modification, renewal or extension, (i) the principal amount of such Debt shall not be increased from the principal amount outstanding at the time of such refinancing, modification, renewal, or extension, (ii) the maturity of such Debt shall not be shortened, and (iii) the terms relating to collateral (if any) and subordination (if any) of any such refinancing, modification, renewing, or extension of Debt, and of any agreement entered into and of any instrument issued in connection therewith, are not less favorable in any material respect to such Obligor or the Noteholders than the terms of any agreement or instrument governing the Debt being so refinanced, modified, renewed, or extended;

(d) unsecured intercompany Debt (i) owed by any Obligor to another Obligor other than the Borrower, (ii) owed by any Subsidiary to any other Subsidiary, and (iii) owed by any Subsidiary to an Obligor other than the Borrower (provided that any such Debt described in **clause (i)** through **clause (iii)** above that is owed by Jet Share shall be subordinated to the Secured Obligations in a manner reasonably satisfactory to the Majority Noteholders);

(e) third-party asset-level Debt incurred on an arm's length basis and on terms consistent with past practice used for the acquisition of, or refinancing of, acquired aircraft other than the Aircraft; and

(f) unsecured Debt, not to exceed an amount in excess of $5,000,000 in the aggregate at any time outstanding.

9.2 Liens. Incur, create, assume, or suffer to exist any Lien on any of its property or assets, whether now owned or hereafter acquired, except for each of the following (collectively "***Permitted Liens***"):

(a) Liens created pursuant to the Security Instruments or the other Note Documents;

(b) Liens securing the Senior Obligations;

(c) Liens in existence as of the Closing Date to the extent set forth in **Schedule 9.2**, and any renewals, modifications, replacements, and extensions of such Liens; provided that (i) the aggregate principal amount of the Debt secured by such Liens does not increase from that amount outstanding at the time of any such renewal, modification, replacement, or extension and (ii) any such renewal, modification, replacement, or extension does not encumber any additional assets or properties of any Obligor (other than assets or properties that become encumbered as a result of compliance with any after-acquired collateral or guarantee obligations in effect under the agreements governing such Debt);

(d) Liens on acquired aircraft other than the Aircraft securing Debt permitted under **Section 9.1(e)**;

(e) Liens for Taxes not yet due or which are being contested in good faith by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the Obligor or its applicable Subsidiary in conformity with GAAP;

(f) non-consensual Liens arising by operation of law, arising in the ordinary course of business, and for amounts which are not overdue for a period of more than thirty (30) days or that are being contested in good faith by appropriate proceedings diligently conducted;

(g) Liens arising solely by virtue of any statutory or common law provision relating to banker's liens rights orset-off or similar rights;

(h) carriers', warehouseman's, mechanics', materialmen's, repairmen's and other like Liens imposed by law, arising in the ordinary course of business or which are being contested in good faith by appropriate proceedings if adequate reserves with respect thereto are maintained on the books of any Obligor in conformity with GAAP;

(i) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any Debt and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of any such Obligor or any such Subsidiary;

(j) judgment Liens to the extent not resulting in an Event of Default pursuant to**Section 10.6**;

(k) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;

(l) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations;

(m) purported Liens evidenced by the filing of precautionary UCC financing statements or similar filings relating solely to operating leases or consignments of personal property entered into in the ordinary course of business; and

(n) licenses of software and other intangible property licensed by licensors to any Obligor or any Subsidiary, including restrictions and prohibitions on encumbrances and transferability with respect to such property and such Obligor's or such Subsidiary's interests therein imposed by such licenses, and Liens encumbering such licensors' titles and interests in such property and to which such Obligor's or Subsidiary's license interests may be subject or subordinate.

9.3 Nature of Business; Mergers.

(a) Enter into any business, directly or indirectly, except for those businesses in which such Obligor is engaged on the date of this Note or that are reasonably related thereto.

(b) Merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Event of Default shall have occurred and be continuing (i) any Subsidiary that is not an Obligor may merge into any other Subsidiary that is not an Obligor and (ii) any Subsidiary that is not an Obligor may liquidate or dissolve if such Obligor determines in good faith that such liquidation or dissolution is in the best interests of such Obligor and is not materially disadvantageous to the Noteholders. Notwithstanding the foregoing, the De-SPAC Transactions shall not be restricted by this**Section 9.3(b)**.

(c) Make or permit a change in any, or adopt any new or different, U.S. federal or applicable income Tax classification of the Borrower or any of its Subsidiaries, whether by affirmative election, Tax filing or otherwise (other than an automatic change from a partnership to a disregarded entity or from a disregarded entity to a partnership, by reason of a change in the number of owners of such Person).

9.4 Investments. Make any advance, loan, extension of credit (by way of guaranty or otherwise), or capital contribution to, or purchase, hold, or acquire any Equity Interests, bonds, notes, debentures, or other debt securities of, or any assets constituting a business unit of, or make any other investment in, any Person (all of the foregoing, "***Investments***"), except the De-SPAC Transactions.

9.5 Restricted Payments. Declare or pay any dividend on, or make any payment on account of, or set apart assets for a sinking or other analogous fund for, the purchase, redemption, defeasance, retirement, or other acquisition of, any Equity Interests of any Obligor or any Subsidiary, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or property or in obligations of such Obligor or such Subsidiary (collectively, "***Restricted Payments***"), except that (a) any Subsidiary of the Borrower may make a Restricted Payment to the Borrower, (b) any Subsidiary may make Restricted Payments ratably to the holders of the Equity Interests of such Person, (c) the Borrower may declare and pay distributions and dividends with respect to its Equity Interests solely in additional shares of its common Equity Interests and (d) the Borrower may declare and pay Permitted Tax Distributions with respect to its Equity Interests so long as no Event of Default shall have occurred and be continuing or would result from the making of such Permitted Tax Distribution. Notwithstanding the foregoing, the De-SPAC Transactions shall not be restricted by this **Section 9.5**.

9.6 Dispositions. Dispose of any of its property, whether now owned or hereafter acquired, or issue or sell any Equity Interests to any Person, except:

(a) the sale by Jet Share of an Aircraft so long (i) asone-hundred percent (100%) of the proceeds received by or on behalf of Jet Share in respect of such sale is applied to the Loans in accordance with **Section 5.2** and (ii) the Collateral Agent, on behalf of the Noteholders, shall continue to have a first priority, perfected Lien on the other Aircraft immediately after the closing of such sale; provided that any prepayment made pursuant to this **Section 9.6(a)** shall not be subject to the Make-Whole Fee (but, for the avoidance of doubt such prepayment shall not affect the Back End Fee payable pursuant to **Section 3.5**);

(b) the sale by Jet Share of fractional interests in one Aircraft pursuant to its fractional aircraft ownership program so long as (i) the Obligors make a prepayment of the Loans in the amount of $7,930,000 upon the closing of such sale, (ii) the Collateral Agent, on behalf of the Noteholders, shall continue to have a first priority, perfected Lien on the other Aircraft immediately after the closing of such sale and (iii) no Default or Event of Default has occurred that is continuing; provided that any prepayment made pursuant to this **Section 9.6(b)** shall not be subject to the Make-Whole Fee (but, for the avoidance of doubt such prepayment shall not affect the Back End Fee payable pursuant to **Section 3.5**);

(c) the sale by any of the Obligors of any aircraft or fractional interests therein other than the Aircraft or fractional interests therein;

(d) the sale or disposition of idle, obsolete or worn-out property in the ordinary course of business;

(e) the sale of inventory in the ordinary course of business;

(f) sales or dispositions to the Borrower or any Subsidiary; provided, that any such sales or dispositions involving a Subsidiary shall be made in compliance with **Section 9.7**;

(g) the lapse or abandonment in the ordinary course of business of any registrations or applications for registration of any intellectual property rights;

(h) non-exclusive licenses or sublicenses of intellectual property rights in the ordinary course of business;

(i) other sales or dispositions (including casualty and condemnation events) in the ordinary course of business; provided, that, upon the occurrence of any Prepayment Event, the Borrower shall comply with **Section 3.3**; and

(j) following the De-SPAC Closing, the sale of Equity Interests of the Personal Guarantor referred to in **clause (b)(i)** of the definition of "Change of Control" or other dispositions consummated as part of the De-SPAC Transactions.

At the time of any sale of an Aircraft in accordance with **Section 9.6(a)** or the sale of fractional interests in an Aircraft in accordance with **Section 9.6(b)** and, in each case, the delivery of the certificate pursuant to **Section 8.12** demonstrating compliance therewith, the Collateral Agent and the Majority Noteholders agree to release the Liens on such Aircraft securing the Secured Obligations and to execute and deliver all necessary release instruments as necessary to reflect such release.

9.7 Transactions with Affiliates. Enter into, cause, suffer or permit to exist any transaction, contract or other arrangement, including any purchase, sale, lease, or exchange of property, the rendering of any service, or the payment of any management, advisory, or similar fees, with any Affiliate (each, an "***Affiliate Transaction***"), except (a) transactions among the Borrower and any Affiliate (other than Jet Share), (b) transactions that are entered into in the ordinary course of business, on fair and reasonable terms no less favorable to such Obligor than those that would have been obtained in a comparable transaction on an arm's length basis from a Person that is not an Affiliate, (c) sale and lease back transactions with Affiliates for aircraft other than the Aircraft in the ordinary course of business and consistent with past practices; (d) to the extent permitted by applicable Law, customary loans to the holders of Equity Interests in the ordinary course of business not to exceed amounts reflected in the Borrower's financial statements and the transactions set forth on **Schedule 9.7**. For the avoidance of doubt, no transfer of Collateral shall be permitted unless approved in writing by the Majority Noteholders. Notwithstanding the foregoing, the De-SPAC Transactions shall not be restricted by this **Section 9.7**.

9.8 Restrictive Agreements. Enter into or permit to exist or become effective any consensual encumbrance, restriction or prohibition on the ability of any Obligor to: (a) create, incur or permit to exist any Lien upon any of its property or assets to secure the Secured Obligations, (b) pay dividends or other distributions with respect to any of its Equity Interests or to make or repay loans or advances to an Obligor or (c) transfer any of its assets to an Obligor, in each case, except for such restrictions or prohibitions (i) arising under the Note Documents, (ii) arising under the Senior Loan Agreement or (iii) in effect on the Closing Date imposed by an agreement relating to Debt permitted by **Section 9.1(c)**.

9.9 Amendments of Material Documents. Amend, supplement, or otherwise modify (pursuant to a waiver or otherwise): (a) its articles of incorporation, certificate of designation, operating agreement, bylaws, or other organizational document, (b) the Textron Purchase Agreement, or (c) the terms and conditions of any Material Agreement, in each case, to the extent adverse to the interests of the Noteholders.

9.10 Subordinated Debt.

(a) Make, or offer to make, any optional or voluntary payment or prepayment on or redemption, defeasance, or purchase of any amounts (whether principal or interest) payable under any Subordinated Debt.

(b) Amend, modify, waive or otherwise change, or consent or agree to any amendment, modification, waiver or other change to any of the terms of any Subordinated Debt.

9.11 Use of Proceeds. Use the proceeds of the Loan for any purpose other than (a) to fund deposits and other cash consideration to acquire the Closing Date Aircraft pursuant to the Textron Purchase Agreement and to be owned by Jet Share and operated by Exclusive Jets, LLC, a Subsidiary of the Borrower, (b) to pay fees and other transactional expenses incurred under the Note Documents and (c) so long as the Closing Date Aircraft has been fully funded from the proceeds of the Loan, (i) to make payments in respect of existing Debt and (ii) to close on commitments in respect of fractional interests in aircraft (other than the Aircraft).

10. **EVENTS OF DEFAULT**. The occurrence and continuance of any of the following shall constitute an Event of Default hereunder:

10.1 Failure to Pay. The Borrower fails to pay (a) any principal amount of the Loan when due or (b) interest or any other amount when due and such failure continues for three (3) Business Days.

10.2 Breach of Representations and Warranties. Any representation or warranty made by any Obligor or the Personal Guarantor to the Noteholders herein or in the other Note Documents is incorrect in any material respect on the date as of which such representation or warranty was made.

10.3 Breach of Covenants. Any Obligor or the Personal Guarantor fails to observe or perform (a) any covenant, condition, or agreement contained in **Section 8** or **Section 9** or (b) any other covenant, obligation, condition, or agreement contained in this Note or the other Note Documents, other than those specified in **clause (a)** of **Section 9.1**, and with respect to either **clause (a)** or **clause (b)** above, such failure continues for ten (10) calendar days after the earlier to occur of written notice of such failure provided to the Borrower by the Administrative Agent (acting with the consent of or at the direction of the Majority Noteholders) or knowledge of such failure by an authorized officer of the Borrower.

10.4 Cross-Defaults. Any (a) "event of default" or similar event occurs under any agreement(s) evidencing or relating to Debt of any Obligor or any Subsidiary (other than the Debt hereunder), which Debt has an aggregate outstanding principal amount in excess of $2,500,000 ("***Material Debt***") or (b) event or condition occurs (i) that results in any such Material Debt becoming due prior to its scheduled maturity or (ii) that enables or permits (with or without the giving of notice, but subject to any applicable grace periods) the holder or holders of such Material Debt or any trustee or agent on its or their behalf to cause such Material Debt to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity which in any of these events remains an event of default for more than thirty (30) days and the applicable Obligor has not received a written waiver of such event of default or similar event on or prior to such date. Notwithstanding the foregoing, the Senior Obligations shall constitute "Material Debt" hereunder.

10.5 Bankruptcy.

(a) Any Obligor commences any case, proceeding, or other action (i) under any existing or future Law relating to bankruptcy, insolvency, reorganization, or other relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it as bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition, or other relief with respect to it or its debts or (ii) seeking appointment of a receiver, trustee, custodian, conservator, or other similar official for it or for all or any substantial part of its assets, or any Obligor any of their respective Subsidiaries makes a general assignment for the benefit of its creditors;

(b) There is commenced against any Obligor any of their respective Subsidiaries any case, proceeding, or other action of a nature referred to in **Section 10.5(a)** which (i) results in the entry of an order for relief or any such adjudication or appointment or (ii) remains undismissed, undischarged, or unbonded for a period of sixty (60) days;

(c) There is commenced against any Obligor or any of their respective Subsidiaries any case, proceeding, or other action seeking issuance of a warrant of attachment, execution, or similar process against all or any substantial part of its assets which results in the entry of an order for any such relief which has not been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof;

(d) Any Obligor or any of their respective Subsidiaries takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in **Section 10.5(a)**, **Section 10.5(b)**, or **Section 10.5(c)** above; or

(e) Any Obligor shall be unable to, or admits in writing its inability to, pay its debts as they become due.

10.6 Judgments. One or more judgments or decrees in an amount in excess of $250,000 and not covered by insurance shall be entered against any Obligor and all of such judgments or decrees shall not have been vacated, discharged, or stayed or bonded pending appeal within thirty (30) days from the entry thereof.

10.7 ERISA Event. An ERISA Event shall have occurred that, in the opinion of the Majority Noteholders, upon the written advice of qualified counsel, would reasonably be expected to result in a Material Adverse Effect.

10.8 Change of Control. A Change of Control shall occur without the consent of the Majority Noteholders (other than as a result of theDe-SPAC Transactions).

10.9 Note Documents. If (a) any material provision of any Note Document ceases for any reason to be valid, binding, and in full force and effect, other than as expressly permitted hereunder or thereunder; (b) any Obligor or the Personal Guarantor contests in any manner the validity or enforceability of any provision of any Note Document; or (c) any Obligor or the Personal Guarantor denies that it has any or further liability or obligation under any provision of any Note Document or purports to revoke, terminate, or rescind any provision of any Note Document.

11. **REMEDIES**.

11.1 Remedies. Upon the occurrence of any Event of Default and at any time thereafter during the continuance of such Event of Default, the Majority Noteholders may, at in their respective sole discretion, (a) by written notice to the Borrower declare the Outstanding Principal Amount of the Loan, together with all accrued interest thereon and all other Secured Obligations payable under this Note, immediately due and payable; and/or (b) exercise any or all of its rights, powers or remedies under any Note Document or applicable Law; provided, however, that if an Event of Default described in **Section 10.5** shall occur, the Outstanding Principal Amount of and accrued interest on the Loan shall become immediately due and payable without any notice, declaration, or other act on the part of any Noteholder.

11.2 Application of Proceeds. At any time after the occurrence and during the continuance of any Event of Default, all payments made under this Note shall be applied *first* to the payment of costs and expenses related to the enforcement of this Note and to the payment of any fees, expenses, and reimbursements of the Administrative Agent and the Collateral Agent outstanding hereunder or under the Note Documents, *second* to the payment of any fees, expenses and reimbursement of the Noteholders outstanding hereunder on a pro rata basis, *third* to accrued and unpaid interest under the Note on a pro rata basis, and *fourth* to the payment of the Outstanding Principal Amount under the Note on a pro rata basis.

12. **THE ADMINISTRATIVE AGENT**

12.1 Appointment of the Administrative Agent.

(a) Each of the Noteholders appoints the Administrative Agent to act as its agent under and in connection with the Note Documents.

(b) Each of the Noteholders authorizes the Administrative Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Administrative Agent under, or in connection with, the Note Documents together with any other incidental rights, powers, authorities and discretions.

12.2 Instructions.

(a) The Administrative Agent shall:

(i) exercise or refrain from exercising any right, power, authority or discretion vested in it as Administrative Agent (including, without limitation, make any designation, determination, judgment, specification or demand, approve an evidence or the form of a document, serve a notice, grant an approval or a consent or refrain from taking any such action), upon receipt of and in accordance with any instructions given to it by (unless otherwise expressly provided for in the Note Documents):

(A) all Noteholders if the relevant Note Document expressly stipulates the matter is an all Noteholder decision; and

(B) in all other cases, the Majority Noteholders; and

(ii) not be liable for any act (or omission) if it acts (or refrains from acting) (A) in accordance with **clause (i)** above (or, if this Note stipulates the matter is a decision for any Noteholder or group of Noteholders, in accordance with instructions given to it by that Noteholder or group of Noteholders) and (B) in its capacity as Administrative Agent under the Note Documents (other than by reason of the Administrative Agent's gross negligence or willful misconduct).

For the avoidance of doubt, without limiting any rights, protections, immunities or indemnities afforded to the Administrative Agent hereunder (including without limitation this **Section 12**), phrases such as "satisfactory to the Administrative Agent," "approved by the Administrative Agent," "acceptable to the Administrative Agent," "as determined by the Administrative Agent," "designed by the Administrative Agent", "specified by the Administrative Agent", "in the Administrative Agent's discretion," "selected by the Administrative Agent," "elected by the Administrative Agent," "requested by the Administrative Agent," "in the opinion of the Administrative Agent," and phrases of similar import that authorize or permit the Administrative Agent to approve, disapprove, determine, act, evaluate or decline to act in its discretion shall be subject to the Administrative Agent receiving a direction from the Majority Noteholders (or, if the relevant Note Document expressly stipulates the matter is a decision of any other Noteholder or group of Noteholders, from that Noteholder or group of Noteholders).

(b) Any instructions given by the Majority Noteholders (or, if the relevant Note Document expressly stipulates the matter is a decision of any other Noteholder or group of Noteholders, from that Noteholder or group of Noteholders), shall be in writing and any instructions by the Majority Noteholders on matters which do not require the consent or instructions of all the Noteholders as specified in this Note shall be binding on all the Noteholders.

(c) The Administrative Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Noteholders (or, if the relevant Note Document expressly stipulates the matter is a decision of any other Noteholder or group of Noteholders, from that Noteholder or group of Noteholders) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Administrative Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested. The Administrative Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, and shall be fully justified in failing or refusing to take any action under this Note or any other Note Document unless it shall first (x) receive in writing direction from the Majority Noteholders (or, if the relevant Note Document expressly stipulates the matter is a decision of any other Noteholder or group of Noteholders, from that Noteholder or group of Noteholders) and (y) be indemnified and provided with adequate security to its sole satisfaction by such Noteholders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such directed action.

(d) Save in the case of decisions stipulated to be a matter for any other Finance Party or group of Finance Parties under the relevant Note Document and unless otherwise expressly provided for in a Note Document, any instructions given to the Administrative Agent by the Majority Noteholders shall override any conflicting instructions given by any other Party and will be binding on all Finance Parties.

(e) Without prejudice to **clause (a)(ii)** above, **clause (a)(i)** above shall not apply in respect of any provision which protects the Administrative Agent's own position in its personal capacity as opposed to its role of Administrative Agent for the relevant Finance Parties.

(f) The Administrative Agent may refrain from acting in accordance with any instructions of any Finance Party or group of Finance Parties until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Note Documents and which may include payment in advance) for any cost, loss or liability which it may reasonably incur in complying with those instructions.

(g) Without prejudice to the remainder of this **Section 12.2**, in the absence of instructions, the Administrative Agent shall not be obliged to take any action (or refrain from taking action) even if it considers acting or not acting to be in the best interests of the Noteholders.

12.3 Duties of the Administrative Agent.

(a) The Administrative Agent's duties under the Note Documents are solely mechanical and administrative in nature.

(b) Subject to **clause (c)** below, the Administrative Agent shall promptly make available to the Parties the original or a copy of any document or notice which is delivered to the Administrative Agent for that Party by any other Party.

(c) Without prejudice to **Section 14.9**, **clause (b)** above shall not apply to any permitted assignment and assumption agreement.

(d) Notwithstanding anything set out in a Note Document, the Administrative Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

(e) If the Administrative Agent receives notice from a Party referring to any Note Document, describing a circumstance and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties but shall not have any duty to verify whether the circumstance described has actually occurred or whether it constitutes a Default.

(f) If the Administrative Agent is aware of the non-payment of any principal, interest or any fee payable to a Finance Party under this Note, it shall promptly notify the other Finance Parties.

(g) The Administrative Agent shall have only those duties, obligations and responsibilities expressly specified in the Note Documents to which it is expressed to be a party (and no others shall be implied).

12.4 No Fiduciary Duties.

(a) Nothing in any Note Document constitutes the Administrative Agent as a trustee or fiduciary of any other Person.

(b) The Administrative Agent shall not be bound to account to the other Finance Parties for any sum or the profit element of any sum received by it for its own account.

12.5 Application of Receipts. Except as expressly stated to the contrary in any Note Document, any moneys which the Administrative Agent receives or recovers in its capacity as Administrative Agent shall be applied by the Administrative Agent in accordance with **Section 5.2**.

12.6 Business with the Obligors. Administrative Agent may accept deposits from, lend money to, and generally engage in any kind of banking or other business with, any of the Obligors.

12.7 Rights and Discretions.

(a) The Administrative Agent may:

(i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorized;

(ii) assume that:

(A) any instructions received by it from the Majority Noteholders any Finance Parties or any group of Finance Parties are duly given in accordance with the terms of the Note Documents; and

(B) unless it has received written notice of revocation, that those instructions have not been revoked; and

(iii) rely on a certificate from any Person:

(A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that Person; or

(B) to the effect that such Person approves of any particular dealing, transaction, step, action or thing,

as sufficient evidence that that is the case and, in the case of **clause (iii)(A)** above, may assume the truth and accuracy of that certificate.

(b) The Administrative Agent may assume (unless it has received written notice to the contrary in its capacity as agent for the Finance Parties) that:

(i) no Default has occurred (unless it has actual knowledge of an Event of Default arising under **Section 10.1**);

(ii) any right, power, authority or discretion vested in any Party or any group of Finance Parties has not been exercised; and

(iii) any notice or request made by the Borrower is made on behalf of and with the consent and knowledge of all the Obligors.

(c) The Administrative Agent may engage (at the Borrower's expense) the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.

(d) Without prejudice to the generality of **clause (c)** above or **clause (e)** below, the Administrative Agent may at any time engage (at the Borrower's expense) the services of any lawyers to act as independent counsel to the Administrative Agent (and so separate from any lawyers instructed by the Noteholders) if the Administrative Agent in its reasonable opinion deems this to be desirable.

(e) The Administrative Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Administrative Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.

(f) The Administrative Agent may act in relation to the Note Documents and the Collateral through its officers, employees, delegate, receiver and agents and shall not:

(i) be liable for any error of judgment made by any such person; or

(ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part of any such person,

unless such error or such loss was directly caused by the Administrative Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction.

(g) Unless a Note Document expressly provides otherwise the Administrative Agent may disclose to any other Party any information it reasonably believes it has received as agent under the Note Documents.

(h) Notwithstanding any provision of any Note Document to the contrary, the Administrative Agent is not obliged to do or omit to do anything if it would or might, in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.

(i) Notwithstanding any provision of any Note Document to the contrary, the Administrative Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

12.8 Responsibility for Documentation. The Administrative Agent is not responsible or liable for:

(a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Administrative Agent, the Collateral Agent, an Obligor or any other Person in, or in connection with, any Note Document or the transactions contemplated in the Note Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Note Document;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Note Document or the Collateral or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Note Document or the Collateral; or

(c) any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable Law or regulation relating to insider dealing or otherwise.

12.9 No Duty to Monitor. The Administrative Agent shall not be bound to enquire:

(a) whether or not any Default has occurred;

(b) as to the performance, default or any breach by any Obligor of its obligations under any Note Document; or

(c) whether any other event specified in any Note Document has occurred.

12.10 Exclusion of Liability.

(a) Without limiting **clause (b)** below or any other provision of any Note Document excluding or limiting the liability of the Administrative Agent, the Administrative Agent will not be liable for:

(i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Note Document or the Collateral, unless directly caused by its gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction;

(ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Note Document, the Collateral or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Note Document or the Collateral other than by reason of its gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction;

(iii) any shortfall which arises on the enforcement or realization of the Collateral so long as the Administrative Agent has otherwise acted in accordance with the terms of the Note Documents and applicable Law; or

(iv) without prejudice to the generality of **clause (i)** through and including **clause (iii)** above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation, for negligence or any other category of liability whatsoever but not including any claim based on the actual fraud of the Administrative Agent) arising as a result of:

(A) any act, event or circumstance not reasonably within its control; or

(B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of nationalization, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets; breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

(b) No Party other than the Administrative Agent may take any proceedings against any officer, employee, delegate, receiver or agent of the Administrative Agent in respect of any claim it might have against the Administrative Agent or in respect of any act or omission of any kind by that officer, employee, delegate, receiver or agent in relation to any Note Document or any Collateral and any officer, employee, delegate, receiver or agent of the Administrative Agent may rely on this **Section 12.10**.

(c) The Administrative Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Note Documents to be paid by the Administrative Agent if the Administrative Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognized clearing or settlement system used by the Administrative Agent for that purpose.

(d) Nothing in this Note shall oblige the Administrative Agent to carry out:

(i) any "know your customer" or other checks in relation to any person; or

(ii) any check on the extent to which any transaction contemplated by this Note might be unlawful for any Noteholder,

on behalf of any Noteholder and each Noteholder confirms to the Administrative Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Administrative Agent.

(e) Without prejudice to any provision of any Note Document excluding or limiting the Administrative Agent's liability, any liability of the Administrative Agent arising under or in connection with any Note Document or the Collateral shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Administrative Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Administrative Agent at any time which increase the amount of that loss. In no event shall the Administrative Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Administrative Agent has been advised of the possibility of such loss or damages.

(f) The Administrative Agent shall not be under any obligation to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Note or any other Note Document, or to inspect the properties, books or records of any Obligor or any other Person.

(g) The Administrative Agent shall not be responsible in any manner for any recitals, statements, representations or warranties contained in this Note or any other Note Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Note or any other Note Document or for the creation, perfection or priority of any Lien or security interest created or purported to be created hereunder or under any other Note Document.

(h) The rights, privileges, protections, immunities and benefits given to the Administrative Agent, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable: (i) by the Administrative Agent in each Note Document and any other document related hereto or thereto to which it is a party and (ii) the entity serving as the Administrative Agent in each of its capacities hereunder and in each of its capacities under any Note Document whether or not specifically set forth therein and each agent, custodian and other Person employed to act hereunder and under any Note Document or related document, as the case may be.

12.11 Noteholders' Indemnity to the Administrative Agent.

(a) Each Noteholder shall (in proportion to its Pro Rata Share or, if the Pro Rata Share is zero, to its share of the Loan outstanding) indemnify the Administrative Agent, within ten (10) calendar days of written demand, against any cost, loss or liability incurred by the Administrative Agent (other than by reason of the Administrative Agent's gross negligence or willful misconduct as determined by a final non appealable judgment of a court of competent jurisdiction) in acting as Administrative Agent under the Note Documents (unless the Administrative Agent has been reimbursed by an Obligor pursuant to a Note Document).

(b) The Borrower shall immediately on demand reimburse any Noteholder for any payment that Noteholder makes to the Administrative Agent pursuant to **clause (a)** above.

(c) The covenants contained in this **Section 12.11** shall survive Payment in Full of the Loan or any Noteholder's portion of the Loan and all other obligations under this Note and the other Note Documents and the earlier resignation or replacement of the Administrative Agent.

12.12 Resignation or Replacement of the Administrative Agent.

(a) The Administrative Agent may resign and appoint one of its Affiliates as successor by giving five (5) Business Days' prior written notice to the other Finance Parties and the Borrower.

(b) Alternatively, the Administrative Agent may resign by giving thirty (30) days' prior written notice to the other Finance Parties and the Borrower, in which case the Majority Noteholders may appoint a successor Administrative Agent.

(c) If the Majority Noteholders have not appointed a successor Administrative Agent in accordance with **clause (b)** above within twenty (20) days after notice of resignation was given (or such earlier day as may be agreed by the Majority Noteholders), the retiring Administrative Agent may (but shall not be obliged to) appoint a successor Administrative Agent or petition a court of competent jurisdiction to appoint a successor Administrative Agent.

(d) The retiring Administrative Agent shall, at the Borrower's cost, make available to the successor Administrative Agent such documents and records and provide such assistance as the successor Administrative Agent may reasonably request for the purposes of performing its functions as Administrative Agent under the Note Documents. The Borrower shall indemnify the retiring Administrative Agent prior to it being required to undertake any actions referred to in this **clause (d)** for the amount of all costs and expenses (including legal fees) to be properly incurred by it in making available such documents and records and providing such assistance.

(e) The retiring Administrative Agent's resignation notice shall only take effect upon the appointment of a successor.

(f) Upon the appointment of a successor, the retiring Administrative Agent shall be discharged from any further obligation in respect of the Note Documents (other than its obligations under **clause (d)** above) but shall remain entitled to the benefit of this **Section 12** and any other provisions of a Note Document which are expressed to limit or exclude its liability (or to indemnify it) in acting as Administrative Agent. Any fees for the account of the retiring Administrative Agent shall cease to accrue from (and shall be payable on) the date on which a successor is appointed. Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been a Party as of the Closing Date.

(g) The Majority Noteholders may, by notice to the Administrative Agent, require the Administrative Agent to resign in accordance with **clause (b)** above. In this event, the Administrative Agent shall resign in accordance with **clause (b)** above but the cost referred to in **clause (d)** above shall be for the account of the Borrower.

(h) The consent of the Borrower (or any Obligor) is not required for an assignment or transfer of rights and/or obligations by the Administrative Agent in accordance with this Note.

12.13 Confidentiality.

(a) In acting as Administrative Agent for Noteholders, the Administrative Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.

(b) If information is received by a division or department of the Administrative Agent other than the division or department responsible for complying with the obligations assumed by it under the Note Documents, that information may be treated as confidential to that division or department, and the Administrative Agent shall not be deemed to have notice of it nor shall it be obliged to disclose such information to any Party.

(c) Without prejudice to **Section 12.4**, the Administrative Agent is not obliged to disclose to any other Person (i) any confidential information or (ii) any other information if the disclosure would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty.

12.14 Relationship with the other Finance Parties.

(a) The Administrative Agent may treat the Person shown in its records as "Noteholder" at the opening of business (in the place of the Administrative Agent's principal office as notified to the Finance Parties from time to time) as a "Noteholder":

(i) entitled to or liable for any payment due under any Note Document on that day; and

(ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Note Document made or delivered on that day,

Unless it has received not less than five (5) Business Days' prior written notice from that Noteholder to the contrary in accordance with the terms of this Note.

(b) Each Noteholder shall supply the Administrative Agent with any information that the Administrative Agent or the Collateral Agent may reasonably specify (through the Administrative Agent) as being necessary or desirable to enable the Administrative Agent or the Collateral Agent, as applicable, to perform its functions as Administrative Agent or Collateral Agent, as applicable. Each Finance Party shall deal with the Collateral Agent exclusively through the Administrative Agent and shall not deal directly with the Collateral Agent and any reference to any instructions being given by or sought from any Finance Party or group of Finance Parties to or by the Collateral Agent in this Note must be given or sought through the Administrative Agent.

(c) Any Noteholder may by notice to the Administrative Agent appoint a Person to receive on its behalf all notices, communications, information and documents to be made or dispatched to that Noteholder under the Note Documents. Such notice shall contain the address and (where communication by electronic mail or other electronic means is permitted under this Note) electronic mail address and/or any other information required to enable the transmission of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, electronic mail address (or such other information), department and officer by that Noteholder for the purposes of **Section 14.1** and the Administrative Agent shall be entitled to treat such Person as the Person entitled to receive all such notices, communications, information and documents as though that Person were that Noteholder.

12.15 Credit Appraisal by the Noteholders. Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Note Document, each Finance Party confirms to the Administrative Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under, or in connection with, any Note Document including but not limited to:

(a) the financial condition, status and nature of each Obligor;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Note Document, the Collateral and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Note Document or the Collateral;

(c) whether that Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under, or in connection with, any Note Document, the Collateral, the transactions contemplated by the Note Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Note Document or the Collateral;

(d) the adequacy, accuracy or completeness of any information provided by the Administrative Agent or any Party or by any other Person under, or in connection with, any Note Document, the transactions contemplated by any Note Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Note Document; and

(e) the right or title of any Person in or to or the value or sufficiency of any part of the Collateral, the priority of any of the Collateral or the existence of any security interest affecting the Collateral.

12.16 Administrative Agent's Management Time. Any amount payable to the Administrative Agent under **Section 12.11**, **Section 12.23**, and **Section 14.2** shall include the cost of utilizing the Administrative Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Administrative Agent may notify to the Borrower and the other Finance Parties, and is in addition to any fee paid or payable to the Administrative Agent under **Section 14.2**.

12.17 Deduction from Amounts Payable by the Administrative Agent. If any Party owes an amount to the Administrative Agent under the Note Documents, the Administrative Agent may, after giving notice to Party, deduct an amount not exceeding that amount from any payment to that Party which the Administrative Agent would otherwise be obliged to make under the Note Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Note Documents that Party shall be regarded as having received any amount so deducted.

12.18 Reliance and Engagement Letters. Each Noteholder confirms that the Administrative Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the Administrative Agent) the terms of any reliance letter or engagement letters or any reports or letters provided by accountants, auditors or providers of due diligence reports in connection with the Note Documents or the transactions contemplated in the Note Documents and to bind it in respect of those, reports or letters and to sign such letters on its behalf and further confirms that it accepts the terms and qualifications set out in such letters.

12.19 Full Freedom to Enter into Transactions. Without prejudice to **Section 12.6** or any other provision of a Note Document and notwithstanding any rule of law or equity to the contrary, the Administrative Agent shall be absolutely entitled:

(a) to enter into and arrange banking, derivative, investment and/or other transactions of every kind with or affecting any Obligor or any Person who is party to, or referred to in, a Note Document (including, but not limited to, any interest or currency swap or other transaction, whether related to this Note or not, and acting as syndicate agent and/or security agent for, and/or participating in, other facilities to such Obligor or any Person who is party to, or referred to in, a Note Document);

(b) to deal in and enter into and arrange transactions relating to:

(i) any securities issued or to be issued by any Obligor or any other Person; or

(ii) any options or other derivatives in connection with such securities; and

(c) to provide advice or other services to the Borrower or any Person who is a party to, or referred to in, a Note Document,

and, in particular, the Administrative Agent shall be absolutely entitled, in proposing, evaluating, negotiating, entering into and arranging all such transactions and in connection with all other matters covered by **clause (a)**, **clause (b)** and **clause (c)** above, to use (subject only to insider dealing legislation) any information or opportunity, howsoever acquired by it, to pursue its own interests exclusively, to refrain from disclosing such dealings, transactions or other matters or any information acquired in connection with them and to retain for its sole benefit all profits and benefits derived from the dealings transactions or other matters.

12.20 Majority Noteholders' Instructions.

(a) Notwithstanding anything to the contrary contained in the Note Documents, the Parties acknowledge that where any provision in a Note Document refers to the Administrative Agent being obliged to or entitled to take any specified action, exercise any discretion, make any determination, give any consent or waiver, or act in a certain way in connection with the transactions contemplated by the Note Documents, it shall or may (as the case may be) take such specified action, exercise such discretion, make such determination, give any consent in accordance with the instructions or directions of the Majority Noteholders (or, if the relevant Note Document expressly stipulates the matter is a decision of any other Noteholder or group of Noteholders, from that Noteholder or group of Noteholders) and in doing so shall be deemed to have acted reasonably.

(b) Any instructions given by the Majority Noteholders or the Noteholders shall be in writing and any instructions by the Majority Noteholders on matters which do not require the consent or instructions of all the Noteholders as specified in this Agreement shall be binding on all the Noteholders.

12.21 Determinations by Administrative Agent. Where there is any reference in this Note or any other Note Document to the Administrative Agent acting reasonably or properly, or doing an act or coming to a determination, opinion or belief that is reasonable or proper, or any similar or analogous reference, the Administrative Agent shall, where it has sought such instructions from the Majority Noteholders, be deemed to be acting reasonable and properly or doing an act or coming to a determination, opinion or belief that is reasonable if the Administrative Agent acts on the instructions of the Majority Noteholders where there is in this Note or any other Note Document a provision to the effect that the Administrative Agent is not to unreasonably withhold or delay it consent or approval.

12.22 Amounts Paid In Error.

(a) If the Administrative Agent pays an amount to any Noteholder and the Administrative Agent notifies such Noteholder that such payment was a payment of an amount by the Administrative Agent to another Party which the Administrative Agent determines (in its sole discretion) was made in error (an "***Erroneous Payment***"), then the Noteholder to whom that amount was paid by the Administrative Agent shall on demand refund the same to the Administrative Agent together with interest on that amount from the date of payment to the date

of receipt by the Administrative Agent calculated by the Administrative Agent at a rate determined in accordance with banking industry rules on interbank compensation from time to time in effect, unless such Erroneous Payment was made as a result of gross negligence or willful misconduct, as determined by a final non-appealable judgment of a court of competent jurisdiction, of the Administrative Agent, or such interest is waived by the Administrative Agent, in each case, interest will not be due from the relevant Party having received such Erroneous Payment.

(b) Neither:

(i) the obligations of any Party to the Administrative Agent; nor

(ii) the remedies of the Administrative Agent,

(whether arising under this **Section 12.22** or otherwise) which relate to an Erroneous Payment will be affected by any act, omission, matter or thing which, but for this **clause (b)**, would reduce, release or prejudice any such obligation or remedy (whether or not known by the Administrative Agent or any other Party).

(c) All payments to be made by a Party to the Administrative Agent (whether made pursuant to this **Section 12.22** or otherwise) which relate to an Erroneous Payment shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

12.23 Additional Indemnity. In addition to the indemnification obligations set forth in **Section 14.3** each Obligor shall, within ten (10) days of demand therefor, indemnify the Indemnified Parties against any cost, loss or liability incurred by the Administrative Agent as a result of (a) investigating any event which the Administrative Agent or the Majority Noteholders reasonably believe is a Default; (b) acting or relying on any notice, request or instruction which the Administrative Agent or the Majority Noteholders reasonably believe to be genuine, correct and appropriately authorize; (c) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under the Note Documents or as may be reasonably require by the Administrative Agent or the Majority Noteholders; and (d) any cost, loss or liability incurred by any Indemnified Party (otherwise than by reason of that Indemnified Party's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction).

13. **THE COLLATERAL AGENT**

13.1 Trust.

(a) Each Finance Party (other than the Collateral Agent) hereby irrevocably appoints and authorizes Kroll Trustee Services Limited to act as its trustee in connection with the Collateral and to hold the Collateral in trust for the Noteholders on the terms contained in this Note and deal with the Collateral in accordance with this **Section 13** and the other provisions of the Note Documents.

(b) The Collateral Agent accepts its appointment under **clause (a)** above as trustee of the Collateral with effect from the date of this Note and declares that it holds the Collateral in trust for the Noteholders on the terms contained in this Note and shall deal with the Collateral in accordance with this **Section 13** and the other provisions of the Note Documents

(c) Each other Finance Party authorizes the Collateral Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Collateral Agent under, or in connection with, the Note Documents together with any other incidental rights, powers, authorities and discretions.

13.2 [Reserved].

13.3 Enforcement through Collateral Agent only.

(a) The Finance Parties shall not have any independent power to enforce, or have recourse to, any of the Collateral or to exercise any right, power, authority or discretion arising under the Security Instruments except through the Collateral Agent.

13.4 Instructions.

(a) The Collateral Agent shall:

(i) exercise or refrain from exercising any right, power, authority or discretion (including, without limitation, make any designation, determination, judgment, specification or demand, approve an evidence or the form of a document, serve a notice, grant an approval or a consent or refrain from taking any such action), vested in it as Collateral Agent upon receipt of and in accordance with any instructions given to it by (unless otherwise expressly provided for in the Note Documents):

(A) all Noteholders (or the Administrative Agent on their behalf) if the relevant Note Document expressly stipulates the matter is an all Noteholder decision; and

(B) in all other cases, the Majority Noteholders (or the Administrative Agent on their behalf).

For the avoidance of doubt, without limiting any rights, protections, immunities or indemnities afforded to the Collateral Agent hereunder (including without limitation this **Section 13**), phrases such as "satisfactory to the Collateral Agent," "approved by the Collateral Agent," "acceptable to the Collateral Agent," "as determined by the Collateral Agent," "designed by the Collateral Agent", "specified by the Collateral Agent", "in the Collateral Agent's discretion," "selected by the Collateral Agent," "elected by the Collateral Agent," "requested by the Collateral Agent," "in the opinion of the Collateral Agent," and phrases of similar import that authorize or permit the Collateral Agent to approve, disapprove, determine, act, evaluate or decline to act in its discretion shall be subject to the Collateral Agent receiving a direction from the Majority Noteholders (or, if the relevant Note Document expressly stipulates the matter is a decision of any other Noteholder or group of Noteholders, from that Noteholder or group of Noteholders); and

(ii) not be liable for any act (or omission) if it acts (or refrains from acting) (A) in accordance with **clause (a)(i)** above (or if this Note stipulates the matter is a decision for any other Finance Party or group of Finance Parties, in accordance with instructions given to it by that Finance Party or group of Finance Parties) or (B) in its capacity as Collateral Agent under the Note Documents.

(b) Any instructions given by the Majority Noteholder (or, if the relevant Note Document expressly stipulates the matter is a decision of any other Noteholder or group of Noteholders, from that Noteholder or group of Noteholders) shall be in writing and any instructions by the Majority Noteholders on matters which do not require the consent or instructions of all Noteholders as specified in this Note shall be binding on all the Noteholders.

(c) The Collateral Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Noteholders (or the Administrative Agent on their behalf) (or, if the relevant Note Document stipulates the matter is a decision for any other Finance Party or group of Finance Parties, from that Finance Party or group of Finance Parties) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Collateral Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested. The Collateral Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, and shall be fully justified in failing or refusing to take any action under this Note or any other Note Document unless it shall first (x) receive in writing direction from the Majority Noteholders (or, if the relevant Note Document expressly stipulates the matter is a decision of any other Noteholder or group of Noteholders, from that Noteholder or group of Noteholders) and (y) be indemnified and provided with adequate security to its sole satisfaction by such Noteholders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such directed action.

(d) Save in the case of decisions stipulated to be a matter for any other Noteholder or other group of Noteholders under the relevant Note Document and unless a contrary indication appears in a Note Document, any instructions given to the Collateral Agent by the Majority Noteholders or the Administrative Agent (acting on the instructions of the Majority Noteholders) shall override any conflicting instructions given by any other Parties and will be binding on all Noteholders.

(e) Without prejudice to **clause (a)(ii)** above, **clause (a)(i)** above shall not apply in respect of any provision which protects the Collateral Agent's own position in its personal capacity as opposed to its role of Collateral Agent for the relevant Finance Parties.

(f) In exercising any discretion to exercise a right, power or authority under the Note Documents where either:

(i) it has not received any instructions as to the exercise of that discretion; or

(ii) the exercise of that discretion is subject to **Section 13.4(a)(ii)** above, the Collateral Agent shall do so having regard to the interests of all the Finance Parties.

(g) The Collateral Agent may refrain from acting in accordance with any instructions of any Finance Party or group of Finance Parties until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Note Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions.

(h) Without prejudice to the remainder of this **Section 13.4**, in the absence of instructions, the Collateral Agent may (but shall not be obliged to) take such action in the exercise of its powers and duties under the Note Documents as it considers in its discretion to be appropriate.

13.5 Duties of the Collateral Agent.

(a) The Collateral Agent's duties under the Note Documents are solely mechanical and administrative in nature.

(b) The Collateral Agent shall make available to a Party the original or a copy of any document which is delivered to the Collateral Agent for that Party by any other Party.

(c) Except where a Note Document specifically provides otherwise, the Collateral Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

(d) If the Collateral Agent receives notice from a Party referring to any Note Document, describing a circumstance and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties but shall not have any duty to verify whether the circumstances described has actually occurred or whether it constitutes a Default.

(e) The Collateral Agent shall have only those duties, obligations and responsibilities expressly specified in the Note Documents to which it is expressed to be a party (and no others shall be implied).

13.6 No Fiduciary Duties.

(a) Nothing in any Note Document constitutes the Collateral Agent as an agent, trustee or fiduciary of any Obligor or any other person.

(b) The Collateral Agent shall not be bound to account to any other Finance Party for any sum or the profit element of any sum received by it for its own account.

13.7 Business with the Obligors. The Collateral Agent may accept deposits from, lend money to, and generally engage in any kind of banking or other business with, any Obligor.

13.8 Rights and Discretions.

(a) The Collateral Agent may:

(i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorized;

(ii) assume that:

(A) any instructions received by it from the Majority Noteholders, any Finance Parties or any group of Finance Parties are duly given in accordance with the terms of the Note Documents;

(B) unless it has received written notice of revocation, that those instructions have not been revoked; and

(C) if it receives any instructions to act in relation to the Collateral, that all applicable conditions under the Note Documents for so acting have been satisfied; and

(iii) rely on a certificate from any person:

(A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or

(B) to the effect that such Person approves of any particular dealing, transaction, step, action or thing,

as sufficient evidence that that is the case and, in the case of **clause (iii)(A)** above, may assume the truth and accuracy of that certificate.

(b) The Collateral Agent shall be entitled to carry out all dealings with the other Finance Parties through the Administrative Agent and may give to the Administrative Agent any notice or other communication required to be given by the Collateral Agent to any Finance Party.

(c) The Collateral Agent may assume (unless it has received written notice to the contrary in its capacity as security agent for the Finance Parties) that:

(i) no Default has occurred;

(ii) any right, power, authority or discretion vested in any Party or any group of Finance Parties has not been exercised; and

(iii) any notice or request made by the Borrower is made on behalf of and with the consent and knowledge of the Obligors.

(d) The Collateral Agent may engage (at the Borrower's cost) for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.

(e) Without prejudice to the generality **clause (c)** above or **clause (f)** below, the Collateral Agent may at any time engage (at the Borrower's cost) for the services of any lawyers to act as independent counsel to the Collateral Agent (and so separate from any lawyers instructed by the Administrative Agent or the Noteholders) if the Collateral Agent in its reasonable opinion deems this to be desirable.

(f) The Collateral Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Collateral Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.

(g) The Collateral Agent may act in relation to the Note Documents and the Collateral through its officers, employees, delegate, receiver and agents and shall not:

(i) be liable for any error of judgment made by any such person; or

(ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part of any such person,

unless such error or such loss was directly caused by the Collateral Agent's gross negligence or willful misconduct as determined by a finahon-appealable judgment of a court of competent jurisdiction.

(h) Unless a Note Document expressly provides otherwise the Collateral Agent may disclose to any other Party any information it reasonably believes it has received as security agent under the Note Documents.

(i) Without prejudice to **Section 13.6** and notwithstanding any other provision of any Note Document to the contrary, the Collateral Agent is not obliged to do or omit to do anything if it would or might, in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.

(j) Notwithstanding any provision of any Note Document to the contrary, the Collateral Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

13.9 Responsibility for Documentation. The Collateral Agent shall not be responsible or liable for:

(a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Administrative Agent, the Collateral Agent, an Obligor or any other Person in, or in connection with, any Note Document or the transactions contemplated in the Note Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Note Document;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Note Document or the Collateral or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Note Document or the Collateral; or

(c) any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable Law or regulation relating to insider dealing or otherwise.

13.10 No Duty to Monitor. The Collateral Agent shall not be bound to inquire:

(a) whether or not any Event of Default has occurred;

(b) as to the performance, default or any breach by any Obligor of its obligations under any Note Document; or

(c) whether any other event specified in any Note Document has occurred.

13.11 Exclusion of Liability.

(a) Without limiting **clause (b)** below (and without prejudice to any other provision of any Note Document excluding or limiting the liability of the Collateral Agent), the Collateral Agent will not be liable for:

(i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Note Document or the Collateral, unless directly caused by its gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction;

(ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Note Document, the Collateral or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Note Document or the Collateral other than by reason of its gross negligence of willful misconduct; or

(iii) any shortfall which arises on the enforcement or realization of the Collateral so long as the Collateral Agent has otherwise acted in accordance with the terms of the Note Documents and applicable Law; or

(iv) without prejudice to the generality of **clause (i)** through and including **clause (iii)** above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation, for negligence or any other category of liability whatsoever but not including any claim based on the actual fraud of the Administrative Agent) arising as a result of:

(A) any act, event or circumstance not reasonably within its control; or

(B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of nationalization, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets; breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

(b) No Party other than the Collateral Agent may take any proceedings against any officer, employee, receiver, delegate or agent of the Collateral Agent in respect of any claim it might have against the Collateral Agent or in respect of any act or omission of any kind by that officer, employee, receiver, delegate or agent in relation to any Note Document or any Collateral and any officer, employee, receiver, delegate or agent of the Collateral Agent may rely on this **Section 13.11**.

(c) The Collateral Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Note Documents to be paid by the Collateral Agent if the Collateral Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognized clearing or settlement system used by the Collateral Agent for that purpose.

(d) Nothing in this Note shall oblige the Collateral Agent to carry out:

(i) any "know your customer" or other checks in relation to any person; or

(ii) any check on the extent to which any transaction contemplated by this Note might be unlawful for any Finance Party,

on behalf of any Finance Party and each Finance Party confirms to the Collateral Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Collateral Agent.

(e) Without prejudice to any provision of any Note Document excluding or limiting the liability of the Collateral Agent, any liability of the Collateral Agent arising under or in connection with any Note Document or the Collateral shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Collateral Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Collateral Agent, at any time which increase the amount of that loss. In no event shall the Collateral Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Collateral Agent has been advised of the possibility of such loss or damages. In the event that the Collateral Agent initiates any direct claims against any Noteholder or any Obligor as a result of this Note, the Collateral Agent agrees that such claims shall exclude any special, punitive, indirect or consequential damages, whether or not such Person has been advised of the possibility of such loss or damages.

(f) The Collateral Agent shall not be under any obligation to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Note or any other Note Document, or to inspect the properties, books or records of any Obligor or any other Person.

(g) The Collateral Agent shall not be responsible in any manner for any recitals, statements, representations or warranties contained in this Note or any other Note Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Collateral Agent under or in connection with, this Note or any other Note Document or for the creation, perfection or priority of any Lien or security interest created or purported to be created hereunder or under any other Note Document.

(h) The rights, privileges, protections, immunities and benefits given to the Collateral Agent, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable: (i) by the Collateral Agent in each Note Document and any other document related hereto or thereto to which it is a party and (ii) the entity serving as the Collateral Agent in each of its capacities hereunder and in each of its capacities under any Note Document whether or not specifically set forth therein and each agent, custodian and other Person employed to act hereunder and under any Note Document or related document, as the case may be.

13.12 Noteholders' Indemnity to the Collateral Agent.

(a) Each Noteholder shall (in proportion to its Pro Rata Share or, if the Pro Rata Share is zero, to its share of the Loan outstanding) indemnify the Collateral Agent, within ten (10) calendar days of written demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the Collateral Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction) in acting as Collateral Agent under the Note Documents (unless the Collateral Agent has been reimbursed by any Obligor pursuant to a Note Document).

(b) The Borrower shall within ten (10) days of demand therefor reimburse any Noteholder for any payment that Noteholder makes to the Collateral Agent pursuant to **clause (a)** above.

(c) The covenants contained in this **Section 13.12** shall survive Payment in Full of the Loan or any Noteholder's portion of the Loan and all other obligations under this Note and the other Note Documents and the earlier resignation or replacement of the Collateral Agent.

13.13 Resignation or Replacement of the Collateral Agent.

(a) The Collateral Agent may resign and appoint one of its Affiliates as successor by giving five Business Days' prior written notice to the other Finance Parties and the Borrower.

(b) Alternatively, the Collateral Agent may resign by giving thirty (30) days' written notice to the other Finance Parties and the Borrower, in which case the Majority Noteholders may appoint a successor Collateral Agent.

(c) If the Majority Noteholders have not appointed a successor Collateral Agent in accordance with **clause (b)** above within twenty (20) days after notice of resignation was given, the retiring Collateral Agent may appoint a successor Collateral Agent or petition a court of competent jurisdiction to appoint a successor Collateral Agent.

(d) The retiring Collateral Agent shall, at the Borrower's cost, make available to the successor Collateral Agent such documents and records and provide such assistance as the successor Collateral Agent may reasonably request for the purposes of performing its functions as Collateral Agent under the Note Documents. The Borrower shall indemnify the retiring Collateral Agent prior to it being required to undertake any actions referred to in this **clause (d)** for the amount of all costs and expenses (including legal fees) to be properly incurred by it in making available such documents and records and providing such assistance. The Collateral Agent's resignation notice shall only take effect upon:

(i) the appointment of a successor; and

(ii) the transfer, by way of a document expressed as a deed, of all the Collateral to that successor.

(e) Upon the appointment of a successor, the retiring Collateral Agent shall be discharged, by way of a document executed as a deed, from any further obligation in respect of the Note Documents (other than its obligations under **Section 13.5(b)** and **clause (d)** above) but shall remain entitled to the benefit of this **Section 13** and any other provisions of a Note Document which are expressed to limit or exclude its liability (or to indemnify it) in acting as Collateral Agent. Any fees for the account of the retiring Collateral Agent shall cease to accrue from (and shall be payable on) the date on which a successor is appointed. Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been a Party as of the Closing Date.

(f) The Majority Noteholders may, by notice to the Collateral Agent, require the Collateral Agent to resign in accordance with **clause (b)** above. In this event, the Collateral Agent shall resign in accordance with **clause (b)** above but the cost referred to in **clause (d)** above shall be for the account of the Borrower.

(g) The consent of the Borrower or Jet Share is not required for an assignment or transfer of rights and/or obligations by the Collateral Agent in accordance with this Note.

13.14 Confidentiality.

(a) In acting as Collateral Agent for the Finance Parties, the Collateral Agent shall be regarded as acting through its trustee division which shall be treated as a separate entity from any other of its divisions or departments.

(b) If information is received by a division or department of the Collateral Agent other than the division or department responsible for complying with the obligations assumed by it under the Note Documents, that information may be treated as confidential to that division or department, and the Collateral Agent shall not be deemed to have notice of it nor shall it be obliged to disclose such information to any Party.

(c) Without prejudice to **Section 13.6** and notwithstanding any other provision of any Note Document to the contrary, the Collateral Agent is not obliged to disclose to any other Person (i) any confidential information or (ii) any other information if the disclosure would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty.

13.15 Credit Appraisal by the Noteholders. Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Note Document, each Noteholder confirms to the Collateral Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under, or in connection with, any Note Document including but not limited to:

(a) the financial condition, status and nature of each Obligor;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Note Document, the Collateral and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Note Document or the Collateral;

(c) whether that Noteholder has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under, or in connection with, any Note Document, the Collateral, the transactions contemplated by the Note Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Note Document or the Collateral;

(d) the adequacy, accuracy or completeness of any information provided by the Collateral Agent, any Party or by any other Person under, or in connection with, any Note Document, the transactions contemplated by any Note Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Note Document; and

(e) the right or title of any Person in or to or the value or sufficiency of any part of the Collateral, the priority of any of the Collateral or the existence of any security interest affecting the Collateral.

13.16 Collateral Agent's Management Time.

(a) Any amount payable to the Collateral Agent under **Section 13.12**, **Section 13.37** and **Section 14.3** shall include the cost of utilizing the Collateral Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Collateral Agent may notify to the Borrower and the other Finance Parties and is in addition to any fee paid or payable to the Collateral Agent under **Section 14.2**.

(b) Without prejudice to **clause (a)** above, in the event of:

(i) an Event of Default;

(ii) the Collateral Agent being requested by any Obligor or the Majority Noteholders to undertake duties which the Collateral Agent determines to be of an exceptional nature or outside the scope of the normal duties of the Collateral Agent under the Note Documents; or

(iii) the Collateral Agent and the Borrower agreeing that it is otherwise appropriate in the circumstances,

the Borrower shall pay to the Collateral Agent any additional remuneration that may be agreed between them or determined pursuant to **clause (c)** below.

(c) If the Collateral Agent and the Borrower fail to agree upon the nature of the duties, or upon the additional remuneration referred to in **clause (b)** above or whether additional remuneration is appropriate in the circumstances, any dispute shall be determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Collateral Agent and approved by the Borrower.

13.17 Reliance and Engagement Letters. Each Finance Party confirms that the Collateral Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the Collateral Agent) the terms of any reliance letter or engagement letters or any reports or letters provided by accountants, auditors or providers of due diligence reports in connection with the Note Documents or the transactions contemplated in the Note Documents and to bind it in respect of those, reports or letters and to sign such letters on its behalf and further confirms that it accepts the terms and qualifications set out in such letters.

13.18 No Responsibility to Perfect Collateral. Other than as directed by the applicable percentage of Noteholders in accordance with the Security Instruments and the other Note Documents, the Collateral Agent shall not be liable for any failure to:

(a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Obligor to any of the Collateral;

(b) obtain any license, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any Note Document or the Collateral;

(c) register, file or record or otherwise protect any of the Collateral (or the priority of any of the Collateral) under any law or regulation or to give notice to any person of the execution of any Note Document or of the Collateral;

(d) take, or to require any Obligor to take, any step to perfect its title to any of the Collateral or to render the Collateral effective or to secure the creation of any ancillary Collateral under any law or regulation; or

(e) require any further assurance in relation to any Note Document.

13.19 Insurance by Collateral Agent.

(a) The Collateral Agent shall not be obliged

(i) to insure any of the Collateral; or

(ii) to require any other Person to maintain any insurance (unless expressly instructed by the Majority Noteholders),

and the Collateral Agent shall not be liable for any damages, costs or losses to any Person as a result of the lack of, or inadequacy of, any such insurance.

(b) Where the Collateral Agent is named on any insurance policy as an insured party, it shall not be liable for any damages, costs or losses to any Person as a result of its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind.

13.20 Custodians and Nominees. The Collateral Agent may appoint and pay any Person to act as a custodian or nominee on any terms in relation to any asset of the trust as the Collateral Agent may determine, including for the purpose of depositing with a custodian this Note or any document relating to the trust created under this Note and the Collateral Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reasons of the misconduct, omission or default on the part of any Person appointed by it under this Note or be bound to supervise the proceedings or acts of any Person.

13.21 Delegation by the Collateral Agent.

(a) The Collateral Agent may, at any time, delegate by power of attorney or otherwise to any Person for any period, all or any right, power, authority or discretion vested in it in its capacity as such.

(b) That delegation may be made upon any terms and conditions (including the power to sub delegate) and subject to any restrictions that the Collateral Agent may, in its discretion, think fit in the interests of the Finance Parties.

(c) No Collateral Agent shall be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of any such delegate or sub delegate.

13.22 Additional Collateral Agents.

(a) The Collateral Agent may at any time appoint (and subsequently remove) any Person to act as a separate trustee or as a co-trustee jointly with it:

(i) if it considers that appointment to be in the interests of the Finance Parties; or

(ii) for the purposes of conforming to any legal requirement, restriction or condition which the Collateral Agent deems to be relevant; or

(iii) for obtaining or enforcing any judgment in any jurisdiction,

and the Collateral Agent shall give prior notice to the Borrower and the Finance Parties of that appointment.

(b) Any Person so appointed shall have the rights, powers, authorities and discretions (not exceeding those given to the Collateral Agent under or in connection with the Note Documents) and the duties, obligations and responsibilities that are given or imposed by the instrument of appointment.

(c) The remuneration that the Collateral Agent may pay to that person, and any costs and expenses incurred by that Person in performing its functions pursuant to that appointment shall, for the purposes of this Note, be treated as costs and expenses incurred by the Collateral Agent.

13.23 Acceptance of Title. The Collateral Agent shall be entitled to accept without inquiry, and shall not be obliged to investigate, any right and title that any Obligor may have to any of the Collateral and shall not be liable for or bound to require any Obligor to remedy any defect in its right or title.

13.24 Releases. Upon a disposal of any of the Collateral pursuant to the enforcement of the Collateral by the Collateral Agent, the Collateral Agent is irrevocably authorized (at the cost of the Borrower and without any consent, sanction, authority or further confirmation from any other Finance Party) to release, without recourse or warranty, that property from the Collateral and to execute any release of the Collateral that may be required or desirable.

13.25 Winding up of Trust. If the Collateral Agent (acting on the instructions of the Majority Noteholders) determines that:

(a) all of the obligations of the Obligors under the Note and secured by the Security Instruments have been fully and finally discharged; and

(b) no Finance Party is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Obligor pursuant to the Note Documents, then

(i) the trusts set out in this Note shall be wound up and the Collateral Agent shall release, without recourse or warranty, all of the Collateral and the rights of the Collateral Agent under each of the Security Instruments; and

(ii) any Collateral Agent which has resigned pursuant to **Section 13.13** shall release, without recourse or warranty, all of its rights under each Security Instrument.

13.26 Powers Supplemental. The rights, powers, authorities and discretions given to the Collateral Agent under or in connection with the Note Documents shall be supplemental to any which may be vested in the Collateral Agent by law or regulation or otherwise.

13.27 [Reserved].

13.28 Application of Receipts. All amounts from time to time received or recovered by the Collateral Agent pursuant to the terms of any Note Document or in connection with the realization or enforcement of all or any part of the Collateral (for the purposes of this **Section 13**, the "***Recoveries***") shall be held by the Collateral Agent on trust to apply them at any time as the Collateral Agent (acting at the instructions of the Majority Noteholders in their discretion) sees fit, acting reasonably, to the extent permitted by applicable Law (and subject to the remaining provisions of this **Section 13**), in accordance with **Section 5.2**.

13.29 Permitted Deductions. The Collateral Agent may, in its discretion:

(a) set aside by way of reserve amounts required to meet, and to make and pay, any deductions and withholdings (on account of Taxes or otherwise) which it is or may be required by any applicable Law to make from any distribution or payment made by it under this Note; and

(b) pay all Taxes which may be assessed against it in respect of any of the Collateral, or as a consequence of performing its duties, or by virtue of its capacity as Collateral Agent under any of the Note Documents or otherwise (other than in connection with its remuneration for performing its duties under this Note).

13.30 Prospective Liabilities. Following enforcement of any of the Collateral, the Collateral Agent may, in its discretion, or at the request of the Administrative Agent, hold any Recoveries in a suspense or impersonal account(s) in the name of the Collateral Agent with such financial institution (including itself) for later payment to the Administrative Agent for payment of:

(a) any sum to the Collateral Agent; and

(b) any part of the obligations of the Obligors under the Note,

that the Collateral Agent or, in the case of**clause (b)** only, the Administrative Agent, reasonably considers, in each case, might become due or owing at any time in the future.

13.31 Investment of Proceeds. Prior to the payment of the proceeds of the Recoveries to the Administrative Agent for application in accordance with **Section 5.2** the Collateral Agent may hold all or part of those proceeds in an interest bearing suspense or impersonal account(s) in the name of the Collateral Agent with such financial institution (including itself) pending the payment from time to time of those moneys, provided, however, that any interest accrued thereon shall belong to the Noteholders.

13.32 [Reserved].

13.33 Good Discharge.

(a) Any payment to be made in respect of the obligations owed by the Obligors under the Note by the Collateral Agent may be made to the Administrative Agent on behalf of the Finance Parties.

(b) The Collateral Agent is under no obligation to make the payments to the Administrative Agent under **clause (a)** above in the same currency as that in which the obligations and liabilities owing to the relevant Finance Party are denominated.

13.34 Amounts Received by Borrower. If the Borrower receives or recovers any amount which, under the terms of any of the Note Documents, should have been paid to the Collateral Agent, that Borrower will hold the amount received or recovered on trust for the Collateral Agent and promptly pay that amount to the Collateral Agent for application in accordance with the terms of this Note.

13.35 Full Freedom to Enter into Transactions. Without prejudice to **Section 13.7** or any other provision of a Note Document and notwithstanding any rule of law or equity to the contrary, the Collateral Agent shall be absolutely entitled:

(a) to enter into and arrange banking, derivative, investment and/or other transactions of every kind with or affecting any Obligor or any Person who is party to, or referred to in, a Note Document (including, but not limited to, any interest or currency swap or other transaction, whether related to this Note or not, and acting as syndicate agent and/or security agent for, and/or participating in, other facilities to such Obligor or any Person who is party to, or referred to in, a Note Document);

(b) to deal in and enter into and arrange transactions relating to:

(i) any securities issued or to be issued by any Obligor or any other Person; or

(ii) any options or other derivatives in connection with such securities; and

(c) to provide advice or other services to the Borrower or any Person who is a party to, or referred to in, a Note Document,

and, in particular, the Collateral Agent shall be absolutely entitled, in proposing, evaluating, negotiating, entering into and arranging all such transactions and in connection with all other matters covered by **clause (a)**, **clause (b)** and **clause (c)** above, to use (subject only to insider dealing legislation) any information or opportunity, howsoever acquired by it, to pursue its own interests exclusively, to refrain from disclosing such dealings, transactions or other matters or any information acquired in connection with them and to retain for its sole benefit all profits and benefits derived from the dealings transactions or other matters.

13.36 Majority Noteholders' Instructions.

(a) Notwithstanding anything to the contrary contained in the Note Documents, the Parties acknowledge that where any provision in Note Document refers to the Collateral Agent being obliged to or entitled to take any specified action, exercise any discretion, make any determination, give any consent or waiver, or act in a certain way in connection with the transactions contemplated by the Note Documents, it shall or may (as the case may be) take such specified action, exercise such discretion, make such determination, give any consent in accordance with the instructions or directions of the Majority Noteholders (or, if the relevant Note Document expressly stipulates the matter is a decision of any other Noteholder or group of Noteholders, from that Noteholder or group of Noteholders) and in doing so shall be deemed to have acted reasonably.

(b) The instructions or directions of the Majority Noteholders (or, if the relevant Note Document expressly stipulates the matter is a decision of any other Noteholder or group of Noteholders, from that Noteholder or group of Noteholders) shall be provided in accordance with, and are subject to, the provisions of **Section 13.4**.

(c) Notwithstanding the provisions of **Section 13.4**, the Collateral Agent may refrain from acting in accordance with the instructions of the Majority Noteholders (or, if the relevant Note Document expressly stipulates the matter is a decision of any other Noteholder or group of Noteholders, from that Noteholder or group of Noteholders) until it has received such security as it may require for any cost, loss or liability which it may incur in complying with the instructions.

(d) Notwithstanding the provisions of **Section 13.4**, in the absence of instructions from the Majority Noteholders (or, if the relevant Note Document expressly stipulates the matter is a decision of any other Noteholder or group of Noteholders, from that Noteholder or group of Noteholders), the Collateral Agent shall not be obliged to take any action.

13.37 Indemnity to the Collateral Agent.

(a) Each Obligor shall, within ten (10) days of demand therefor, indemnify each Indemnified Party against any cost, loss or liability incurred by any of them in relation to or as a result of:

(A) any failure by the Borrower to comply with its obligations under **Section 14.2**;

(B) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorized;

(C) the taking, holding, protection or enforcement of the Note Documents and the Collateral;

(D) the exercise of any of the rights, powers, discretions, authorities and remedies vested in that Indemnified Party by the Note Documents or by Law;

(E) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Note Documents;

(F) any action by any Obligor which vitiates, reduces the value of, or is otherwise prejudicial to, the Collateral; and

(G) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under the Note Documents;

(ii) acting as Administrative Agent or Collateral Agent under the Note Documents or which otherwise relates to any of the Collateral or the performance of the terms of this Note or the other Note Documents (otherwise, in each case, than by reason of the relevant Indemnified Party's gross negligence or willful misconduct as determined by a final non- appealable judgment of a court of competent jurisdiction).

(b) The Collateral Agent may, in priority to any payment to the Finance Parties, indemnify itself out of the Collateral in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this **Section 13.37** and shall have a lien on the Collateral and the proceeds of the enforcement of the Collateral for all monies payable to it.

14. **MISCELLANEOUS.**

14.1 Notices.

(a) All notices, requests, or other communications required or permitted to be delivered hereunder shall be delivered in writing, in each case to the address specified below or to such other address as such Person may from time to time specify in writing in compliance with this provision:

If to the Borrower or Jet Share:

LGM Enterprises, LLC
[ ]
[ ]
Attention: [ ]
E-mail: [ ]

If to the Agent or any Noteholder, to the address specified on such Noteholder's signature page hereto or to the instrument by which such Noteholder becomes party to this Note.

(b) Notices if (i) sent by hand or overnight courier service shall be deemed to have been given when received; (ii) sent by facsimile during the recipient's normal business hours shall be deemed to have been given when sent (and if sent after normal business hours shall be deemed to have been given at the opening of the recipient's business on the next Business Day); and (iii) sent by email shall be deemed received upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return email, or other written acknowledgment).

14.2 Fees and Expenses. In addition to the fees payable to the Agents pursuant to the Agent Fee Letter, the Obligors shall reimburse each Agent and each Noteholder within three (3) Business Days of written demand therefor, for all reasonable documented out-of-pocket costs, expenses and fees (including documented expenses and fees of its outside counsel) incurred by such Agent or such Noteholder relating to the Note Documents, including in connection with the enforcement of the Agent's or such Noteholder's rights under this Note and the other Note Documents.

14.3 Indemnification by the Obligors. In consideration of the execution and delivery of this Note and the other Note Documents by the Agents and the Noteholders and the agreement to extend the Loans provided hereunder, and without duplication of the Borrower's payment obligations pursuant to **Section 14.2**, the Obligors hereby agree, jointly and severally, to indemnify, exonerate and hold each Agent, each Noteholder and each of the officers, directors, managers, partners, employees, Affiliates and agents of each Agent and each Noteholder (each a "***Indemnified Party***") free and harmless from and against any and all (A) actions, causes of action and suits, and (B) reasonable and documented losses, liabilities, damages and expenses, including documented expenses and reasonable fees of its outside counsel (collectively, the "***Indemnified Liabilities***"), incurred by Indemnified Parties or any of them as a result of, or arising out of, or relating to (a) any purchase of assets financed or proposed to be financed in whole or in part, directly or indirectly, with the proceeds of the Loans, (b) the use, handling, release, emission, discharge, transportation, storage, treatment or disposal of any Hazardous Materials at any property owned or leased by any Obligor, (c) any violation of any Environmental Laws with respect to conditions at any property owned or leased by any Obligor or the operations conducted thereon, (d) the investigation, cleanup or remediation of offsite locations at which any Obligor or their respective predecessors are alleged to have directly or indirectly disposed of Hazardous Materials or (e) the execution, delivery, performance or enforcement of this Note or any other Note Document by any Indemnified Party, except to the extent any such Indemnified Liabilities result from (i) the applicable Indemnified Party's (or that of its officers, directors, managers, partners, employees, Affiliates or agents) own gross negligence or willful misconduct, as determined in a final non-appealable judgment by a court of competent jurisdiction or (ii) in the case of any Indemnified Party other than any Agent, a dispute among Indemnified Parties. For purposes of clarity, the Parties hereby confirm and agree that the foregoing indemnity does not apply to losses, liabilities, damages and expenses to the extent relating to equity co-investments made by any Indemnified Party or its Affiliates in any Obligor or its Affiliates. If and to the extent that the foregoing undertaking may be unenforceable for any reason, the Borrower hereby agrees to make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities which is permissible under applicable Law. For the avoidance of doubt, this **Section 14.3** shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from anynon-Tax claim. All obligations provided for in this **Section 14.3** shall survive repayment of the Loans, any foreclosure under, or any modification, release or discharge of, any or all of the Security Instruments and termination of this Note and the resignation or removal of either the Administrative Agent or the Collateral Agent pursuant to this Note. Payments under this **Section 14.3** shall be made by the Borrower to the applicable Noteholder or applicable Agent, as the case may be, for the benefit of its related Indemnified Party. It is agreed and understood that no Indemnified Party shall be liable to any other party for consequential, punitive, special, indirect or exemplary losses or damages alleged in connection with the Note Documents of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Indemnified Party has been advised of the likelihood of such loss or damage and regardless of the form of action.

14.4 Governing Law. This Note, the other Note Documents, and any claim, controversy, dispute, or cause of action (whether in contract or tort or otherwise) based upon, arising out of, or relating to this Note, the other Note Documents, and the transactions contemplated hereby and thereby shall be governed by the laws of the State of New York, without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or of any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New York.

14.5 Submission to Jurisdiction.

(a) Each party hereto hereby irrevocably and unconditionally (i) agrees that any legal action, suit, or proceeding arising out of or relating to this Note or the other Note Documents may be brought in any of the state or federal courts located in the Borough of Manhattan in New York City, New York, or if no such court shall have jurisdiction, any federal court of the United States or other state court in each case located in the State of New York, and (ii) submits to the jurisdiction of any such court in any such action, suit, or proceeding. Final judgment against any such Person in any action, suit, or proceeding shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment.

(b) Nothing in this **Section 14.5** shall affect the right of any party hereto to (i) commence legal proceedings or otherwise sue any other party hereto in any other court having jurisdiction over such Person or (ii) serve process upon any such Person in any manner authorized by the laws of any such jurisdiction.

14.6 Venue. Each party hereto irrevocably and unconditionally waives, to the fullest extent permitted by applicable Law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Note or the other Note Documents in any court referred to in **Section 14.5** and the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

14.7 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY RELATING TO THIS NOTE, THE OTHER NOTE DOCUMENTS, OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY. EACH PARTY HERETO (A) CERTIFIES THAT NO AGENT, ATTORNEY, REPRESENTATIVE OR ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF LITIGATION, AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS NOTE AND THE OTHER NOTE DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS **SECTION 14.7**.

14.8 Integration. This Note and the other Note Documents constitute the entire contract between the parties hereto with respect to the subject matter hereof and supersede all previous agreements and understandings, oral or written, with respect thereto.

14.9 Successors and Assigns. Any Noteholder's rights under this Note may be assigned or transferred by such Noteholder to any Person. The Borrower may not assign or transfer this Note or any of its rights hereunder without the prior written consent of the Majority Noteholders. This Note shall inure to the benefit of, and be binding upon, the parties hereto and their successors and permitted assigns. The Borrower shall maintain at one of its offices within the continental United States, a register, in a manner that complies with the "registered form" requirements of U.S. Treasury Regulations Section 5f.103-1(c), on which it will record the name and address of each Noteholder and each assignee of any rights hereunder, and the percentage or portion of the rights assigned to such assignee and principal amounts (and stated interest) of this Note owing to, each Noteholder and each assignee. The entries in this register shall be conclusive and binding for all purposes, absent manifest error.

14.10 Waiver of Notice. Each Obligor hereby waives demand for payment, presentment for payment, protest, notice of payment, notice of dishonor, notice of nonpayment, notice of acceleration of maturity, and diligence in taking any action to collect sums owing hereunder.

14.11 PATRIOT Act. Each Noteholder and each Agent hereby notifies each Obligor that pursuant to the requirements of the PATRIOT Act and 31 C.F.R. § 1010.230, it may be required to obtain, verify, and record information that identifies such Obligor, which information includes the name and address of such Obligor and other information that will allow such Noteholder and such Agent to identify such Obligor in accordance with applicable Law, and such Obligor agrees to provide such information from time to time to each Noteholder and each Agent.

14.12 Amendments and Waivers.

(a) Majority Noteholder Consent. No amendment, modification, termination or waiver of any provision of this Note or the other Note Documents, and no consent to any departure by the Obligors or any Subsidiary of any Obligor from the terms of this Note or any other Note Documents, shall be effective except by an instrument in writing signed by the Obligors and the Majority Noteholders. Any waiver of the terms hereof shall be effective only in the specific instance and for the specific purpose given.

(b) Sacred Rights. Notwithstanding anything in this **Section 14.12** to the contrary, no amendment, modification, waiver or consent in respect of this Note or the other Note Documents shall, without the consent of each Noteholder that is directly and adversely affected thereby, (i) increase any commitment by such Noteholder to fund Loans, (ii) extend the scheduled final maturity of any Secured Obligations owing to such Noteholder, (iii) reduce the rate of or extend the time for payment of interest on any Secured Obligations owing to such Noteholder (other than any waiver of any increase in the interest rate to the Default Rate pursuant to **Section 4.3**), (iv) waive, reduce, or postpone any scheduled amortization (but not mandatory prepayments)

owing to such Noteholder, (v) reduce the principal amount of any Secured Obligations owing to such Noteholder, (vi) release all or substantially all of the Collateral, release Jet Share from the Corporate Guaranty Agreement or release the Personal Guarantor from the Personal Guaranty Agreement, (vii) amend, modify, terminate or waive any provision of this **Section 14.12** or the definitions of "Majority Noteholders" or "Pro Rata Share" on substantially the same basis as the Loans and Noteholders included therein on the Closing Date, or (viii) modify the terms of **Section 5.1** or **Section 5.5**.

14.13 Headings. The headings of the various Sections and subsections herein are for reference only and shall not define, modify, expand, or limit any of the terms or provisions hereof.

14.14 No Waiver; Cumulative Remedies. No failure to exercise, and no delay in exercising on the part of any Noteholder, of any right, remedy, power, or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. The rights, remedies, powers, and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers, and privileges provided by law.

14.15 Electronic Execution. The words "execution," "signed," "signature," and words of similar import in the Note shall be deemed to include electronic or digital signatures or electronic records (including images of signatures exchanged by electronic transmission), each of which shall be of the same effect, validity, and enforceability as manually executed signatures or a paper-based record-keeping system, as the case may be, to the extent and as provided for under applicable Law, including the Electronic Signatures in Global and National Commerce Act of 2000 (15 U.S.C. §§ 7001 to 7031), the Uniform Electronic Transactions Act (UETA), or any state law based on the UETA.

14.16 Severability. If any term or provision of this Note or any other Note Document is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Note or the other Note Documents or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Note so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

14.17 Entire Agreement. This Note and the other Note Documents set forth the entire agreement and understanding of the parties with respect to the subject matter hereof and thereof and supersedes all prior agreements and understandings, oral or written, with respect to such subject matter.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, each party hereto has executed this Note as of the date first written above.

BORROWER:

LGM ENTERPRISE, LLC

By: /s/ *Thomas James Segrave, Jr.*

Name: Thomas James Segrave, Jr.
Title: Sole Manager

GUARANTOR:

FLYEXCLUSIVE JETSHARE, LLC

By: /s/ *Thomas James Segrave, Jr.*

Name: Thomas James Segrave, Jr.
Title: Sole Manager

ETG FE LLC,
a Noteholder
By: EnTrust Global Partners LLC, as its manager

By: /s/ *Matthew Lux*
Name: Matthew Lux
Title: Senior Managing Director & General Counsel

WIRE INSTRUCTIONS:

Bank Name: PLEASE REFER TO THE FOLLOWING PAGE

ABA # (Wires / US$ Only):
Account #:
Account Name:
FFC Account #:
FFC Account:
Attention:

NOTICE ADDRESS:

EnTrust Global
[ ]
[ ]
Attention: [ ]
Email: [ ]
[ ]

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

Vinson & Elkins LLP
[ ]
[ ]
Attention: [ ]
Email: [ ]

USD wire details for ETG FE LLC TRA

INTERMEDIARY FINANCIAL INSTITUTION (SWIFT field 56)

Intermediary Account/IBAN	-
Intermediary Name	[ ]
Intermediary Address	[ ]
Intermediary ABA	[ ]
Intermediary SWIFT	[ ]

BENEFICIARY FINANCIAL INSTITUTION (SWIFT field 57)

Beneficiary Account / IBAN	[ ]
Beneficiary Name	[ ]
Beneficiary Address	[ ]
Beneficiary SWIFT	[ ]

BENEFICIARY (SWIFT field 59)

Beneficiary Account / IBAN	[ ]
Beneficiary Name	[ ]

Please be advised that this notification is only confirmation that Citco Bank have reserved the below account(s) for you, and is not confirmation that the client has been accepted and the account(s) are opened and active. Until such time Citco Bank will not accept any payment instructions and will not accept any incoming monies for the account(s).

KROLL AGENCY SERVICES, LIMITED,
as Administrative Agent

By: /s/ *Christopher Dawe*

Name: Christopher Dawe
Title: Attorney-in-Fact

NOTICE ADDRESS:

Kroll Agency Services Limited
[ ]
[ ]
[ ]
Attention: [ ]
Email: [ ]

KROLL AGENCY SERVICES, LIMITED,
as Collateral Agent

By: /s/ *Christopher Dawe*

Name: Christopher Dawe
Title: Attorney-in-Fact

NOTICE ADDRESS:

Kroll Trustee Services Limited
[ ]
[ ]
[ ]
Attention: [ ]
Email: [ ]

Annex A

Defined Terms

"**Administrative Agent**" has the meaning set forth in the introductory paragraph hereof.

"**Affiliate**" as to any Person, means any other Person that, directly or indirectly through one or more intermediaries, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

"**Affiliate Transaction**" has the meaning set forth in **Section 9.7**.

"**Agent**" has the meaning set forth in the introductory paragraph hereof.

"**Agent Fee Letter**" has the meaning set forth in **Section 6.1(k)**.

"**Aircraft**" means, collectively, the Closing Date Aircraft and the Post Closing Aircraft.

"**Aircraft Mortgage**" means, in respect of an Aircraft, a mortgage for such Aircraft in form and substance acceptable to the Majority Noteholders and the Collateral Agent in order to convey a first-priority perfected mortgage, pledge or other Lien on such Aircraft.

"**Anti-Corruption Laws**" means all laws, rules, and regulations of any jurisdiction applicable to the Borrower from time to time concerning or relating to bribery or corruption, including the United States Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder.

"**Applicable Rate**" means a rate of fourteen percent (14.00%) per annum.

"**Back End Date**" has the meaning set forth in **Section 3.5**.

"**Back End Fee**" has the meaning set forth in **Section 3.5**.

"**Borrower**" means the Person identified as such in the introductory paragraph hereof.

"**Business Combination Agreement**" means that certain Equity Purchase Agreement dated as of October 17, 2022, by and among the Borrower, EG Acquisition Corp., a Delaware corporation, as buyer, and the other parties thereto (as amended or otherwise modified from time to time in accordance with the terms thereof).

"**Business Day**" means a day other than a Saturday, Sunday, or other day on which commercial banks in New York, New York, Charlotte, North Carolina and London, England are authorized or required by law to close.

"**Change in Law**" means the occurrence, after the date hereof, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority.

"**Change of Control**" means the occurrence of any of the following:

(a) Prior to the De-SPAC Closing, (i) the Personal Guarantor shall cease to directly or indirectly own, free and clear of all Liens or other encumbrances, eighty-five percent (85%) of the outstanding voting Equity Interests of the Borrower on a fully diluted basis; (ii) the Borrower ceases to own, directly or indirectly, less than one hundred percent (100%) of the outstanding Equity Interests of Jet Share; (iii) the occurrence of any "change of control" or similar provision under any agreement governing Debt of the Borrower, Jet Share, or any of their respective Subsidiaries; or (iv) a sale, lease or other disposition (including by casualty or condemnation) of all, substantially all, or more than 50% of the consolidated assets of the Borrower, Jet Share, and their respective Subsidiaries.

(b) At any time after the De-SPAC Closing, (i) the Personal Guarantor shall cease to directly or indirectly own, free and clear of all Liens or other encumbrances, fifty-one percent (51%) of the outstanding voting Equity Interests of the PostDe-SPAC Company on a fully diluted basis, so long as any reduction of the Personal Guarantor's ownership stake is the result of dilution due to the issuance of voting Equity Interests to third parties on arm's length terms; provided that the Personal Guarantor may sell, transfer or otherwise dispose or pledge as collateral his Equity Interests not to exceed $25,000,000 in value or yielding no more than $25,000,000 in gross proceeds in the Post De-SPAC Company, whichever is less, so long as he continues to own fifty one percent (51%) of the outstanding voting Equity Interests of the Borrower on a fully diluted basis; (ii) the Post De-SPAC Company ceases to own, directly or indirectly, less than one hundred percent (100%) of the outstanding Equity Interests of Jet Share; (iii) the occurrence of any "change of control" or similar provision under any agreement governing Debt of the Post De-SPAC Company, Jet Share, or any of their respective Subsidiaries; or (iv) a sale, lease or other disposition (including by casualty or condemnation) of all, substantially all, or more than 50% of the consolidated assets of the Post De-SPAC Company, Jet Share, and their respective Subsidiaries.

"**Closing Date**" has the meaning set forth in the introductory paragraph hereof.

"**Closing Date Aircraft**" means the Firm Aircraft acquired pursuant to the Textron Purchase Agreement and identified as such on **Schedule A** hereto.

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

"**Collateral**" has the meaning set forth in **Section 2**.

"**Collateral Agent**" has the meaning set forth in the introductory paragraph hereof.

"**Connection Income Taxes**" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"**Control**" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise.

"**Corporate Guaranty Agreement**" mean that certain Corporate Guaranty Agreement dated as of the Closing Date, executed and delivered by Jet Share in the favor the Collateral Agent for the benefit of the Noteholders.

"**De-SPAC Closing**" means the "Closing" as defined in the Business Combination Agreement.

"**De-SPAC Transactions**" means the transactions contemplated by the Business Combination Agreement, whereby, among other things, the Borrower will issue its Equity Interests to the SPAC in exchange for cash invested in the Borrower and, immediately following such issuance, the SPAC will become a minority holder of the Equity Interests in the Borrower and the managing member of the Borrower.

"**Debt**" means, with respect to any Person, all (a) indebtedness for borrowed money; (b) obligations for the deferred purchase price of property or services, except trade payables arising in the ordinary course of business; (c) obligations evidenced by notes, bonds, debentures, or other similar instruments; (d) obligations as lessee under capital leases; provided, that for purposes of calculations of Debt made pursuant to the terms of this Note or compliance with any covenant, GAAP will be deemed to treat operating leases in a manner consistent with its treatment under GAAP without giving effect to FASB ASC Topic 842, notwithstanding any modifications or interpretive changes thereto that may occur thereafter; (e) obligations under acceptance facilities and letters of credit; (f) guaranties, endorsements (other than for collection or deposit in the ordinary course of business), and other contingent obligations to purchase, to provide funds for payment, to supply funds to invest in any other Person, or otherwise to assure a creditor against loss, in each case, in respect of indebtedness set out in **clause (a)** through **clause (e)** of any other Person and excluding any aircraft lease; and (g) indebtedness of the type set out in **clauses (a)** through **clause (f)** secured by any lien on any asset of such Person, whether or not such indebtedness has been assumed by such Person. For the avoidance of doubt, the "Deferred Underwriting Commission" (as defined in the Business Combination Agreement) shall not be deemed Debt.

"**Default**" means any of the events specified in **Section 10** that constitutes an Event of Default or that, upon the giving of notice, the lapse of time, or both, pursuant to **Section 10**, would, unless cured or waived, become an Event of Default.

"**Default Rate**" means the Applicable Rate plus two percent (2.00%) per annum.

"**Environmental Laws**" means all applicable laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to (a) the environment, (b) the management, release or threatened release of any Hazardous Material or (c) health and safety matters.

"**Environmental Liability**" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of an Obligor or any Subsidiary directly or indirectly resulting from or based upon any violation of any Environmental Law.

"**Equity Interests**" means, with respect to any Person, all shares, interests, participations or other equivalents (however designated, whether voting or non-voting) of that Person's equity capital, whether now outstanding or issued or acquired after the Closing Date, including common shares, preferred shares, interests in a limited liability company (including any rights to manage or participate in the management of such limited liability company), limited or general partnership interests in a partnership, interests in a trust, interests in other unincorporated organizations, or any other equivalent of any such ownership interest.

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

"**ERISA Affiliate**" means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or Section 4001(14) of ERISA or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414(m) of the Code.

"**ERISA Event**" means (a) any "reportable event", as defined in Section 4043 of ERISA or the regulations issued thereunder, with respect to a Plan (other than an event for which the 30-day notice period is waived); (b) the failure to satisfy the "minimum funding standard" (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by the Borrower or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by the Borrower or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (f) the incurrence by the Borrower or any ERISA Affiliate of any liability with respect to the withdrawal or partial withdrawal of the Borrower or any ERISA Affiliate from any Plan or Multiemployer Plan; or (g) the receipt by the Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower or any ERISA Affiliate of any notice, concerning the imposition upon the Borrower or any ERISA Affiliate of liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA, or a determination that a Multiemployer Plan is, or is expected to be, insolvent, in critical status or in reorganization, within the meaning of Title IV of ERISA.

"**Erroneous Payment**" has the meaning set forth in **Section 12.22**.

"**Event of Default**" has the meaning set forth in **Section 10**.

"**Excluded Taxes**" means any of the following Taxes imposed on or with respect to the Noteholders or required to be withheld or deducted from a payment to a Noteholder, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Noteholder being organized under the laws of, or having its principal office in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes and (b) Taxes attributable to the Noteholder's failure to comply with **Section 5.6(g)**.

"**FAA**" means the Federal Aviation Administration.

"**FATCA**" means Sections 1471 through 1474 of the Code, as of the date of this Note (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

"**Finance Party**" means the Administrative Agent, the Collateral Agent or a Noteholder.

"**Financial Statements**" means the audited consolidated balance sheets and related statements of income and changes in equity of Borrower as of December 31, 2022 and for the fiscal year then ended.

"**Firm Aircraft**" has the meaning set forth in the Textron Purchase Agreement.

"**Foreign Noteholder**" means a Noteholder who is not a U.S. Person.

"**GAAP**" means generally accepted accounting principles in the United States of America as in effect from time to time.

"**Governmental Authority**" means the government of any nation or any political subdivision thereof, whether at the national, state, territorial, provincial, municipal or any other level, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of, or pertaining to, government.

"**Guaranty Agreements**" means, collectively, the Corporate Guaranty Agreement and the Personal Guaranty Agreement.

"**Hazardous Materials**" means any pollutants, contaminants, wastes, or other materials or substances that are regulated or for which liability or standards of conduct may be imposed under any Environmental Law, and shall include without limitation oil, petroleum, petroleum-derived substances, radiation and radioactive materials, polychlorinated biphenyls, urea formaldehyde, perfluoroalkyl and polyfluoroalkyl substances, and asbestos or any materials containing asbestos.

"**Highest Lawful Rate**" means, with respect to each Noteholder, the maximum nonusurious interest rate, if any, that at any time or from time to time may be contracted for, taken, reserved, charged or received on the Secured Obligations under Laws applicable to such Noteholder which are presently in effect or, to the extent allowed by law, under such applicable Laws which may hereafter be in effect and which allow a higher maximum nonusurious interest rate than applicable Laws allow as of the date hereof.

"**Indemnified Liabilities**" has the meaning set forth in **Section 14.3**.

"**Indemnified Party**" has the meaning set forth in **Section 14.3**.

"**Indemnified Taxes**" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Obligor or the Personal Guarantor under any Note Document and (b) to the extent not otherwise described in **clause (a)**, Other Taxes.

"**Initial Noteholder**" has the meaning set forth in the introductory paragraph.

"**International Registry**" means the international registry located in Dublin, Ireland, established pursuant to the Convention on International Interests in Mobile Equipment, as supplemented by the Protocol to the Cape Town Convention on matters specific to Aircraft Equipment dated November 16, 2001, and as adopted in any applicable jurisdiction.

"**Jet Share**" has the meaning set forth in the introductory paragraph.

"**Law**" as to any Person, means any law (including common law), statute, ordinance, treaty, rule, regulation, order, decree, judgment, writ, injunction, requirement or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"**Lien**" means any mortgage, pledge, hypothecation, encumbrance, lien (statutory or other), charge, or other security interest.

"**Loan**" means any loan made to the Borrower under the terms of this Note, including the initial loans funded by the Initial Noteholder on the Closing Date.

"**Majority Noteholders**" means any Noteholder or Noteholders having Pro Rata Shares the aggregate amount of which exceeds fifty percent (50%).

"**Make-Whole Date**" has the meaning set forth in **Section 3.4**.

"**Make-Whole Fee**" has the meaning set forth in **Section 3.4**.

"**Margin Stock**" has the meaning specified in Regulation U of the Board of Governors of the Federal Reserve System of the United States (or any successor thereto) as in effect from time to time.

"**Material Adverse Effect**" means a material adverse effect on (a) the business, assets, properties, liabilities, operations, or financial condition of the Obligors and their Subsidiaries, taken as a whole, (b) the validity or enforceability of any Note Document, (c) the perfection or priority of any Lien created under any Note Document, (d) the rights or remedies of any Noteholder under any Note Document, or (e) the ability of the Obligors to perform their obligations under the Note Documents.

"**Material Agreement**" means (a) each written contract or agreement to which any Obligor or any of their respective Subsidiaries is a party or is bound (i) that contemplates or requires annual payments by or to such Obligor or its Subsidiaries of $250,000 or more, or (ii) as to which the breach, nonperformance, cancellation or failure to renew by any party thereto would reasonably be expected to result in a Material Adverse Effect; and (b) each written contract or agreement evidencing or relating to Debt of such Obligor and its Subsidiaries with an aggregate outstanding principal amount equal to or exceeding $250,000 (including, for the avoidance of doubt, the Senior Loan Agreement).

"**Material Debt**" has the meaning set forth in **Section 10.4**.

"**Maturity Date**" means the one (1) year anniversary of the Closing Date.

"**Money Laundering Laws**" has the meaning set forth in **Section 7.7**.

"**Multiemployer Plan**" means a "multiemployer plan" as defined in Section 4001(a)(3) of ERISA. To which Borrower or any ERISA Affiliate had an obligation to contribute over the five (5) years prior to the date hereof.

"**Note**" has the meaning set forth in the introductory paragraph.

"**Note Documents**" means this Note, the Guaranty Agreements, the Security Instruments, and all other agreements, documents, certificates, and instruments executed and delivered to any Noteholder or either Agent by the Obligors or the Personal Guarantor in connection therewith.

"**Noteholders**" means the Initial Noteholder and any other Person that becomes a "Noteholder" under this Note pursuant to a permitted assignment and assumption, excluding any such Person that thereafter ceases to be a party to this Note pursuant to a permitted assignment and assumption.

"**Obligor**" has the meaning set forth in the introductory paragraph hereof.

"**OFAC**" means the U.S. Department of the Treasury's Office of Foreign Assets Control.

"**Other Connection Taxes**" means, with respect to the Noteholders, Taxes imposed as a result of a present or former connection between such Noteholder and the jurisdiction imposing such Tax (other than connections arising from such Noteholder having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Note Document, or sold or assigned an interest in any Note or Note Document).

"**Other Taxes**" means all present or future stamp, court, recording, filing, intangible, documentary, or similar Taxes arising from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Note or any other Note Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made at the request of any Obligor or the Personal Guarantor).

"**Outstanding Principal Amount**" has the meaning set forth in the introductory paragraph hereof.

"**Party**" means a party to this Note.

"**PATRIOT Act**" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. 107-56, signed into law October 26, 2001).

"**Payment in Full**" means the indefeasible payment in full in cash of all Secured Obligations.

"**Permitted Liens**" has the meaning set forth in **Section 9.2**.

"**Permitted Tax Distributions**" means with respect to any taxable period or portion thereof during which the Borrower is a pass-through entity (i.e., a partnership or disregarded entity) for U.S. federal income Tax purposes, distributions in an amount equal to the reasonably estimated tax liability payable by the ultimate beneficial owners of the Borrower in respect of the net taxable income or gain of the Borrower in such respective taxable period.

"**Person**" means any individual, corporation, limited liability company, trust, joint venture, association, company, limited or general partnership, unincorporated organization, Governmental Authority, or other entity.

"**Personal Guarantor**" means Thomas Segrave.

"**Personal Guaranty Agreement**" means that certain Personal Guaranty Agreement dated on or about the date hereof executed and delivered by the Personal Guarantor in favor of the Collateral Agent for the benefit of the Noteholders.

"**Plan**" means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"**Pledge Agreement**" means that certain Membership Interest Pledge Agreement, dated as of the Closing Date by and between Jet Share and Collateral Agent.

"**Post Closing Aircraft**" means the Firm Aircraft acquired pursuant to the Textron Purchase Agreement and identified as such on **Schedule A** hereto.

"**Prepayment Event**" means the occurrence of any of the following: (a) a Change in Control, (b) the Borrower or any of its Subsidiaries incurs Debt to refinance the Secured Obligations, or (c) the Borrower or any of its Subsidiaries incurs Debt in violation of this Note.

"**Pro Rata Share**" means, at any time of determination, (a) with respect to any Noteholder, a percentage equal to a fraction the numerator of which is the aggregate Outstanding Principal Amount owing to such Noteholder in respect of this Note and the denominator of which is the aggregate Outstanding Principal Amount owing to all Noteholders in respect of this Note and (b) with respect to any group of Noteholders, a percentage equal to a fraction the numerator of which is the aggregate Outstanding Principal Amount owing to such Noteholders in respect of this Note and the denominator of which is the aggregate Outstanding Principal Amount owing to all Noteholders in respect of this Note.

"**Recoveries**" has the meaning set forth in **Section 14.28**.

"**Restricted Payments**" has the meaning set forth in **Section 9.5**.

"**Sanctioned Country**" means, at any time, a country or territory that is the subject or target of any Sanctions (including, as of the Closing Date, the so-called Donetsk People's Republic, the so-called Luhansk People's Republic, the Crimea, Zaporizhzhia and Kherson Regions of Ukraine, Cuba, Iran, North Korea and Syria).

"**Sanctioned Person**" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by a Sanctions Authority; (b) any Person operating, located, organized, or resident in a Sanctioned Country, (c) any Person owned or controlled by any such Person or Persons described in the foregoing **clause (a)** or **clause (b)**, or (d) any Person that is the subject or target of any Sanctions.

"**Sanctions**" mean all economic or financial sanctions or trade embargoes imposed, administered, or enforced from time to time by a Sanctions Authority.

"**Sanctions Authority**" means OFAC, the U.S. Department of State, the United Nations Security Council, the European Union, any EU member state, His Majesty's Treasury of the United Kingdom or other relevant sanctions authority.

"**Secured Obligations**" means all amounts, obligations, liabilities, covenants and duties of every type and description owing by any Obligor to any Noteholder or any other indemnitee hereunder, arising out of, under, or in connection with, any Note Document, whether direct or indirect, absolute or contingent, due or to become due, whether liquidated or not, now existing or hereafter arising and however acquired, and whether or not evidenced by any instrument or for the payment of money, including, without duplication, the Loan, all interest thereon (whether or not accruing after the filing of any petition in bankruptcy or after the commencement of any insolvency, reorganization or similar proceeding, and whether or not a claim for post-filing or post- petition interest is allowed in any such proceeding), and all other fees, expenses, indemnities and reimbursement of amounts required to be paid by the Obligors under any Note Document.

"**Security Instruments**" means the Pledge Agreement, the Aircraft Mortgages, the Guaranty Agreements, UCC financing statements and any other agreement now or hereafter executed and delivered by any Obligor that grants or purports to grant a Lien in favor of the Collateral Agent for its benefit and the benefit of the Noteholders to secure the Secured Obligations.

"**Seller**" means Texron Aviation Inc. in its capacity as a seller under the Textron Purchase Agreement.

"**Senior Loan Agreement**" means that certain Third Amended and Restated Loan Agreement dated as of September 19, 2022, between the Borrower, as borrower, and The Northern Trust Company, as Lender (together with its successors and assigns in such capacity, the "***Senior Lender***"), as amended or otherwise modified from time to time in accordance with the terms hereof and thereof.

"**Senior Obligations**" means the "Obligations" as such term is defined in the Senior Loan Agreement, as such Senior Loan Agreement is in effect on the date hereof or as may be amended or otherwise modified in accordance with the terms of this Note and the Senior Loan Agreement.

"**SPAC**" has the meaning set forth in the introductory paragraph hereof.

"**Subordinated Debt**" means any Debt that is contractually subordinated to payment of the Secured Obligations.

"**Subsidiary**" means, with respect to any Person, a corporation, partnership, limited liability company, unlimited liability company or other entity of which that Person owns, directly or indirectly, outstanding Equity Interests having more than fifty percent (50%) of the ordinary voting power for the election of directors or other managers of that corporation, partnership, limited liability company, or other entity. Unless the context otherwise requires, each reference to Subsidiaries in this Note refers to Subsidiaries of the Obligors.

"**Taxes**" means all present or future taxes, levies, imposts, duties, deductions, charges, fees, assessments, or withholdings (including backup withholding) imposed, levied, withheld, or assessed by any Governmental Authority, including any interest, additions to tax, or penalties imposed thereon and with respect thereto.

(***)

(***)

(***)

"**Treasury Regulation**" shall mean the regulations promulgated by the United States Department of the Treasury pursuant to and in respect of provision of the Code. All references herein to sections of the Treasury Regulations shall include any corresponding provision or provisions of succeeding, similar, substitute, temporary or final Treasury Regulations.

"**U.S. Person**" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"**U.S. Tax Compliance Certificate**" has the meaning set forth in **Section 5.6(g)(ii)(C)**.

"**United States**" and "**U.S.**" mean the United States of America.

ANNEX A

Exhibit A

Schedules to Note

[See Attached.]

EXHIBIT A

Exhibit B-1

[FORM OF]

U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Noteholders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Senior Secured Note dated as of December 1, 2023 (as amended, supplemented or otherwise modified from time to time, the "***Note***"), by and among LGM Enterprises, LLC, a North Carolina limited liability company (the "***Borrower***"), FlyExclusive Jet Share, LLC, a North Carolina limited liability company, as the guarantor, ETG FE LLC, a Delaware limited liability company or its registered assigns, as the initial holder of this Note, any Noteholders party hereto from time to time, and Kroll Agency Services Limited, a company incorporated under the laws of England and Wales, as administrative agent, Kroll Trustee Services Limited, a company incorporated under the laws of England and Wales, as administrative agent.

Pursuant to the provisions of Section 5.6 of the Note, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Note in respect of which it is providing this certificate, (ii) it is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a "10 percent shareholder" of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided in this certificate changes, the undersigned shall promptly so inform the Borrower, and (2) the undersigned shall have at all times furnished the Borrower with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Note and used herein shall have the meanings given to them in the Note.

[NAME OF NOTEHOLDER]

By: _____
Name:
Title:

Date: _____, 20[ ]

Exhibit B-2

[FORM OF]

U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Noteholders That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Senior Secured Note dated as of December 1, 2023 (as amended, supplemented or otherwise modified from time to time, the "***Note***"), by and among LGM Enterprises, LLC, a North Carolina limited liability company (the "***Borrower***"), FlyExclusive Jet Share, LLC, a North Carolina limited liability company, ETG FE LLC, a Delaware limited liability company or its registered assigns, as the initial holder of this Note, any Noteholders party hereto from time to time, Kroll Agency Services Limited, a company incorporated under the laws of England and Wales, as administrative agent, and Kroll Trustee Services Limited, a company incorporated under the laws of England and Wales, as administrative agent.

Pursuant to the provisions of Section 5.6 of the Note, the undersigned hereby certifies that (i) it is the sole record owner of the Note in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Note, (iii) with respect to the extension of credit pursuant to this Note or any other Note Document, neither the undersigned nor any of its direct or indirect partners/members is a "bank" extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a "10 percent shareholder" of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: an IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E or IRS Form W-9. By executing this certificate, the undersigned agrees that (1) if the information provided in this certificate changes, the undersigned shall promptly so inform the Borrower, and (2) the undersigned shall have at all times furnished the Borrower with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Note and used herein shall have the meanings given to them in the Note.

[NAME OF NOTEHOLDER]

By: _____
Name:
Title:

Date: _____, 20[ ]

Exhibit 10.7

INDEMNIFICATION AGREEMENT

This Indemnification Agreement ("**Agreement**"), dated as of [•], is by and between flyExclusive, Inc., a Delaware corporation (the "**Company**") and [•] (the "**Indemnitee**").

WHEREAS, [Indemnitee is [a director or an officer of the Company]] OR [the Company expects Indemnitee to join the Company as [a director or an officer]];

WHEREAS, both the Company and Indemnitee recognize the increased risk of litigation and other claims being asserted against directors and officers of public companies;

WHEREAS, the board of directors of the Company (the "**Board**") has determined that enhancing the ability of the Company to retain and attract as directors and officers the most capable persons is in the best interests of the Company and that the Company therefore should seek to assure such persons that indemnification and insurance coverage is available; and

WHEREAS, in recognition of the need to provide Indemnitee with substantial protection against personal liability, in order to procure Indemnitee's service or continued service as a director or an officer of the Company and to enhance Indemnitee's ability to serve or to continue to serve the Company in an effective manner, and in order to provide such protection pursuant to express contract rights (intended to be enforceable irrespective of, among other things, any amendment to the Company's certificate of incorporation or bylaws (collectively, the "**Constituent Documents**"), any change in the composition of the Board or any change in control or business combination transaction relating to the Company), the Company wishes to provide in this Agreement for the indemnification of, and the advancement of Expenses (as defined in Section 1(f) below) to, Indemnitee as set forth in this Agreement and to the extent insurance is maintained for the coverage or continued coverage of Indemnitee under the Company's directors' and officers' liability insurance policies.

NOW, THEREFORE, in consideration of the foregoing and the Indemnitee's agreement to provide or to continue to provide services to the Company, the parties agree as follows:

1. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

(a) "**Beneficial Owner**" has the meaning given to the term "beneficial owner" in Rule 13d-3 under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**").

(b) "**Change in Control**" means the occurrence after the date of this Agreement of any of the following events:

(i) any Person is or becomes the Beneficial Owner, directly or indirectly, of securities of the Company representing 25% or more of the Company's then outstanding Voting Securities without the prior approval of at least a majority of the members of the Board in office immediately prior to such acquisition, unless the change in relative Beneficial Ownership of the Company's securities by any Person results solely from a reduction in the aggregate number of outstanding shares of securities entitled to vote generally in the election of directors;

(ii) the consummation of a reorganization, merger or consolidation, unless immediately following such reorganization, merger or consolidation, all of the Beneficial Owners of the Voting Securities of the Company immediately prior to such transaction beneficially own, directly or indirectly, more than 50% of the combined voting power of the outstanding Voting Securities of the entity resulting from such transaction;

(iii) during any period of two consecutive years, not including any period prior to the execution of this Agreement, individuals who at the beginning of such period constituted the Board (including for this purpose any new directors whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds (2/3) of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved) cease for any reason to constitute at least a majority of the Board; or

(iv) the stockholders of the Company approve a plan of complete liquidation or dissolution of the Company or an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets.

(c) "**Claim**" means:

(i) any threatened, pending or completed action, suit, proceeding or alternative dispute resolution mechanism, whether civil, criminal, administrative, arbitrative, investigative or other, and whether made pursuant to federal, state or other law; or

(ii) any inquiry, hearing or investigation that the Indemnitee determines might lead to the institution of any such action, suit, proceeding or alternative dispute resolution mechanism.

(d) "**Delaware Court**" shall have the meaning ascribed to it in Section 9(e) below.

(e) "**Disinterested Director**" means a director of the Company who is not and was not a party to the Claim in respect of which indemnification is sought by Indemnitee.

(f) "**Expenses**" means any and all expenses, including attorneys' and experts' fees, court costs, transcript costs, travel expenses, duplicating, printing and binding costs, telephone charges, and all other costs and expenses incurred in connection with investigating, defending, being a witness in or participating in (including on appeal), or preparing to defend, be a witness or participate in, any Claim. Expenses also shall include (i) Expenses incurred in connection with any appeal resulting from any Claim, including without limitation the premium, security for, and other costs relating to any cost bond, supersedeas bond, or other appeal bond or its equivalent, and (ii) for purposes of Section 5 only, Expenses incurred by Indemnitee in connection with the interpretation, enforcement or defense of Indemnitee's rights under this Agreement, by litigation or otherwise. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(g) "**Expense Advance**" means any payment of Expenses advanced to Indemnitee by the Company pursuant to Section 4 or Section 5 hereof.

(h) "**Indemnifiable Event**" means any event or occurrence, whether occurring before, on or after the date of this Agreement, related to the fact that Indemnitee is or was a director, officer, employee or agent of the Company or any subsidiary of the Company, or is or was serving at the request of the Company as a director, officer, employee, member, manager, trustee or agent of any other corporation, limited liability company, partnership, joint venture, trust or other entity or enterprise (collectively with the Company, "**Enterprise**") or by reason of an action or inaction by Indemnitee in any such capacity (whether or not serving in such capacity at the time any Loss is incurred for which indemnification can be provided under this Agreement).

(i) "**Independent Counsel**" means a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently performs, nor in the past five years has performed, services for either: (i) the Company or Indemnitee (other than in connection with matters concerning Indemnitee under this Agreement or of other indemnitees under similar agreements) or (ii) any other party to the Claim giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term "Independent Counsel" shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement.

(j) "**Losses**" means any and all Expenses, damages, losses, liabilities, judgments, fines, penalties (whether civil, criminal or other), ERISA excise taxes, amounts paid or payable in settlement, including any interest, assessments, any federal, state, local or foreign taxes imposed as a result of the actual or deemed receipt of any payments under this Agreement and all other charges paid or payable in connection with investigating, defending, being a witness in or participating in (including on appeal), or preparing to defend, be a witness or participate in, any Claim.

(k) "**Person**" means any individual, corporation, firm, partnership, joint venture, limited liability company, estate, trust, business association, organization, governmental entity or other entity and includes the meaning set forth in Sections 13(d) and 14(d) of the Exchange Act.

(l) "**Standard of Conduct Determination**" shall have the meaning ascribed to it in Section 9(b) below.

(m) "**Voting Securities**" means any securities of the Company that vote generally in the election of directors.

2. Services to the Company. Indemnitee agrees to serve or to continue to serve as a director or officer of the Company for so long as Indemnitee is duly elected or appointed or until Indemnitee tenders his or her resignation or is no longer serving in such capacity. This Agreement shall not be deemed an employment agreement between the Company (or any of its subsidiaries or Enterprise) and Indemnitee. Indemnitee specifically acknowledges that his or her employment with and/or service to the Company or any of its subsidiaries or Enterprise is at will and the Indemnitee may be discharged at any time for any reason, with or without cause, except as may be otherwise provided in any written employment agreement between Indemnitee and the Company (or any of its subsidiaries or Enterprise), other applicable formal severance policies duly adopted by the Board or, with respect to service as a director or officer of the Company, by the Company's Constituent Documents or Delaware law.

3. Indemnification. Subject to Section 9 and Section 10 of this Agreement, the Company shall indemnify Indemnitee, to the fullest extent permitted by the laws of the State of Delaware in effect on the date hereof, or as such laws may from time to time hereafter be amended to increase the scope of such permitted indemnification, against any and all Losses if Indemnitee was or is or becomes a party to or participant in, or is threatened to be made a party to or participant in, any Claim by reason of or arising in part out of an Indemnifiable Event, including, without limitation, Claims brought by or in the right of the Company, Claims brought by third parties, and Claims in which the Indemnitee is solely a witness.

4. Advancement of Expenses. Indemnitee shall have the right to advancement by the Company, prior to the final disposition of any Claim by final adjudication to which there are no further rights of appeal, of any and all Expenses actually and reasonably paid or incurred by Indemnitee in connection with any Claim arising out of an Indemnifiable Event. Indemnitee's right to such advancement is not subject to the satisfaction of any standard of conduct. Without limiting the generality or effect of the foregoing, within 20 days after any request by Indemnitee, the Company shall, in accordance with such request, (a) pay such Expenses on behalf of Indemnitee, (b) advance to Indemnitee funds in an amount sufficient to pay such Expenses, or (c) reimburse Indemnitee for such Expenses. In connection with any request for Expense Advances, Indemnitee shall not be required to provide any documentation or information to the extent that the provision thereof would undermine or otherwise jeopardize attorney-client privilege. In connection with any request for Expense Advances, Indemnitee shall execute and deliver to the Company an undertaking (which shall be accepted without reference to Indemnitee's ability to

repay the Expense Advances), to repay any amounts paid, advanced, or reimbursed by the Company for such Expenses to the extent that it is ultimately determined, following the final disposition of such Claim, that Indemnitee is not entitled to indemnification hereunder. Indemnitee's obligation to reimburse the Company for Expense Advances shall be unsecured and no interest shall be charged thereon.

5. Indemnification for Expenses in Enforcing Rights. To the fullest extent allowable under applicable law, the Company shall also indemnify against, and, if requested by Indemnitee, shall advance to Indemnitee subject to and in accordance with Section 4, any Expenses actually and reasonably paid or incurred by Indemnitee in connection with any action or proceeding by Indemnitee for (a) indemnification or reimbursement or advance payment of Expenses by the Company under any provision of this Agreement, or under any other agreement or provision of the Constituent Documents now or hereafter in effect relating to Claims relating to Indemnifiable Events, and/or (b) recovery under any directors' and officers' liability insurance policies maintained by the Company, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification or insurance recovery, as the case may be. However, in the event that Indemnitee is ultimately determined not to be entitled to such indemnification or insurance recovery, as the case may be, then all amounts advanced under this Section 5 shall be repaid. Indemnitee shall be required to reimburse the Company in the event that a final judicial determination is made that such action brought by Indemnitee was frivolous or not made in good faith.

6. Partial Indemnity. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for a portion of any Losses in respect of a Claim related to an Indemnifiable Event but not for the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion thereof to which Indemnitee is entitled.

7. Notification and Defense of Claims.

(a) Notification of Claims. Indemnitee shall notify the Company in writing as soon as practicable of any Claim which could relate to an Indemnifiable Event or for which Indemnitee could seek Expense Advances, including a brief description (based upon information then available to Indemnitee) of the nature of, and the facts underlying, such Claim. The failure by Indemnitee to timely notify the Company hereunder shall not relieve the Company from any liability hereunder unless the Company's ability to participate in the defense of such claim was materially and adversely affected by such failure.

(b) Defense of Claims. The Company shall be entitled to participate in the defense of any Claim relating to an Indemnifiable Event at its own expense and, except as otherwise provided below, to the extent the Company so wishes, it may assume the defense thereof with counsel reasonably satisfactory to Indemnitee. After notice from the Company to Indemnitee of its election to assume the defense of any such Claim, the Company shall not be liable to Indemnitee under this Agreement or otherwise for any Expenses subsequently directly incurred by Indemnitee in connection with Indemnitee's

defense of such Claim other than reasonable costs of investigation or as otherwise provided below. Indemnitee shall have the right to employ its own legal counsel in such Claim, but all Expenses related to such counsel incurred after notice from the Company of its assumption of the defense shall be at Indemnitee's own expense; provided, however, that if (i) Indemnitee's employment of its own legal counsel has been authorized by the Company, (ii) Indemnitee has reasonably determined that there may be a conflict of interest between Indemnitee and the Company in the defense of such Claim, (iii) after a Change in Control, Indemnitee's employment of its own counsel has been approved by the Independent Counsel or (iv) the Company shall not in fact have employed counsel to assume the defense of such Claim, then Indemnitee shall be entitled to retain its own separate counsel (but not more than one law firm plus, if applicable, local counsel in respect of any such Claim) and all Expenses related to such separate counsel shall be borne by the Company.

8. Procedure upon Application for Indemnification. In order to obtain indemnification pursuant to this Agreement, Indemnitee shall submit to the Company a written request therefor, including in such request such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification following the final disposition of the Claim, provided that documentation and information need not be so provided to the extent that the provision thereof would undermine or otherwise jeopardize attorney-client privilege. Indemnification shall be made insofar as the Company determines Indemnitee is entitled to indemnification in accordance with Section 9 below.

9. Determination of Right to Indemnification.

(a) Mandatory Indemnification; Indemnification as a Witness.

(i) To the extent that Indemnitee shall have been successful on the merits or otherwise in defense of any Claim relating to an Indemnifiable Event or any portion thereof or in defense of any issue or matter therein, including without limitation dismissal without prejudice, Indemnitee shall be indemnified against all Losses relating to such Claim in accordance with Section 3 to the fullest extent allowable by law.

(ii) To the extent that Indemnitee's involvement in a Claim relating to an Indemnifiable Event is to prepare to serve and serve as a witness, and not as a party, the Indemnitee shall be indemnified against all Losses incurred in connection therewith to the fullest extent allowable by law.

(b) Standard of Conduct. To the extent that the provisions of Section 9(a) are inapplicable to a Claim related to an Indemnifiable Event that shall have been finally disposed of, any determination of whether Indemnitee has satisfied any applicable standard of conduct under Delaware law that is a legally required condition to indemnification of Indemnitee hereunder against Losses relating to such Claim and any determination that Expense Advances must be repaid to the Company (a "**Standard of Conduct Determination**") shall be made as follows:

(i) if no Change in Control has occurred, (A) by a majority vote of the Disinterested Directors, even if less than a quorum of the Board, (B) by a committee of Disinterested Directors designated by a majority vote of the Disinterested Directors, even though less than a quorum or (C) if there are no such Disinterested Directors, by Independent Counsel in a written opinion addressed to the Board, a copy of which shall be delivered to Indemnitee; and

(ii) if a Change in Control shall have occurred, (A) if the Indemnitee so requests in writing, by a majority vote of the Disinterested Directors, even if less than a quorum of the Board or (B) otherwise, by Independent Counsel in a written opinion addressed to the Board, a copy of which shall be delivered to Indemnitee.

The Company shall indemnify and hold harmless Indemnitee against and, if requested by Indemnitee, shall reimburse Indemnitee for, or advance to Indemnitee, within 30 days of such request, any and all Expenses incurred by Indemnitee in cooperating with the person or persons making such Standard of Conduct Determination.

(c) Making the Standard of Conduct Determination. The Company shall use its reasonable best efforts to cause any Standard of Conduct Determination required under Section 9(b) to be made as promptly as practicable. If the person or persons designated to make the Standard of Conduct Determination under Section 9(b) shall not have made a determination within 30 days after the later of (A) receipt by the Company of a written request from Indemnitee for indemnification pursuant to Section 8 (the date of such receipt being the "**Notification Date**") and (B) the selection of an Independent Counsel, if such determination is to be made by Independent Counsel, then Indemnitee shall be deemed to have satisfied the applicable standard of conduct; provided that such 30 day period may be extended for a reasonable time, not to exceed an additional 30 days, if the person or persons making such determination in good faith requires such additional time to obtain or evaluate information relating thereto. Notwithstanding anything in this Agreement to the contrary, no determination as to entitlement of Indemnitee to indemnification under this Agreement shall be required to be made prior to the final disposition of any Claim.

(d) Payment of Indemnification. If, in regard to any Losses:

(i) Indemnitee shall be entitled to indemnification pursuant to Section 9(a);

(ii) no Standard Conduct Determination is legally required as a condition to indemnification of Indemnitee hereunder; or

(iii) Indemnitee has been determined or deemed pursuant to Section 9(b) or Section 9(c) to have satisfied the Standard of Conduct Determination,

then the Company shall pay to Indemnitee, within five days after the later of (A) the Notification Date or (B) the earliest date on which the applicable criterion specified in clause (i), (ii) or (iii) is satisfied, an amount equal to such Losses.

(e) Selection of Independent Counsel for Standard of Conduct Determination If a Standard of Conduct Determination is to be made by Independent Counsel pursuant to Section 9.1(b)(i), the Independent Counsel shall be selected by the Board of Directors, and the Company shall give written notice to Indemnitee advising him or her of the identity of the Independent Counsel so selected. If a Standard of Conduct Determination is to be made by Independent Counsel pursuant to Section 9.1(b)(ii), the Independent Counsel shall be selected by Indemnitee, and Indemnitee shall give written notice to the Company advising it of the identity of the Independent Counsel so selected. In either case, Indemnitee or the Company, as applicable, may, within five days after receiving written notice of selection from the other, deliver to the other a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not satisfy the criteria set forth in the definition of "Independent Counsel" in Section 1(i), and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person or firm so selected shall act as Independent Counsel. If such written objection is properly and timely made and substantiated, (i) the Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit; and (ii) the non-objecting party may, at its option, select an alternative Independent Counsel and give written notice to the other party advising such other party of the identity of the alternative Independent Counsel so selected, in which case the provisions of the two immediately preceding sentences, the introductory clause of this sentence and numbered clause (i) of this sentence shall apply to such subsequent selection and notice. If applicable, the provisions of clause (ii) of the immediately preceding sentence shall apply to successive alternative selections. If no Independent Counsel that is permitted under the foregoing provisions of this Section 9(e) to make the Standard of Conduct Determination shall have been selected within 20 days after the Company gives its initial notice pursuant to the first sentence of this Section 9(e) or Indemnitee gives its initial notice pursuant to the second sentence of this Section 9(e), as the case may be, either the Company or Indemnitee may petition the Court of Chancery of the State of Delaware ("**Delaware Court**") to resolve any objection which shall have been made by the Company or Indemnitee to the other's selection of Independent Counsel and/or to appoint as Independent Counsel a person to be selected by the Court or such other person as the Court shall designate, and the person or firm with respect to whom all objections are so resolved or the person or firm so appointed will act as Independent Counsel. In all events, the Company shall pay all of the reasonable fees and expenses of the Independent Counsel incurred in connection with the Independent Counsel's determination pursuant to Section 9(b).

(f) Presumptions and Defenses.

(i) Indemnitee's Entitlement to Indemnification. In making any Standard of Conduct Determination, the person or persons making such determination shall presume that Indemnitee has satisfied the applicable standard of conduct and is entitled to indemnification, and the Company shall have the burden of proof to overcome that presumption and establish that Indemnitee is not so entitled. Any Standard of Conduct Determination that is adverse to Indemnitee may be challenged by the Indemnitee in the Delaware Court. No determination by the Company (including by its directors or any Independent Counsel) that Indemnitee has not satisfied any applicable standard of conduct may be used as a defense to any legal proceedings brought by Indemnitee to secure indemnification or reimbursement or advance payment of Expenses by the Company hereunder or create a presumption that Indemnitee has not met any applicable standard of conduct.

(ii) Reliance as a Safe Harbor. For purposes of this Agreement, and without creating any presumption as to a lack of good faith if the following circumstances do not exist, Indemnitee shall be deemed to have acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company if Indemnitee's actions or omissions to act are taken in good faith reliance upon the records of the Company, including its financial statements, or upon information, opinions, reports or statements furnished to Indemnitee by the officers or employees of the Company or any of its subsidiaries in the course of their duties, or by committees of the Board or by any other Person (including legal counsel, accountants and financial advisors) as to matters Indemnitee reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company. In addition, the knowledge and/or actions, or failures to act, of any director, officer, agent or employee of the Company shall not be imputed to Indemnitee for purposes of determining the right to indemnity hereunder.

(iii) No Other Presumptions. For purposes of this Agreement, the termination of any Claim by judgment, order, settlement (whether with or without court approval) or conviction, or upon a plea of nolo contendere or its equivalent, will not create a presumption that Indemnitee did not meet any applicable standard of conduct or have any particular belief, or that indemnification hereunder is otherwise not permitted.

(iv) Defense to Indemnification and Burden of Proof. It shall be a defense to any action brought by Indemnitee against the Company to enforce this Agreement (other than an action brought to enforce a claim for Losses incurred in defending against a Claim related to an Indemnifiable Event in advance of its final disposition) that it is not permissible under applicable law for the Company to indemnify Indemnitee for the amount claimed. In connection with any such action or any related Standard of Conduct Determination, the burden of proving such a defense or that the Indemnitee did not satisfy the applicable standard of conduct shall be on the Company.

(v) Resolution of Claims. The Company acknowledges that a settlement or other disposition short of final judgment may be successful on the merits or otherwise for purposes of Section 9.1(a)(i) if it permits a party to avoid expense, delay, distraction, disruption and uncertainty. In the event that any Claim relating to an Indemnifiable Event to which Indemnitee is a party is resolved in any manner other than by adverse judgment against Indemnitee (including, without limitation, settlement of such action, claim or proceeding with our without payment of money or other consideration) it shall be presumed that Indemnitee has been successful on the merits or otherwise for purposes of Section 9.1(a)(i). The Company shall have the burden of proof to overcome this presumption.

10. Exclusions from Indemnification. Notwithstanding anything in this Agreement to the contrary, the Company shall not be obligated to:

(a) indemnify or advance funds to Indemnitee for Expenses or Losses with respect to proceedings initiated by Indemnitee, including any proceedings against the Company or its directors, officers, employees or other indemnitees and not by way of defense, except:

(i) proceedings referenced in Section 5 above (unless a court of competent jurisdiction determines that each of the material assertions made by Indemnitee in such proceeding was not made in good faith or was frivolous); or

(ii) where the Company has joined in or the Board has consented to the initiation of such proceedings.

(b) indemnify Indemnitee if a final decision by a court of competent jurisdiction determines that such indemnification is prohibited by applicable law.

(c) indemnify Indemnitee for the disgorgement of profits arising from the purchase or sale by Indemnitee of securities of the Company in violation of Section 16(b) of the Exchange Act, or any similar successor statute.

(d) indemnify or advance funds to Indemnitee for Indemnitee's reimbursement to the Company of any bonus or other incentive-based or equity-based compensation previously received by Indemnitee, or payment of any profits realized by Indemnitee from the sale of securities of the Company, as required in each case under the Exchange Act (including any such reimbursements under Section 304 of the Sarbanes-Oxley Act of 2002 in connection with an accounting restatement of the Company or under the Company's clawback policy under Rule 10D-1 under the Exchange Act and Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, or the payment to the Company of profits arising from the purchase or sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act).

11. Settlement of Claims. The Company shall not be liable to Indemnitee under this Agreement for any amounts paid in settlement of any threatened or pending Claim related to an Indemnifiable Event effected without the Company's prior written consent, which shall not be unreasonably withheld. The Company shall not settle any Claim related to an Indemnifiable Event in any manner that would impose any Losses on the Indemnitee without the Indemnitee's prior written consent.

12. Duration. All agreements and obligations of the Company contained herein shall continue during the period that Indemnitee is a director or officer of the Company (or is serving at the request of the Company as a director, officer, employee, member, trustee or agent of another Enterprise) and shall continue thereafter (i) so long as Indemnitee may be subject to any possible Claim relating to an Indemnifiable Event (including any rights of appeal thereto) and (ii) throughout the pendency of any proceeding (including any rights of appeal thereto) commenced by Indemnitee to enforce or interpret his or her rights under this Agreement, even if, in either case, he or she may have ceased to serve in such capacity at the time of any such Claim or proceeding.

13. Non-Exclusivity. An Indemnitee that is continuing to be a director or an officer of the Company agrees that this Agreement supersedes all prior indemnification agreements between the Indemnitee and the Company with respect thereto. Notwithstanding the foregoing, the rights of Indemnitee hereunder will be in addition to any other rights Indemnitee may have under the Constituent Documents, the General Corporation Law of the State of Delaware, any other contract or otherwise (collectively, "**Other Indemnity Provisions**"); provided, however, that (a) to the extent that Indemnitee otherwise would have any greater right to indemnification under any Other Indemnity Provisions, Indemnitee will be deemed to have such greater right hereunder and (b) to the extent that any change is made to any Other Indemnity Provisions which permits any greater right to indemnification than that provided under this Agreement as of the date hereof, Indemnitee will be deemed to have such greater right hereunder.

14. Liability Insurance. For the duration of Indemnitee's service as a director or an officer of the Company, and thereafter for so long as Indemnitee shall be subject to any pending Claim relating to an Indemnifiable Event, the Company shall use commercially reasonable efforts (taking into account the scope and amount of coverage available relative to the cost thereof) to continue to maintain in effect policies of directors' and officers' liability insurance providing coverage that is at least substantially comparable in scope and amount to that provided by the Company's current policies of directors' and officers' liability insurance. In all policies of directors' and officers' liability insurance maintained by the Company, Indemnitee shall be named as an insured in such a manner as to provide Indemnitee the same rights and benefits as are provided to the most favorably insured of the Company's directors, if Indemnitee is a director, or of the Company's officers, if Indemnitee is an officer (and not a director) by such policy. Upon request, the Company will provide to Indemnitee copies of all directors' and officers' liability insurance applications, binders, policies, declarations, endorsements and other related materials.

15. No Duplication of Payments. The Company shall not be liable under this Agreement to make any payment to Indemnitee in respect of any Losses to the extent Indemnitee has otherwise received payment under any insurance policy, the Constituent Documents, Other Indemnity Provisions or otherwise of the amounts otherwise indemnifiable by the Company hereunder.

16. Subrogation. In the event of payment to Indemnitee under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee. Indemnitee shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the Company effectively to bring suit to enforce such rights.

17. Amendments. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be binding unless in the form of a writing signed by the party against whom enforcement of the waiver is sought, and no such waiver shall operate as a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver. Except as specifically provided herein, no failure to exercise or any delay in exercising any right or remedy hereunder shall constitute a waiver thereof.

18. Binding Effect. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business and/or assets of the Company), assigns, spouses, heirs and personal and legal representatives. The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all, substantially all or a substantial part of the business and/or assets of the Company, by written agreement in form and substances satisfactory to Indemnitee, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.

19. Severability. The provisions of this Agreement shall be severable in the event that any of the provisions hereof (including any portion thereof) are held by a court of competent jurisdiction to be invalid, illegal, void or otherwise unenforceable, and the remaining provisions shall remain enforceable to the fullest extent permitted by law.

20. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand, against receipt, or mailed, by postage prepaid, certified or registered mail:

(a) if to Indemnitee, to the address set forth on the signature page hereto.

(b) if to the Company, to:

flyExclusive, Inc.
Attn: [Thomas James Segrave, Jr.]
2860 Jetport Road
Kinston, North Carolina 28504

Notice of change of address shall be effective only when given in accordance with this Section. All notices complying with this Section shall be deemed to have been received on the date of hand delivery or on the third business day after mailing.

21. Governing Law and Forum. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware applicable to contracts made and to be performed in such state without giving effect to its principles of conflicts of laws. The Company and Indemnitee hereby irrevocably and unconditionally: (a) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Delaware Court and not in any other state or federal court in the United States, (b) consent to submit to the exclusive jurisdiction of the Delaware Court for purposes of any action or proceeding arising out of or in connection with this Agreement and (c) waive, and agree not to plead or make, any claim that the Delaware Court lacks venue or that any such action or proceeding brought in the Delaware Court has been brought in an improper or inconvenient forum.

22. Headings. The headings of the sections and paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction or interpretation thereof.

23. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original, but all of which together shall constitute one and the same Agreement.

[SIGNATURE PAGE FOLLOWS]

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

FLYEXCLUSIVE, INC.

By: _____
Name: _____
Title: _____

INDEMNITEE

By: _____
Address: _____
_____

Exhibit 10.8

EXECUTIVE EMPLOYMENT AGREEMENT

This EXECUTIVE EMPLOYMENT AGREEMENT (this **"Agreement"**) is made as of April 1st, 2023 (the **"Effective Date")** by and between LGM Enterprises, LLC (the **"Company"),** and Thomas James Segrave, Jr. **("Executive").** Each of the Company and Executive is referred to herein as a **"Party"** and together they are referred to as the **"Parties."**

TERMS

In consideration of the foregoing premises and the mutual covenants and agreements herein contained, the Parties, intending to be legally bound, agree as follows:

1. Employment.

(a) Services. Executive will serve as the Company's Chief Executive Officer **("CEO")** and will be responsible for the day-to-day management of the Company. Executive will report solely and directly to, and be subject to the supervision of, the Company's Board of Directors (the **"Board").** Executive will perform such services for the Company and have such powers, responsibilities and authority as are customarily associated with the position of CEO and shall perform customary and appropriate duties as may otherwise be reasonably assigned to the Executive from time to time by the Board.

(b) Acceptance. Executive hereby accepts such employment subject to the terms of this Agreement.

2. Term.

The duration of this Agreement (as it may be extended, the **"Term")** shall commence on the date hereof and shall continue for a term of five (5) years thereafter, unless sooner terminated pursuant to **Section 7:** provided, however, that the Term shall be extended automatically for additional, successive one-year periods unless one Party shall notify the other in writing at least sixty (60) days before the initial expiration of the Term or the expiration of any successive one-year period thereafter that this Agreement shall not be so extended after such expiry (a **"Notice of Nonrenewal").** Notwithstanding anything to the contrary contained herein, the provisions of this Agreement specified in **Sections 5,8, 9,10, and 11** shall survive the expiration or termination hereof.

3. Duties: Place of Performance.

(a) Duties. Executive shall devote substantially all of his business time, attention and energies to the business and affairs of the Company and shall use his best efforts to advance the interests of the Company. Executive will perform his duties diligently and to the best of his ability, in compliance with the Company's policies and procedures and the laws and regulations that apply to the Company's business. During the Term, Executive shall not be substantially engaged in any other business activity, whether or not such business activity is

pursued for gain, profit or other pecuniary advantage, that will interfere materially with the performance by Executive of his duties hereunder or Executive's reasonable availability to perform such duties or that Executive knows, or should reasonably know, will adversely affect, or negatively reflect upon, Company. With the prior written consent of the Board, Executive may serve as a member of the board of directors or advisory board of a non-competitive company. No consent of the Board is necessary for Executive to engage in charitable activities, community, affairs, industry, trade or professional associations, and speaking engagements.

(b) Place of Performance. The duties to be performed by Executive hereunder shall be performed primarily at the executive offices of the Company in Kinston, North Carolina, or wherever the principal executive offices of the Company shall hereafter be located, subject to reasonable travel requirements on behalf of the Company, or such other place as the Company and Executive may reasonably designate and mutually agree.

(c) Board Service. The Company shall use its best efforts to cause Executive to be elected as a member of its Board throughout the Term and shall include him in the management slate for election as a director at every shareholders' meeting during the Term at which his term as a director would otherwise expire. Executive agrees to accept election, and to serve during the Term, as a director of the Company, without any compensation therefor other than as specified in this Agreement.

4. Compensation.

As full compensation for Executive's performance of services as an employee of the Company, the Company shall pay Executive as follows:

(a) Base Salary. The Company shall pay Executive an annual base salary of Eight Million Five Hundred Thousand Dollars ($8,500,000.00) (as it may be increased, but not decreased, from time to time, the **("Base Salary"),** less applicable withholdings and deductions. Payment shall be made in accordance with the Company's normal payroll practices. The Board, or its Compensation Committee, shall review the Base Salary not less than annually to determine whether an increase in the amount thereof is warranted.

(b) Annual Bonus. Subject to the following provisions of this **Section 4(b)**, Executive shall be eligible to receive an annual bonus in an amount of up to One Hundred (100%) percent of the Base Salary then in effect, as determined by the Board (or its Compensation Committee) in its sole discretion based upon the achievement, during the year in question, of (i) objectives for the Company as a whole established by the Board (or its Compensation Committee) at the beginning of the year, and (ii) objectives for Executive agreed by the Board (or its Compensation Committee) and Executive at the beginning of the year. The Board (or its Compensation Committee) and Executive will endeavor to determine and agree on Executive's individual objectives for a given year within the first thirty (30) calendar days of each year. Executive must be employed by the Company through December 31 of a given year in order to earn the annual bonus for such year. The annual bonus for a given year will be paid no later than March 15 of the year following the year to which it relates.

(c) Withholding. The Company will withhold from any amounts payable under this Agreement such federal, state and local taxes as the Company determines are required to be withheld pursuant to applicable law.

(d) Expenses. The Company shall reimburse Executive for all normal, usual and necessary expenses incurred by Executive in furtherance of the business and affairs of the Company, including without limitation reasonable travel, lodging, meals, and entertainment upon timely receipt by the Company of appropriate vouchers or other proof of Executive's expenditures and otherwise in accordance with any expense reimbursement policy as may from time to time be adopted by the Company. Such reimbursements will be made in a timely manner and in accordance with the policies of the Company, but in no event later than December 31 of the year following the year in which Executive incurs such expense. The amount of expenses eligible for reimbursement during one year will not affect the expenses eligible for reimbursement in any other year, and is not subject to liquidation or exchange for another benefit.

(e) Other Benefits. Executive shall be entitled to all rights and benefits for which he shall be eligible under any benefit or other plans (including, without limitation, dental, medical, medical reimbursement and hospital plans, pension plans, employee stock purchase plans, profit sharing plans, bonus plans, prescription drug reimbursement plans, short and long term disability plans, life insurance and other so-called "fringe" benefits) as the Company shall make available to its senior executives from time to time.

(f) Aircraft Lease. During the Term, the Company shall fund the fixed lease payment obligations under that certain lease between the Company and JS Longitude, dated September 16th, 2022, for the Executive's use. In addition, the Company shall fund the fixed and variable costs related to the operation of such aircraft, including but not limited to variable costs related to the use of such aircraft by Executive or his family. In the event that such aircraft is not available, and Executive or his family travels on aircraft owned or controlled by the Company, the costs associated with such use shall be paid for by the Company.

(g) Vacation. Executive shall be entitled to vacation, in addition to holidays observed by the Company and reasonable periods of paid personal and sick leave.

5. Confidential Information and Inventions.

(a) Confidential Information; Non-Disclosure and Non-Use. Executive recognizes and acknowledges that in the course of his duties he is likely to receive confidential or proprietary information of the Company, its affiliates or third parties with whom the Company or any such affiliates has an obligation of confidentiality. Accordingly, during and after the Term, Executive agrees to keep confidential and not disclose or make accessible to any other person or use for any other purpose other than in connection with the fulfillment of his duties under this Agreement, any "Confidential and Proprietary Information" (defined below) owned by, or received by or on behalf of the Company or any of its affiliates. The term **"Confidential and Proprietary Information"** shall include, but shall not be limited to, confidential or proprietary scientific or technical information, data, formulas and related concepts, business plans (both current and under development), client lists, promotion and marketing programs, trade secrets, or

any other confidential or proprietary business information relating to development programs, costs, revenues, marketing, investments, sales activities, promotions, credit and financial data, manufacturing processes, financing methods, and any and all information relating to the operation of the Company's business which the Company may from time to time designate as confidential or proprietary or that Executive reasonably knows should be, or has been, treated by the Company as confidential or proprietary. Executive expressly acknowledges that the Confidential and Proprietary Information constitutes a protectable business interest of the Company. Confidential and Proprietary Information encompasses all formats in which information is preserved, whether electronic, print, or any other form, including all originals, copies, notes, or other reproductions or replicas thereof. Executive agrees: (i) not to use any such Confidential and Proprietary Information for himself or others; and (ii) not to take any Company material or reproductions (including but not limited to writings, correspondence, notes, drafts, records, invoices, technical and business policies, computer programs or disks) thereof from the Company's offices at any time during his employment by the Company, except as required in the execution of Executive's duties to the Company.

(b) Return of Property. Upon request during employment and immediately at the termination of his employment, Executive will return to the Company all Confidential and Proprietary Information in any form (including all copies and reproductions thereof) and all other property whatsoever of the Company in his possession or under his control. If requested by the Company, Executive will certify in writing that all such materials have been returned to the Company. Executive also expressly agrees that immediately upon the termination of his employment with the Company for any reason, Executive will cease using any secure website, computer systems, e-mail system, or phone system or voicemail service provided by the Company for the use of its employees.

(c) Exceptions. Confidential and Proprietary Information does not include any information that: (i) at the time of disclosure is generally known to, or readily ascertainable by, the public; (ii) becomes known to the public through no fault of Executive or other violation of this Agreement; or (iii) is disclosed to Executive by a third party under no obligation to maintain the confidentiality of the information. The restrictions in **Section 5(a)** above will not apply to any information the extent that that Executive is required to disclose such information by law, provided that the Executive (x) notifies the Company of the existence and terms of such obligation, (y) gives the Company a reasonable opportunity to seek a protective or similar order to prevent or limit such disclosure, and (z) only discloses that information actually required to be disclosed. Furthermore, pursuant to the Federal Defend Trade Secrets Act of 2016, an individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that (a) is made (i) in confidence to a federal, state or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (b) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to his or her attorney and use the trade secret information in the court proceeding, if the individual (a) files any document containing the trade secret under seal; and (b) does not disclose the trade secret, except pursuant to court order.

(d) Inventions. Executive agrees that all inventions, discoveries, improvements and patentable or copyrightable works **("Inventions")** initiated, conceived or made by him within the scope of the Company's business and in the course of his employment with the Company, either alone or in conjunction with others, during the Term shall be the sole property of the Company to the maximum extent permitted by applicable law and, to the extent permitted by law, shall be "works made for hire" as that term is defined in the United States Copyright Act (17 U.S.C.A., Section 101). The Company shall be the sole owner of all patents, copyrights, trade secret rights, and other intellectual property or other rights in connection therewith; provided, however that this **Section 5(d)** shall not apply to Inventions which are not related to the business of the Company and which are made and conceived by Executive not during normal working hours, not on the Company's premises and not using the Company's tools, devices, equipment or Confidential and Proprietary Information. Subject to the foregoing, Executive hereby assigns to the Company all right, title and interest he may have or acquire in all Inventions; provided, however, that the Board may in its sole discretion agree to waive the Company's rights pursuant to this **Section 5(d)**.

(e) Further Actions and Assistance. Executive agrees to cooperate reasonably with the Company and at the Company's expense, both during and after his employment with the Company, with respect to the procurement, maintenance and enforcement of copyrights, patents, trademarks and other intellectual property rights (both in the United States and foreign countries) relating to such Inventions. Executive shall sign all papers, including, without limitation, copyright applications, patent applications, declarations, oaths, formal assignments, assignments of priority rights and powers of attorney, that the Company reasonably may deem necessary or desirable in order to protect its rights and interests in any Inventions. Executive further agrees that if the Company is unable, after reasonable effort, to secure Executive's signature on any such papers, any officer of the Company shall be entitled to execute such papers as his agent and attorney-in-fact and Executive hereby irrevocably designates and appoints each officer of the Company as his agent and attomey-in-fact to execute any such papers on his behalf and to take any and all actions as the Company reasonably may deem necessary or desirable in order to protect its rights and interests in any Inventions, under the conditions described in this paragraph.

(f) Prior Inventions. Executive will not assert any rights to any invention, discovery, idea or improvement relating to the business of the Company or to his duties hereunder as having been made or acquired by Executive prior to his work for the Company, except for the matters, if any, described in **Appendix A** to this Agreement. Furthermore, notwithstanding anything else in this **Section 5,** this Agreement shall not be construed to apply to, and shall not create any assignment of, any Inventions of Executive covered by Section 66-57.1 of the North Carolina General Statutes, a copy of which is attached hereto as **Appendix B.**

(g) Disclosure. Executive agrees that he will promptly disclose to the Company all Inventions initiated, made or conceived or reduced to practice by him, either alone or jointly with others, during the Term.

(h) Survival. The provisions of this **Section 5** shall survive any termination of this Agreement.

6. Representations and Warranties.

(a) By Executive. Executive hereby represents and warrants to the Company as follows:

(i) Neither the execution or delivery of this Agreement nor the performance by Executive of his duties and other obligations hereunder conflict with or constitute a default or breach of any covenant or obligation under (whether immediately, upon the giving of notice or lapse of time or both) any prior employment agreement, contract, or other instrument to which Executive is a party or by which he is bound.

(ii) Executive has the full right, power and legal capacity to enter and deliver this Agreement and to perform his duties and other obligations hereunder. This Agreement constitutes the legal, valid and binding obligation of Executive enforceable against him in accordance with its terms. No approvals or consents of any persons or entities are required for Executive to execute and deliver this Agreement or perform his duties and other obligations hereunder.

(iii) Executive will not use any confidential information or trade secrets of any third Party in his employment by the Company in violation of the terms of the agreements under which he had access to or knowledge of such confidential information or trade secrets.

(b) By Company. The Company hereby represents and warrants to Executive that the Company has the full right and power to enter and deliver this Agreement and to perform obligations hereunder. This Agreement constitutes the legal, valid and binding obligation of the Company enforceable against it in accordance with its terms. All approvals or consents required for the Company to validly execute and deliver this Agreement and perform its obligations hereunder, including, without limitation, approval of the Board, if required, have been obtained.

7. Termination.

(a) Cause. Executive's employment hereunder may be terminated by the Company immediately for "Cause" (defined below). Any of the following actions by Executive shall constitute **("Cause"):**

(i) The willful failure, disregard or refusal by Executive to perform his material duties or obligations under this Agreement that is not cured, to the extent subject to cure, by Executive to the reasonable satisfaction of the Company within thirty (30) days after written notice thereof is given to Executive by the Company;

(ii) Any willful, intentional or grossly negligent act by Executive having the effect of materially injuring (whether financial or otherwise and as determined reasonably and in good-faith by a majority of the members of the Board) the business or reputation of the Company or any of its affiliates that is not cured, to the extent subject to cure, by Executive to the reasonable satisfaction of the Company within thirty (30) days after written notice thereof is given to Executive by the Company;

(iii) Executive's conviction of any felony involving moral turpitude (including entry of a guilty or nolo contendere plea);

(iv) Any material misappropriation or embezzlement by Executive of the property of the Company or its affiliates (whether or not a misdemeanor or felony); or

(v) Breach by Executive of any material provision of this Agreement that is not cured, to the extent subject to cure, by Executive to the reasonable satisfaction of the Company within thirty (30) days after written notice thereof is given to Executive by the Company.

For purposes of this **Section 7(a)**. no act or omission by Executive shall be considered willful if reasonably and in good faith believed by Executive to be in, or not contrary to, the best interests of the Company.

(b) Death. Executive's employment hereunder shall be terminated upon Executive's death.

(c) Disability The Company may terminate Executive's employment hereunder due to Executive's "Disability" (defined below). For purposes of this Agreement, a termination due to Executive's **"Disability"** shall be deemed to have occurred:

(i) when the Board has provided a written termination notice to Executive supported by a written statement from a Reputable Independent Physician (defined below), to the effect that Executive shall have become so physically or mentally incapacitated by reason of physical or mental illness or injury as to be unable to resume his employment under this Agreement (with or without reasonable accommodation as that term is defined under applicable law) within the ensuing three (3) months: or

(ii) upon rendering of a written termination notice by the Board after Executive has been unable to substantially perform his duties hereunder by reason of any physical or mental illness or injury (with or without reasonable accommodation as that term is defined under applicable law) for ninety (90) or more consecutive days or more than one hundred twenty (120) days in any consecutive twelve month period.

The term **"Reputable Independent Physician"** means a physician satisfactory to both Executive and the Company, provided that if Executive and the Company do not agree on a physician, then a third physician selected by the physicians selected by Executive and the Company. Executive agrees to make himself available and to cooperate in a reasonable examination by the Reputable Independent Physician. The determination of the Reputable Independent Physician as to Executive's disability shall be binding on all Parties.

(d) Good Reason. Executive may terminate his employment hereunder for "Good Reason" (as defined below) pursuant to the procedures set forth in this **Section 7(d).** In order for Executive to resign for Good Reason, Executive must provide written notice to the Company of the existence of the Good Reason condition within sixty (60) days of the initial existence of such Good Reason condition. Upon receipt of such notice, the Company will have thirty (30) days during which it may attempt to remedy the Good Reason condition. If so remedied, Executive may not resign for Good Reason based on such condition. If the Good Reason condition is not remedied within such thirty (30) day period. Executive may resign based on the Good Reason condition specified in the notice effective no later than thirty (30) days following the expiration of the thirty (30) day cure period. The term **"Good Reason"** shall mean any of the following occurring without the Executive's written consent:

(i) any material breach of this Agreement by the Company;

(ii) any material reduction by the Company of Executive's duties, responsibilities, or authority;

(iii) a relocation of the Company's principal place of business to which Executive reports more than 25 miles from its immediately preceding location;

(iv) a material reduction in Executive's annual base salary unless all officers and/or members of the Company's executive management team experience an equal or greater percentage reduction in annual base salary and/or total compensation.

(e) Convenience. Either Party may terminate Executive's employment hereunder for any reason or no reason at any time by written notice of termination to the other Party, which notice shall specify the termination date, or by providing a Notice of Nonrenewal to the other Party.

8. Compensation upon Termination.

In the event Executive's employment is terminated, the Company shall pay to Executive the Base Salary and benefits otherwise payable to him under **Section 4** through the last day of his actual employment by the Company along with any reimbursable business expenses subject to the policies of the Company (together, the **"Accrued Compensation").** Except for the Accrued Compensation and as otherwise required by law, Executive will have no further entitlement hereunder to any other compensation or benefits from the Company except as expressly provided below:

(a) Terminations Other Than For Cause. Death, or Disability. If the Company terminates Executive's employment other than as a result of Executive's death or Disability and other than for Cause (including by providing a Notice of Nonrenewal to Executive) or if Executive terminates Executive's employment for Good Reason, then

conditioned upon Executive executing a Release (as defined below) following such termination, the Company shall the Company will provide to Executive the following separation benefits: (i) the Company will continue to pay to Executive his Base Salary for a period of twenty-four (24) months, (ii) an amount equal to two (2) times the target bonus for the year of termination (not less than 100% of Base Salary), (iii) if Executive timely elects continued health insurance coverage under COBRA, the Company shall pay the entire premium necessary to continue such coverage for Executive and Executive's eligible dependents until the conclusion of the time when Executive is receiving continuation of Base Salary payments or until Executive becomes eligible for group health insurance coverage under another employer's plan, whichever occurs first, provided however that the Company has the right to terminate such payment of COBRA premiums on behalf of Executive and instead pay Executive a lump sum amount equal to the COBRA premium times the number of months remaining in the specified period if the Company determines in its discretion that continued payment of the COBRA premiums is or may be discriminatory under Section 105(h) of the Code, and (iv) the Company will provide such other or additional benefits, if any, as may be provided under applicable employee benefit plans, programs and/or arrangements of the Company. The separation benefits set forth above are conditioned upon Executive executing a release of claims against the Company, its parents, subsidiaries and affiliates and each of its officers, directors, employees, agents, successors and assigns in a form acceptable to the Company (the **"Release")** within the time specified therein, which Release is not revoked within any time period allowed for revocation under applicable law. The salary continuation described in **Section 8(a)(i)** above will be payable to Executive over time in accordance with the Company's payroll practices and procedures beginning on the sixtieth (60th) day following the termination of Executive's employment with the Company, provided that the Company, in its sole discretion, may begin the payments earlier.

(b) By Executive for Convenience. If Executive terminates Executive's employment pursuant to **Section 7(e)**, including by providing a Notice of Nonrenewal to the Company, Executive shall not be entitled to receive any payments or benefits other than the Accrued Compensation.

(c) This **Section 8** sets forth the only obligations of the Company with respect to the termination of Executive's employment with the Company, and Executive acknowledges that, upon the termination of his employment, he shall not be entitled to any payments or benefits which are not explicitly provided in this **Section 8**, except as required by law or the terms of another employee plan, program or arrangement covering him.

(d) The obligations of the Company that arise under this **Section 8** shall survive the expiration or earlier termination of this Agreement.

9. Indemnification.

The Company shall defend and indemnify Executive in his capacity as CEO of the Company to the fullest extent permitted under applicable law. The Company shall also establish a policy for indemnifying its officers and directors, including but not limited to Executive, for all actions permitted under applicable law taken in good faith pursuit of their duties for the Company, including, but not limited to, the obtaining of an appropriate level of

directors and officers' liability insurance coverage and including such provisions in the Company's bylaws or certificate of incorporation, as applicable and customary. Executive shall be designated as a named insured on such directors and officers' liability insurance policy. Executive's rights to, and the Company's obligation to provide, indemnification shall survive termination of this Agreement.

10. Compliance with Code Section 409A.

The Parties intend that this Agreement and the payments made hereunder will be exempt from, or comply with, the requirements of Section 409A of the Internal Revenue Code of 1986, as amended, and the regulations and other guidance thereunder and any state law of similar effect (collectively **"Section 409A").** and this Agreement will be interpreted and applied to the greatest extent possible in a manner that is consistent with the requirements for avoiding taxes or penalties under Section 409A. Notwithstanding anything to the contrary set forth herein, any payments and benefits provided under this Section 10 that constitute "deferred compensation" within the meaning of Section 409A will not commence in connection with Executive's termination of employment unless and until Executive has also incurred a "separation from service" (as such term is defined in Treasury Regulation Section 1.409A-1(h)), unless the Company reasonably determines that such amounts may be provided to Executive without causing Executive to incur the additional 20% tax under Section 409A. The Parties intend that each installment of any separation benefits provided for in this Agreement is a separate "payment" for purposes of Section 409A. For the avoidance of doubt, the Parties intend that the separation benefits provided in **Section 8(a)** (the **"Separation Benefits")** herein satisfy, to the greatest extent possible, the exemptions from the application of Section 409A provided under Treasury Regulation Sections 1.409A-1(b)(4) and 1.409A-1(b)(9). However, if the Company determines that the Separation Benefits constitute "deferred compensation" under Section 409A and Executive is, as of the separation from service, a "specified employee" of the Company or any successor entity thereto, as such term is defined in Section 409A, then, solely to the extent necessary to avoid the incurrence of the adverse personal tax consequences to Executive under Section 409A, the timing of the payment of the Separation Benefits will be delayed until the earlier to occur of: (i) the date that is six months and one day after Executive's separation from service, or (ii) the date of Executive's death (such applicable date, the **"Specified Employee Initial Payment Date"),** and the Company (or the successor entity thereto, as applicable) will (A) pay to Executive a lump sum amount equal to the sum of the Separation Benefits that Executive would otherwise have received through the Specified Employee Initial Payment Date if the commencement of the payment of the Separation Benefits had not been so delayed pursuant to this **Section 10**, and (B) commence paying the balance of the Separation Benefits in accordance with the applicable payment schedules set forth in this Agreement.

11. Miscellaneous.

(a) Governing Law. Subject to the next sentence, this Agreement and all questions relating to its validity, interpretation, performance, remediation, and enforcement (including, without limitation, provisions concerning limitations of actions) shall be governed by and construed in accordance with the substantive laws of the State of North Carolina, notwithstanding any choice-of-law doctrines of that jurisdiction or any other jurisdiction that ordinarily would or might cause the substantive law of another jurisdiction to apply.

(b) Personal Jurisdiction. To the fullest extent permitted by applicable law, any action or proceeding relating in any way to this Agreement may only be brought and enforced in the state or federal courts with jurisdiction over Lenoir County, North Carolina, to the extent subject matter jurisdiction exists therefore. The Parties irrevocably submit to the jurisdiction of such courts in respect of any such action or proceeding. The Parties irrevocably waive, to the fullest extent permitted by applicable law, any objection that they may now or hereafter have to the venue of any such action or proceeding in such courts, as well as any acclaim that such action or proceeding brought in any such court has been brought in an inconvenient forum.

(c) Assignment. This Agreement, and Executive's rights and obligations hereunder, may not be assigned by Executive. The Company may assign its rights, together with its obligations, hereunder in connection with any sale, transfer or other disposition of all or substantially all of its business or assets. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their respective heirs, legal representatives, successors and assigns.

(d) Amendment. This Agreement cannot be amended orally, or by any course of conduct or dealing, but only by a written agreement duly executed by the Parties.

(e) Waiver. The failure of either Party to insist upon the strict performance of any of the terms, conditions and provisions of this Agreement shall not be construed as a waiver or relinquishment of future compliance therewith, and such terms, conditions and provisions shall remain in full force and effect. No waiver of any term or condition of this Agreement on the part of either Party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such Party. Unless the written waiver instrument expressly provides otherwise, no waiver by a Party of any right or remedy or breach by the other Party in any particular instance shall be construed to apply to any right, remedy or breach arising out of or related to a subsequent instance.

(f) Notices. All notices, demands or other communications desired or required to be given by a Party to the other Party shall be in writing and shall be deemed effectively given upon (i) personal delivery to the Party to be notified, (ii) upon confirmation of receipt of fax or other electronic transmission, (iii) one business day after deposit with a reputable overnight courier, prepaid for priority overnight delivery, or (iv) five days after deposit with the United States Postal Service, postage prepaid, certified mail, return receipt requested, in each case to the Party to be notified at its/his address set forth at the top of this Agreement; or to such other addresses and to the attention of such other individuals as either Party shall have designated to the other by notice given in the foregoing manner.

(g) Entire Agreement. This Agreement sets forth the entire agreement and understanding of the Parties relating to the subject matter hereof, and supersedes all prior agreements, arrangements and understandings, written or oral between the Parties, relating to the subject matter hereof. Notwithstanding the foregoing, the Parties recognize and agree that non-competition, non-solicitation, and other restrictive covenant provisions may be agreed upon between the Parties in separate agreements.

(h) Affiliate and Control Defined. As used in this Agreement, the term **"affiliate"** of a specified Person shall mean and include any Person controlling, controlled by or under common control with the specified Person. A Person shall be deemed to ***"control"*** another Person if such first Person possesses directly or indirectly the power to direct, or cause the direction of, the management and policies of the second Person, whether through the ownership of voting securities, by contract or otherwise.

(i) Captions. Headings and Cross-References. The section headings contained herein are for reference purposes and convenience only and shall not in any way affect the meaning or interpretation of this Agreement. Except as expressly set forth otherwise, all cross-references to sections refer to sections of this Agreement.

(j) Severability. The Parties agree that each and every provision of this Agreement shall be deemed valid, legal and enforceable in all jurisdictions to the fullest extent possible. Any provision of this Agreement that is determined to be invalid, illegal or unenforceable in any jurisdiction shall, as to that jurisdiction, be adjusted and reformed rather than voided, if possible, in order to achieve the intent of the Parties. Any provision of this Agreement that is determined to be invalid, illegal or unenforceable in any jurisdiction winch cannot be adjusted and reformed shall for the purposes of that jurisdiction, be voided. Any adjustment, reformation or voidance of any provisions of this Agreement shall only be effective in the jurisdiction requiring such adjustment or voidance, without affecting in any way the remaining provisions of this Agreement in such jurisdiction or adjusting, reforming, voiding or rendering that provision or any other provision of this Agreement invalid, illegal or unenforceable in any other jurisdiction.

(k) Counterpart Execution. This Agreement may be executed in one or more counterparts each of which shall be an original document and all of which together shall constitute one and the same instrument. The Parties acknowledge that this Agreement may be executed and delivered by means of electronic signatures and that use and acceptance of electronic signatures to bind the Parties represents the voluntary agreement and intention of the Parties to conduct this transaction by electronic means. The Parties agree that execution and delivery by electronic means will have the same legal effect as if signatures had been manually written on this Agreement. This Agreement will be deemed lawfully executed by the Parties by such action for purposes of any statute or rule of law that requires this Agreement to be executed by the Parties to make the mutual promises, agreements and obligations of the Parties set forth herein legally enforceable. Facsimile and .pdf exchanges of signatures will have the same legal force and effect as the exchange of original signatures. The Parties hereby waive any right to raise any defense or waiver based upon execution of this Agreement by means of electronic signatures in any proceeding arising under or relating to this Agreement. The Parties agree that the legal effect, validity and enforceability of this Agreement will not be impaired solely because of its execution in electronic form or that an electronic record was used in its formation. The Parties acknowledge that they are capable of retaining electronic records of this transaction.

IN WITNESS WHEREOF, the Parties hereto have executed this Employment Agreement as of the date set forth above.

LGM ENTERPRISES, LLC:

By: /s/ *Brent Smith*

Name: Brent Smith
Title: Chief Financial Officer
Date: 4/21/22

EXECUTIVE

By: /s/ *Thomas James Segrave, Jr.*

Thomas James Segrave, Jr.
Date: 4/21/22

APPENDIX A

PRIOR INVENTIONS.

APPENDIX B

SECTION 66-57.1 OF THE NORTH CAROLINA GENERAL STATUTES

Any provision in an employment agreement which provides that the employee shall assign or offer to assign any of his rights in an invention to his employer shall not apply to an invention that the employee developed entirely on his own time without using the employer's equipment, supplies, facility or trade secret information except for those inventions that:

i. relate to the employer's business or actual or demonstrably anticipated research or development, or

ii. result from any work performed by the employee for the employer.

To the extent a provision in an employment agreement purports to apply to the type of invention described, it is against the public policy of this State and is unenforceable. The employee shall bear the burden of proof in establishing that his invention qualifies under this section.

Exhibit 10.9

EXECUTIVE EMPLOYMENT AGREEMENT

This EXECUTIVE EMPLOYMENT AGREEMENT (this **"Agreement"**) is made as of April 21, 2023 (the **"Effective Date''))** by and between LGM Enterprises, LLC (the **"Company",** and Michael Guina **("Executive").** Each of the Company and Executive is referred to herein as a **"Party"** and together they are referred to as the **"Parties."**

TERMS

In consideration of the foregoing premises and the mutual covenants and agreements herein contained, the Parties, intending to be legally bound, agree as follows:

1. Employment.

(a) Services. Executive will serve as the Company's Chief Operating Officer **("COO")** and will be responsible for the day-to-day operations of the Company. Executive will report solely and directly to, and be subject to the supervision of, the Company's Chief Executive Officer (the **"CEO").** Executive will perform such services for the Company and have such powers, responsibilities and authority as are customarily associated with the position of COO and shall perform customary and appropriate duties as may otherwise be reasonably assigned to the Executive from time to time by the CEO.

(b) Acceptance. Executive hereby accepts such employment subject to the terms of this Agreement.

2. Term.

The duration of this Agreement (as it may be extended, the **"Term")** shall commence on the date hereof and shall continue for a term of two (2) years thereafter, unless sooner terminated pursuant to **Section 7:** provided, however, that the Term shall be extended automatically for additional, successive one-year periods unless one Party shall notify the other in writing at least sixty (60) days before the initial expiration of the Term or the expiration of any successive one-year period thereafter that this Agreement shall not be so extended after such expiry (a **"Notice of Nonrenewal").** Notwithstanding anything to the contrary contained herein, the provisions of this Agreement specified in **Sections 5. 8. 9,10, and 11** shall survive the expiration or termination hereof.

3. Duties: Place of Performance.

(a) Duties. Executive shall devote substantially all of his business time, attention and energies to the business and affairs of the Company and shall use his best efforts to advance the interests of the Company. Executive will perform his duties diligently and to the best of his ability, in compliance with the Company's policies and procedures and the laws and regulations that apply to the Company's business. During the Term, Executive shall not be substantially engaged in any other business activity, whether or not such business activity is

pursued for gain, profit or other pecuniary advantage, that will interfere materially with the performance by Executive of his duties hereunder or Executive's reasonable availability to perform such duties or that Executive knows, or should reasonably know, will adversely affect, or negatively reflect upon. Company. With the prior written consent of the CEO, Executive may serve as a member of the board of directors or advisory board of a non-competitive company. No consent of the CEO is necessary for Executive to engage in charitable activities, community, affairs, industry, trade or professional associations, and speaking engagements.

(b) Place of Performance. The duties to be performed by Executive hereunder shall be performed primarily at the executive offices of the Company in Kinston, North Carolina, or wherever the principal executive offices of the Company shall hereafter be located, subject to reasonable travel requirements on behalf of the Company, or such other place as the Company and Executive may reasonably designate and mutually agree.

4. Compensation.

As full compensation for Executive's performance of services as an employee of the Company, the Company shall pay Executive as follows:

(a) Base Salary. The Company shall pay Executive an annual base salary of Three Hundred Sixty Thousand Dollars ($360,000.00) (as it may be increased from time to time, the **"Base Salary**"), less applicable withholdings and deductions. Payment shall be made in accordance with the Company's normal payroll practices. The CEO shall review the Base Salary not less than annually to determine whether an increase in the amount thereof is warranted.

(b) Annual Bonus. Subject to the following provisions of this **Section 4(b),** Executive shall be eligible to receive an annual bonus in an amount of up to fifty percent (50%) of the Base Salary then in effect, as determined by the CEO in his sole discretion based upon the achievement, during the year in question, of (i) objectives for the Company as a whole established by the CEO at the beginning of the year, and (ii) objectives for Executive agreed by the CEO and Executive at the beginning of the year. The CEO and Executive will endeavor to determine and agree on Executive's individual objectives for a given year within the first thirty (30) calendar days of each year. Executive must be employed by the Company through December 31 of a given year in order to earn the annual bonus for such year. The annual bonus for a given year will be paid no later than March 15 of the year following the year to which it relates.

(c) Withholding. The Company will withhold from any amounts payable under this Agreement such federal, state and local taxes as the Company determines are required to be withheld pursuant to applicable law.

(d) Expenses. The Company shall reimburse Executive for all normal, usual and necessary expenses incurred by Executive in furtherance of the business and affairs of the Company, including without limitation reasonable travel, lodging, meals, and entertainment upon timely receipt by the Company of appropriate vouchers or other proof of Executive's expenditures and otherwise in accordance with any expense reimbursement policy as may from time to time be adopted by the Company. Such reimbursements will be made in a timely manner and in accordance with the policies of the Company, but in no event later than December 31 of the year following the year in which Executive incurs such expense. The amount of expenses eligible for reimbursement during one year will not affect the expenses eligible for reimbursement in any other year, and is not subject to liquidation or exchange for another benefit.

(e) Other Benefits. Executive shall be entitled to all rights and benefits for which he shall be eligible under any benefit or other plans (including, without limitation, dental, medical, medical reimbursement and hospital plans, pension plans, employee stock purchase plans, profit sharing plans, bonus plans, prescription drug reimbursement plans, short and long term disability plans, life insurance and other so-called "fringe" benefits) as the Company shall make available to its senior executives from time to time.

(f) Vacation. Executive shall be entitled to vacation, in addition to holidays observed by the Company and reasonable periods of paid personal and sick leave. All such paid time off shall be used in accordance with the Company's established policies and procedures.

5. Confidential Information and Inventions.

(a) Confidential Information: Non-Disclosure and Non-Use. Executive recognizes and acknowledges that in the course of his duties he is likely to receive confidential or proprietary information of the Company, its affiliates or third parties with whom the Company or any such affiliates has an obligation of confidentiality. Accordingly, during and after the Term, Executive agrees to keep confidential and not disclose or make accessible to any other person or use for any other purpose other than in connection with the fulfillment of his duties under this Agreement, any "Confidential and Proprietary Information" (defined below) owned by, or received by or on behalf of the Company or any of its affiliates. The term **"Confidential and Proprietary Information"** shall include, but shall not be limited to, confidential or proprietary scientific or technical information, data, formulas and related concepts, business plans (both current and under development), client lists, promotion and marketing programs, trade secrets, or any other confidential or proprietary business information relating to development programs, costs, revenues, marketing, investments, sales activities, promotions, credit and financial data, manufacturing processes, financing methods, and any and all information relating to the operation of the Company's business which the Company may from time to time designate as confidential or proprietary or that Executive reasonably knows should be, or has been, treated by the Company as confidential or proprietary. Executive expressly acknowledges that the Confidential and Proprietary Information constitutes a protectable business interest of the Company. Confidential and Proprietary Information encompasses all formats in which information is preserved, whether electronic, print, or any other form, including all originals, copies, notes, or other reproductions or replicas thereof. Executive agrees: (i) not to use any such Confidential and Proprietary Information for himself or others; and (ii) not to take any Company material or reproductions (including but not limited to writings, correspondence, notes, drafts, records, invoices, technical and business policies, computer programs or disks) thereof from the Company's offices at any time during his employment by the Company, except as required in the execution of Executive's duties to the Company.

(b) Return of Property. Upon request during employment and immediately at the termination of his employment, Executive will return to the Company all Confidential and Proprietary Information in any form (including all copies and reproductions thereof) and all other property whatsoever of the Company in his possession or under his control. If requested by the Company, Executive will certify in writing that all such materials have been returned to the Company. Executive also expressly agrees that immediately upon the termination of his employment with the Company for any reason. Executive will cease using any secure website, computer systems, e-mail system, or phone system or voicemail service provided by the Company for the use of its employees.

(c) Exceptions. Confidential and Proprietary Information does not include any information that: (i) at the time of disclosure is generally known to, or readily ascertainable by, the public; (ii) becomes known to the public through no fault of Executive or other violation of this Agreement; or (iii) is disclosed to Executive by a third party under no obligation to maintain the confidentiality of the information. The restrictions in **Section 5(a)** above will not apply to any information the extent that that Executive is required to disclose such information by law, provided that the Executive (x) notifies the Company of the existence and terms of such obligation, (y) gives the Company a reasonable opportunity to seek a protective or similar order to prevent or limit such disclosure, and (z) only discloses that information actually required to be disclosed. Furthermore, pursuant to the Federal Defend Trade Secrets Act of 2016, an individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that (a) is made (i) in confidence to a federal, state or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (b) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to his or her attorney and use the trade secret information in the court proceeding, if the individual (a) files any document containing the trade secret under seal; and (b) does not disclose the trade secret, except pursuant to court order.

(d) Inventions. Executive agrees that all inventions, discoveries, improvements and patentable or copyrightable works **("Inventions")** initiated, conceived or made by him within the scope of the Company's business and in the course of his employment with the Company, either alone or in conjunction with others, during the Term shall be the sole property of the Company to the maximum extent permitted by applicable law and, to the extent permitted by law, shall be "works made for hire" as that term is defined in the United States Copyright Act (17 U.S.C.A., Section 101). The Company shall be the sole owner of all patents, copyrights, trade secret rights, and other intellectual property or other rights in connection therewith; provided, however that this **Section 5(d)** shall not apply to Inventions which are not related to the business of the Company and which are made and conceived by Executive not

during normal working hours, not on the Company's premises and not using the Company's tools, devices, equipment or Confidential and Proprietary Information. Subject to the foregoing, Executive hereby assigns to the Company all right, title and interest he may have or acquire in all Inventions; provided, however, that the CEO may in his sole discretion agree to waive the Company's rights pursuant to this **Section 5(d).**

(e) Further Actions and Assistance. Executive agrees to cooperate reasonably with the Company and at the Company's expense, both during and after his employment with the Company, with respect to the procurement, maintenance and enforcement of copyrights, patents, trademarks and other intellectual property rights (both in the United States and foreign countries) relating to such Inventions. Executive shall sign all papers, including, without limitation, copyright applications, patent applications, declarations, oaths, formal assignments, assignments of priority rights and powers of attorney, that the Company reasonably may deem necessary or desirable in order to protect its rights and interests in any Inventions. Executive further agrees that if the Company is unable, after reasonable effort, to secure Executive's signature on any such papers, any officer of the Company shall be entitled to execute such papers as his agent and attorney-in-fact and Executive hereby irrevocably designates and appoints each officer of the Company as his agent and attorney-in-fact to execute any such papers on his behalf and to take any and all actions as the Company reasonably may deem necessary or desirable in order to protect its rights and interests in any Inventions, under the conditions described in this paragraph.

(f) Prior Inventions. Executive will not assert any rights to any invention, discovery, idea or improvement relating to the business of the Company or to his duties hereunder as having been made or acquired by Executive prior to his work for the Company, except for the matters, if any, described in **Appendix A** to this Agreement. Furthermore, notwithstanding anything else in this **Section 5,** this Agreement shall not be construed to apply to, and shall not create any assignment of, any Inventions of Executive covered by Section 66-57.1 of the North Carolina General Statutes, a copy of which is attached hereto as **Appendix** B.

(g) Disclosure. Executive agrees that he will promptly disclose to the Company all Inventions initiated, made or conceived or reduced to practice by him, either alone or jointly with others, during the Term.

(h) Survival. The provisions of this **Section 5** shall survive any termination of this Agreement.

6. Representations and Warranties.

(a) By Executive. Executive hereby represents and warrants to the Company as follows:

(i) Neither the execution or delivery of this Agreement nor the performance by Executive of his duties and other obligations hereunder conflict with or constitute a default or breach of any covenant or obligation under (whether immediately, upon the giving of notice or lapse of time or both) any prior employment agreement, contract, or other instrument to which Executive is a party or by which he is bound.

(ii) Executive has the full right, power and legal capacity to enter and deliver this Agreement and to perform his duties and other obligations hereunder. This Agreement constitutes the legal, valid and binding obligation of Executive enforceable against him in accordance with its terms. No approvals or consents of any persons or entities are required for Executive to execute and deliver this Agreement or perform his duties and other obligations hereunder.

(iii) Executive will not use any confidential information or trade secrets of any third Party in his employment by the Company in violation of the terms of the agreements under which he had access to or knowledge of such confidential information or trade secrets.

(b) By Company. The Company hereby represents and warrants to Executive that the Company has the full right and power to enter and deliver this Agreement and to perform obligations hereunder. This Agreement constitutes the legal, valid and binding obligation of the Company enforceable against it in accordance with its terms. All approvals or consents required for the Company to validly execute and deliver this Agreement and perform its obligations hereunder have been obtained.

7. Termination.

(a) Cause. Executive's employment hereunder may be terminated by the Company immediately for "Cause" (defined below). Any of the following actions by Executive shall constitute **"Cause":**

(i) The willful failure, disregard or refusal by Executive to perform his material duties or obligations under this Agreement that is not cured, to the extent subject to cure, by Executive to the reasonable satisfaction of the Company within thirty (30) days after written notice thereof is given to Executive by the Company;

(ii) Any willful, intentional or grossly negligent act by Executive having the effect of materially injuring (whether financial or otherwise and as determined reasonably and in good-faith by the CEO) the business or reputation of the Company or any of its affiliates that is not cured, to the extent subject to cure, by Executive to the reasonable satisfaction of the Company within thirty (30) days after written notice thereof is given to Executive by the Company;

(iii) Executive's conviction of any felony involving moral turpitude (including entry of a guilty or nolo contendere plea);

(iv) A good faith determination by the CEO and/or any government representative or agency that the Executive is a "bad actor" as defined by 17 CFR 230.506(a);

(v) The good faith determination by the CEO, after a reasonable and good-faith investigation by the Company that Executive engaged in some form of harassment prohibited by law (including, without limitation, harassment on the basis of age, sex or race), unless Executive's actions were specifically directed by the CEO;

(vi) Any material misappropriation or embezzlement by Executive of the property of the Company or its affiliates (whether or not a misdemeanor or felony); or

(vii) Breach by Executive of any material provision of this Agreement that is not cured, to the extent subject to cure, by Executive to the reasonable satisfaction of the Company within thirty (30) days after written notice thereof is given to Executive by the Company.

For purposes of this **Section 7(a)** no act or omission by Executive shall be considered willful if reasonably and in good faith believed by Executive to be in, or not contrary to, the best interests of the Company.

(b) Death. Executive's employment hereunder shall be terminated upon Executive's death.

(c) Disability. The Company may terminate Executive's employment hereunder due to Executive's "Disability" (defined below). For purposes of this Agreement, a termination due to Executive's **"Disability"** shall be deemed to have occurred:

(i) when the CEO has provided a written termination notice to Executive supported by a written statement from a Reputable Independent Physician (defined below), to the effect that Executive shall have become so physically or mentally incapacitated by reason of physical or mental illness or injury as to be unable to resume his employment under this Agreement (with or without reasonable accommodation as that term is defined under applicable law) within the ensuing three (3) months; or

(ii) upon rendering of a written termination notice by the CEO after Executive has been unable to substantially perform his duties hereunder by reason of any physical or mental illness or injury (with or without reasonable accommodation as that term is defined under applicable law) for ninety (90) or more consecutive days or more than one hundred twenty (120) days in any consecutive twelve month period.

The term **"Reputable Independent Physician**" means a physician satisfactory to both Executive and the Company, provided that if Executive and the Company do not agree on a physician, then a third physician selected by the physicians selected by Executive and the Company. Executive agrees to make himself available and to cooperate in a reasonable examination by the Reputable Independent Physician. The determination of the Reputable Independent Physician as to Executive's disability shall be binding on all Parties.

(d) Good Reason. Executive may terminate his employment hereunder for "Good Reason" (as defined below) pursuant to the procedures set forth in this **Section 7(d).** In order for Executive to resign for Good Reason, Executive must provide written notice to the Company of the existence of the Good Reason condition within sixty (60) days of the initial existence of such Good Reason condition. Upon receipt of such notice, the Company will have thirty (30) days during which it may attempt to remedy the Good Reason condition. If so remedied, Executive may not resign for Good Reason based on such condition. If the Good Reason condition is not remedied within such thirty (30) day period, Executive may resign based on the Good Reason condition specified in the notice effective no later than thirty (30) days following the expiration of the thirty (30) day cure period. The term **"Good Reason"** shall mean any of the following occurring without the Executive's written consent:

(i) any material breach of this Agreement by the Company;

(ii) any material reduction by the Company of Executive's duties, responsibilities, or authority;

(iii) a relocation of the Company's principal place of business to which Executive reports more than 25 miles from its immediately preceding location;

(iv) a material reduction in Executive's annual base salary unless all officers and/or members of the Company's executive management team experience an equal or greater percentage reduction in annual base salary and/or total compensation.

(e) Convenience. Either Party may terminate Executive's employment hereunder for any reason or no reason at any time by written notice of termination to the other Party, which notice shall specify the termination date, or by providing a Notice of Nonrenewal to the other Party.

8. Compensation upon Termination.

In the event Executive's employment is terminated, the Company shall pay to Executive the Base Salary and benefits otherwise payable to him under **Section 4** through the last day of his actual employment by the Company along with any reimbursable business expenses subject to the policies of the Company (together, the **"Accrued Compensation").** Except for the Accrued Compensation and as otherwise required by law, Executive will have no further entitlement hereunder to any other compensation or benefits from the Company except as expressly provided below:

(a) Terminations Other Than For Cause. Death, or Disability. If the Company terminates Executive's employment other than as a result of Executive's death or Disability and other than for Cause (including by providing a Notice of Nonrenewal to Executive) or if Executive terminates Executive's employment for Good Reason, then conditioned upon Executive executing a Release (as defined below) following such termination, the Company shall the Company will provide to Executive the following separation benefits: (i)

the Company will continue to pay to Executive his Base Salary for a period of one (1) month, (ii) if Executive timely elects continued health insurance coverage under COBRA, the Company shall pay the entire premium necessary to continue such coverage for Executive and Executive's eligible dependents until the conclusion of the time when Executive is receiving continuation of Base Salary payments or until Executive becomes eligible for group health insurance coverage under another employer's plan, whichever occurs first, provided however that the Company has the right to terminate such payment of COBRA premiums on behalf of Executive and instead pay Executive a lump sum amount equal to the COBRA premium times the number of months remaining in the specified period if the Company determines in its discretion that continued payment of the COBRA premiums is or may be discriminatory under Section 105(h) of the Code, and (iii) the Company will provide such other or additional benefits, if any, as may be provided under applicable employee benefit plans, programs and/or arrangements of the Company. The separation benefits set forth above are conditioned upon Executive executing a release of claims against the Company, its parents, subsidiaries and affiliates and each of its officers, directors, employees, agents, successors and assigns in a form acceptable to the Company (the **"Release")** within the time specified therein, which Release is not revoked within any time period allowed for revocation under applicable law. The salary continuation described in **Section 8(a)(i)** above will be payable to Executive over time in accordance with the Company's payroll practices and procedures beginning on the sixtieth (60th) day following the termination of Executive's employment with the Company, provided that the Company, in its sole discretion, may begin the payments earlier.

(b) By Executive for Convenience. If Executive terminates Executive's employment pursuant to **Section 7(e).** including by providing a Notice of Nonrenewal to the Company, Executive shall not be entitled to receive any payments or benefits other than the Accrued Compensation.

(c) This **Section 8** sets forth the only obligations of the Company with respect to the termination of Executive's employment with the Company, and Executive acknowledges that, upon the termination of his employment, he shall not be entitled to any payments or benefits which are not explicitly provided in this **Section 8.** except as required by law or the terms of another employee plan, program or arrangement covering him. Executive acknowledges and agrees that upon the termination of his employment with the Company, regardless of the reason or grounds therefore, he shall resign from his position on any other board, organization or foundation wherein Executive sits or belongs as a representative of the Company.

(d) The obligations of the Company that arise under this **Section 8** shall survive the expiration or earlier termination of this Agreement.

9. Indemnification.

The Company shall defend and indemnify Executive in his capacity as COO of the Company to the fullest extent permitted under applicable law. The Company shall also establish a policy for indemnifying its officers and directors, including but not limited to Executive, for all actions permitted under applicable law taken in good faith pursuit of their duties for the Company, including, but not limited to, the obtaining of an appropriate level of

directors and officers' liability insurance coverage and including such provisions in the Company's bylaws or certificate of incorporation, as applicable and customary. Executive shall be designated as a named insured on such directors and officers' liability insurance policy. Executive's rights to, and the Company's obligation to provide, indemnification shall survive termination of this Agreement.

10. Compliance with Code Section 409A.

The Parties intend that this Agreement and the payments made hereunder will be exempt from, or comply with, the requirements of Section 409A of the Internal Revenue Code of 1986, as amended, and the regulations and other guidance thereunder and any state law of similar effect (collectively **"Section 409A"),** and this Agreement will be interpreted and applied to the greatest extent possible in a manner that is consistent with the requirements for avoiding taxes or penalties under Section 409A. Notwithstanding anything to the contrary set forth herein, any payments and benefits provided under this Section 10 that constitute "deferred compensation" within the meaning of Section 409A will not commence in connection with Executive's termination of employment unless and until Executive has also incurred a "separation from service" (as such term is defined in Treasury Regulation Section 1.409A-l(h)), unless the Company reasonably determines that such amounts may be provided to Executive without causing Executive to incur the additional 20% tax under Section 409A. The Parties intend that each installment of any separation benefits provided for in this Agreement is a separate "payment" for purposes of Section 409A. For the avoidance of doubt, the Parties intend that the separation benefits provided in **Section 81a)** (the **"Separation Benefits")** herein satisfy, to the greatest extent possible, the exemptions from the application of Section 409A provided under Treasury Regulation Sections 1.409A-1(b)(4) and 1.409A-1(b)(9). However, if the Company determines that the Separation Benefits constitute "deferred compensation" under Section 409A and Executive is, as of the separation from service, a "specified employee" of the Company or any successor entity thereto, as such term is defined in Section 409A, then, solely to the extent necessary to avoid the incurrence of the adverse personal tax consequences to Executive under Section 409A, the timing of the payment of the Separation Benefits will be delayed until the earlier to occur of: (i) the date that is six months and one day after Executive's separation from service, or (ii) the date of Executive's death (such applicable date, the **"Specified Employee Initial Payment Date"),** and the Company (or the successor entity thereto, as applicable) will (A) pay to Executive a lump sum amount equal to the sum of the Separation Benefits that Executive would otherwise have received through the Specified Employee Initial Payment Date if the commencement of the payment of the Separation Benefits had not been so delayed pursuant to this **Section 10.** and (B) commence paying the balance of the Separation Benefits in accordance with the applicable payment schedules set forth in this Agreement.

11. Miscellaneous.

(a) Governing Taw. Subject to the next sentence, this Agreement and all questions relating to its validity, interpretation, performance, remediation, and enforcement (including, without limitation, provisions concerning limitations of actions) shall be governed by and construed in accordance with the substantive laws of the State of North Carolina, notwithstanding any choice-of-law doctrines of that jurisdiction or any other jurisdiction that ordinarily would or might cause the substantive law of another jurisdiction to apply.

(b) Personal Jurisdiction. To the fullest extent permitted by applicable law, any action or proceeding relating in any way to this Agreement may only be brought and enforced in the state or federal courts with jurisdiction over Lenoir County, North Carolina, to the extent subject matter jurisdiction exists therefore. The Parties irrevocably submit to the jurisdiction of such courts in respect of any such action or proceeding. The Parties irrevocably waive, to the fullest extent permitted by applicable law, any objection that they may now or hereafter have to the venue of any such action or proceeding in such courts, as well as any acclaim that such action or proceeding brought in any such court has been brought in an inconvenient forum.

(c) Assignment. This Agreement, and Executive's rights and obligations hereunder, may not be assigned by Executive. The Company may assign its rights, together with its obligations, hereunder in connection with any sale, transfer or other disposition of all or substantially all of its business or assets. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their respective heirs, legal representatives, successors and assigns.

(d) Amendment. This Agreement cannot be amended orally, or by any course of conduct or dealing, but only by a written agreement duly executed by the Parties.

(e) Waiver. The failure of either Party to insist upon the strict performance of any of the terms, conditions and provisions of this Agreement shall not be construed as a waiver or relinquishment of future compliance therewith, and such terms, conditions and provisions shall remain in full force and effect. No waiver of any term or condition of this Agreement on the part of either Party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such Party. Unless the written waiver instrument expressly provides otherwise, no waiver by a Party of any right or remedy or breach by the other Party in any particular instance shall be construed to apply to any right, remedy or breach arising out of or related to a subsequent instance.

(f) Notices. All notices, demands or other communications desired or required to be given by a Party to the other Party shall be in writing and shall be deemed effectively given upon (i) personal delivery to the Party to be notified, (ii) upon confirmation of receipt of fax or other electronic transmission, (iii) one business day after deposit with a reputable overnight courier, prepaid for priority overnight delivery, or (iv) five days after deposit with the United States Postal Service, postage prepaid, certified mail, return receipt requested, in each case to the Party to be notified at its/his address set forth at the top of this Agreement; or to such other addresses and to the attention of such other individuals as either Party shall have designated to the other by notice given in the foregoing manner.

(g) Entire Agreement. This Agreement sets forth the entire agreement and understanding of the Parties relating to the subject matter hereof, and supersedes all prior agreements, arrangements and understandings, written or oral between the Parties, relating to the subject matter hereof. Notwithstanding the foregoing, the Parties recognize and agree that non-competition, non-solicitation, and other restrictive covenant provisions may be agreed upon between the Parties in separate agreements.

(h) Affiliate and Control Defined. As used in this Agreement, the term **"affiliate"** of a specified Person shall mean and include any Person controlling, controlled by or under common control with the specified Person. A Person shall be deemed to ***"control"*** another Person if such first Person possesses directly or indirectly the power to direct, or cause the direction of, the management and policies of the second Person, whether through the ownership of voting securities, by contract or otherwise.

(i) Captions. Headings and Cross-References. The section headings contained herein are for reference purposes and convenience only and shall not in any way affect the meaning or interpretation of this Agreement. Except as expressly set forth otherwise, all cross-references to sections refer to sections of this Agreement.

(j) Severability'. The Parties agree that each and every provision of this Agreement shall be deemed valid, legal and enforceable in all jurisdictions to the fullest extent possible. Any provision of this Agreement that is determined to be invalid, illegal or unenforceable in any jurisdiction shall, as to that jurisdiction, be adjusted and reformed rather than voided, if possible, in order to achieve the intent of the Parties. Any provision of this Agreement that is determined to be invalid, illegal or unenforceable in any jurisdiction which cannot be adjusted and reformed shall for the purposes of that jurisdiction, be voided. Any adjustment, reformation or voidance of any provisions of this Agreement shall only be effective in the jurisdiction requiring such adjustment or voidance, without affecting in any way the remaining provisions of this Agreement in such jurisdiction or adjusting, reforming, voiding or rendering that provision or any other provision of this Agreement invalid, illegal or unenforceable in any other jurisdiction.

(k) Counterpart Execution. This Agreement may be executed in one or more counterparts each of which shall be an original document and all of which together shall constitute one and the same instrument. The Parties acknowledge that this Agreement may be executed and delivered by means of electronic signatures and that use and acceptance of electronic signatures to bind the Parties represents the voluntary agreement and intention of the Parties to conduct this transaction by electronic means. The Parties agree that execution and delivery by electronic means will have the same legal effect as if signatures had been manually written on this Agreement. This Agreement will be deemed lawfully executed by the Parties by such action for purposes of any statute or rule of law that requires this Agreement to be executed by the Parties to make the mutual promises, agreements and obligations of the Parties set forth herein legally enforceable. Facsimile and .pdf exchanges of signatures will have the same legal force and effect as the exchange of original signatures. The Parties hereby waive any right to raise any defense or waiver based upon execution of this Agreement by means of electronic signatures in any proceeding arising under or relating to this Agreement. The Parties agree that the legal effect, validity and enforceability of this Agreement will not be impaired solely because of its execution in electronic form or that an electronic record was used in its formation. The Parties acknowledge that they are capable of retaining electronic records of this transaction.

IN WITNESS WHEREOF, the Parties hereto have executed this Employment Agreement as of the date set forth above.

LGM ENTERPRISES, LLC:

By: /s/ *Thomas James Segrave, Jr.*
Name: Thomas James Segrave, Jr.
Title: CEO
Date: 4/21/23

EXECUTIVE

By: /s/ *Michael Guina*
Name: Michael Guina

Date: 4/21/23

APPENDIX A

PRIOR INVENTIONS.

APPENDIX B

SECTION 66-57.1 OF THE NORTH CAROLINA GENERAL STATUTES

Any provision in an employment agreement which provides that the employee shall assign or offer to assign any of his rights in an invention to his employer shall not apply to an invention that the employee developed entirely on his own time without using the employer's equipment, supplies, facility or trade secret information except for those inventions that:

i. relate to the employer's business or actual or demonstrably anticipated research or development, or

ii. result from any work performed by the employee for the employer.

To the extent a provision in an employment agreement purports to apply to the type of invention described, it is against the public policy of this State and is unenforceable. The employee shall bear the burden of proof in establishing that his invention qualifies under this section.

FLYEXCLUSIVE, INC.
2023 EQUITY INCENTIVE PLAN

2023 Equity Incentive Plan Approved by
the Board and Stockholders on November 10, 2023 and December 18, 2023, respectively

1. Purposes of the Plan. The purposes of this Plan are to attract and retain the best available personnel to serve as Employees, Directors or Consultants; to provide additional incentives to Employees, Directors and Consultants to contribute to the successful performance of the Company and any Related Entity; to promote the growth of the market value of the Company's Common Stock; to align the interests of Participants with those of the Company's stockholders; and to promote the success of the Company's business.

2. Definitions. The following definitions will apply as used herein and in all individual Award Agreements except as a term may be otherwise defined in an individual Award Agreement. In the event a term is separately defined in an individual Award Agreement, such definition will supersede the definition contained in this Section 2.

(a) "***Administrator***" means the Plan Administrator as described in Section 4. With reference to the duties of the Administrator under the Plan which have been delegated to one or more persons pursuant to Section 4, the term "Administrator" shall refer to such person(s) unless such delegation has been revoked.

(b) "***Applicable Laws***" means the legal requirements relating to the Plan and the Awards under applicable provisions of federal and state securities laws, the corporate laws of Delaware, and, to the extent other than Delaware, the corporate law of the state of the Company's incorporation, the Code, the rules of any applicable stock exchange or national market system, and the rules of any non-U.S. jurisdiction applicable to Awards granted to residents therein.

(c) "***Assumed***" means, with respect to an Award, that pursuant to a Corporate Transaction either (i) the Award is expressly affirmed as continuing in effect by the Company, or (ii) the contractual obligations represented by the Award are expressly assumed (and not simply by operation of law) by the successor entity or its Parent in connection with the Corporate Transaction with appropriate adjustments to the number and type of securities of the successor entity or its Parent subject to the Award and the exercise or purchase price thereof which at least preserves the compensation element of the Award existing at the time of the Corporate Transaction as determined in accordance with the instruments evidencing the agreement to assume the Award.

(d) "***Award***" means the grant of an Option, Stock Appreciation Right, Dividend Equivalent Right, Restricted Stock, Restricted Stock Unit, or other right or benefit under the Plan.

(e) "***Award Agreement***" means the written agreement evidencing the grant of an Award executed by the Company and the Participant, including any amendments thereto.

(f) "***Board***" means the Board of Directors of the Company.

(g) "***Cause***" means, with respect to the termination by the Company or a Related Entity of a Participant's Continuous Service:

(i) that such termination is for "Cause" as such term (or word of like import) is expressly defined in a then-effective written employment agreement, consulting agreement, service agreement or other similar agreement between the Participant and the Company or such Related Entity, provided, however, that with regard to any agreement that defines "Cause" on the occurrence of or in connection with a Corporate Transaction, such definition of "Cause" will not apply until a Corporate Transaction actually occurs; or

(ii) in the absence of such then-effective written agreement and definition, is based on, in the determination of the Administrator: (A) the Participant's performance of any act, or failure to perform any act, in bad faith and to the detriment of the Company or a Related Entity; (B) the Participant's dishonesty, intentional misconduct or material breach of any agreement with the Company or a Related Entity; (C) the Participant's material breach of any noncompetition, confidentiality or similar agreement with the Company or a Related Entity, as determined under such agreement; (D) the Participant's commission of a crime involving dishonesty, breach of trust, or physical or emotional harm to any person; (E) if the Participant is an Employee or Consultant, the Participant's engaging in acts or omissions constituting gross negligence, misconduct or a willful violation of a Company or a Related Entity policy which is or is reasonably expected to be materially injurious to the Company and/or a Related Entity; or (F) if the Participant is an Employee, the Participant's failure to follow the reasonable instructions of the Board or such Participant's direct supervisor, which failure, if curable, is not cured within 10 days after notice to such Participant or, if cured, recurs within 180 days.

(h) "***Change in Control***" means the occurrence, in a single transaction or in a series of related transactions, of any one or more of the following events:

(i) a transaction or series of transactions (other than an offering of Common Stock to the general public through a registration statement filed with the Securities and Exchange Commission) whereby any "person" or related "group" of "persons" (as such terms are used in Sections 13(d) and 14(d)(2) of the Exchange Act) (other than the Company, any of its Subsidiaries, an employee benefit plan maintained by the Company or any of its Subsidiaries or a "person" that, prior to such transaction, directly or indirectly controls, is controlled by, or is under common control with, the Company) directly or indirectly acquires beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act) of securities of the Company possessing more than 50% of the total combined voting power of the Company's securities outstanding immediately after such acquisition;

(ii) during any period of two consecutive years, individuals who, at the beginning of such period, constitute the Board together with any new Director(s) (other than a Director designated by a person who shall have entered into an agreement with the Company to effect a transaction described in Section 2(h)(i) or Section 2(h)(iii)) whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds of the Directors then still in office who either were Directors at the beginning of the two-year period or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority thereof; or

(iii) the consummation by the Company (whether directly involving the Company or indirectly involving the Company through one or more intermediaries) of (x) a merger, consolidation, reorganization, or business combination or (y) a sale or other disposition of all or substantially all of the Company's assets in any single transaction or series of related transactions or (z) the acquisition of assets or stock of another entity, in each case other than a transaction:

(A) that results in the Company's voting securities outstanding immediately before the transaction continuing to represent (either by remaining outstanding or by being converted into voting securities of the Company or the person that, as a result of the transaction, controls, directly or indirectly, the Company or owns, directly or indirectly, all or substantially all of the Company's assets or otherwise succeeds to the business of the Company (the Company or such person, the "***Successor Entity***")) directly or indirectly, at least a majority of the combined voting power of the Successor Entity's outstanding voting securities immediately after the transaction, and

(B) after which no "person" or "related" group of "persons" (as such terms are used in Sections 13(d) and 14(d)(2) of the Exchange Act) beneficially owns voting securities representing 50% or more of the combined voting power of the Successor Entity; provided, however, that no person or related group of persons shall be treated for purposes of this Section 2(h)(c)(ii) as beneficially owning 50% or more of the combined voting power of the Successor Entity solely as a result of the voting power held in the Company prior to the consummation of the transaction.

Notwithstanding the foregoing definition or any other provision of this Plan, (A) the term Change in Control will not include a sale of assets, merger or other transaction effected exclusively for the purpose of changing the domicile of the Company, and (B) the definition of Change in Control (or any analogous term) in an individual written agreement between a Participant and the Company or a Related Entity will supersede the foregoing definition with respect to Awards subject to such agreement; *provided, however*, that (1) if no definition of Change in Control (or any analogous term) is set forth in such an individual written agreement, the foregoing definition will apply; and (2) no Change in Control (or any analogous term) will be deemed to occur with respect to Awards subject to such an individual written agreement without a requirement that the Change in Control (or any analogous term) actually occur. If required for compliance with Section 409A, in no event will an event be deemed a Change in Control if such event is not also a "change in the ownership of" the Company, a "change in the effective control of" the Company, or a "change in the ownership of a substantial portion of the assets of" the Company, each as determined under Treasury Regulations Section 1.409A-3(i)(5) (without regard to any alternative definition thereunder).

The Administrator shall have full and final authority, which shall be exercised in its discretion, to determine conclusively whether a Change in Control of the Company has occurred pursuant to the above definition, and the date of the occurrence of such Change in Control and any incidental matters relating thereto.

(i) "***Code***" means the Internal Revenue Code of 1986, as amended, or any successor statute.

(j) "***Committee***" means the Compensation Committee of the Board or another committee appointed by the Board to administer the Plan in accordance with Section 4(a) below.

(k) "***Common Stock***" means the Company's voting common stock, $0.0001 par value per share.

(l) "***Company***" means flyExclusive, Inc., a Delaware corporation, or any successor entity that adopts the Plan in connection with a Corporate Transaction.

(m) "***Consultant***" means any person (other than an Employee or a Director, solely with respect to rendering services in such person's capacity as a Director) who is engaged by the Company or any Related Entity to render consulting or advisory services to the Company or such Related Entity.

(n) "***Continuous Service***" means that the provision of services to the Company or a Related Entity in any capacity of Employee, Director or Consultant is not interrupted or terminated. In jurisdictions requiring notice in advance of an effective termination as an Employee, Director or Consultant, Continuous Service will be deemed terminated upon the actual cessation of providing services to the Company or a Related Entity notwithstanding any required notice period that must be fulfilled before a termination as an Employee, Director or Consultant can be effective under Applicable Laws. A Participant's Continuous Service will be deemed to have terminated either upon an actual termination of Continuous Service or upon the entity for which the Participant provides services ceasing to be a Related Entity. Continuous Service will not be considered interrupted in the case of (i) any approved leave of absence, (ii) transfers among the Company, any Related Entity, or any successor in any capacity of Employee, Director or Consultant, or (iii) any change in status as long as the individual remains in the service of the Company or a Related Entity in any capacity of Employee, Director or Consultant (except as otherwise provided in the Award Agreement). An approved leave of absence for purposes of this Plan will include sick leave, military leave, or any other authorized personal leave, so long as the Company or Related Entity has a reasonable expectation that the individual will return to provide services for the Company or Related Entity, and provided further that the leave does not exceed six months, unless the individual has a statutory or contractual right to re-employment following a longer leave. For purposes of each Incentive Stock Option granted under the Plan, if such leave exceeds three months, and reemployment upon expiration of such leave is not guaranteed by statute or contract, then the Incentive Stock Option will be treated as a Non-statutory Stock Option beginning on the day three months and one day following the expiration of such three month period.

(o) "***Corporate Transaction***" means any of the following transactions, provided, however, that the Administrator will determine under parts (ii), (iii) and (iv) whether multiple transactions are related, and its determination will be final, binding and conclusive:

(i) a merger or consolidation in which the Company is not the surviving entity, except for a transaction the principal purpose of which is to change the state in which the Company is incorporated;

(ii) the sale, transfer or other disposition of all or substantially all of the assets of the Company in one or a series of related transactions;

(iii) any reverse merger or series of related transactions culminating in a reverse merger (including, but not limited to, a tender offer followed by a reverse merger) in which the Company is the surviving entity but (A) the Shares outstanding immediately prior to such merger are converted or exchanged by virtue of the merger into other property, whether in the form of securities, cash or otherwise, or (B) in which securities possessing more than 50% of the total combined voting power of the Company's outstanding securities are transferred to a person or persons different from those who held such securities immediately prior to such merger or the initial transaction culminating in such merger;

(iv) acquisition in a single or series of related transactions by any person or related group of persons (other than the Company or by a Company-sponsored employee benefit plan) of beneficial ownership (within the meaning of Rule 13d-3 of the Exchange Act) of securities possessing more than 50% of the total combined voting power of the Company's outstanding securities; or

(v) the complete liquidation or dissolution of the Company.

If required for compliance with Section 409A, in no event will an event or series of related events be deemed a Corporate Transaction if such event is not also a "change in the ownership of" the Company, a "change in the effective control of" the Company, or a "change in the ownership of a substantial portion of the assets of" the Company, each as determined under Treasury Regulations Section 1.409A-3(i)(5) (without regard to any alternative definition thereunder).

(p) "***Data***" has the meaning set forth in Section 21 of this Plan.

(q) "***Director***" means a member of the Board or the board of directors of any Related Entity.

(r) "***Disability***" means a "disability" (or word of like import) as defined under the long-term disability policy of the Company or the Related Entity to which the Participant provides services regardless of whether the Participant is covered by such policy. If the Company or the Related Entity to which the Participant provides service does not have a long-term disability plan in place, "Disability" means that a Participant is unable to carry out the responsibilities and functions of the position held by the Participant by reason of any medically determinable physical or mental impairment for a period of not less than 90 consecutive days. A Participant will not be considered to have incurred a Disability unless he or she furnishes proof of such impairment sufficient to satisfy the Administrator.

(s) "***Disqualifying Disposition***" means any disposition (including any sale) of Common Stock received upon exercise of an Incentive Stock Option before either (i) two years after the date the Employee was granted the Incentive Stock Option, or (ii) one year after the date the Employee acquired Common Stock by exercising the Incentive Stock Option. If the Employee has died before such stock is sold, these holding period requirements do not apply and no Disqualifying Disposition can occur thereafter.

(t) "***Dividend Equivalent Right***" means a right entitling the Participant to compensation measured by dividends paid with respect to Common Stock.

(u) "***Effective Date***" has the meaning set forth in Section 15 below.

(v) "***Employee***" means any person, including an Officer or Director, who is in the employ of the Company or any Related Entity, subject to the control and direction of the Company or any Related Entity as to both the work to be performed and the manner and method of performance. The payment of a director's fee by the Company or a Related Entity to an individual will not be sufficient to make such individual an "Employee" of the Company or a Related Entity.

(w) "***Exchange Act***" means the Securities Exchange Act of 1934, as amended.

(x) "***Fair Market Value***" means, as of any date, the value of the Common Stock determined as follows.

(i) If the Common Stock is listed on one or more established stock exchanges or national market systems, including without limitation The NASDAQ Global Select Market, The NASDAQ Global Market, or The NASDAQ Capital Market of The NASDAQ Stock Market LLC, its Fair Market Value will be the closing sales price for such stock (or the closing bid, if no sales were reported) as quoted on the principal exchange or system on which the Common Stock is listed (as determined by the Administrator) on the date of determination (or, if no closing sales price or closing bid was reported on that date, as applicable, on the last trading date such closing sales price or closing bid was reported), as reported in The Wall Street Journal or such other source as the Administrator deems reliable;

(ii) If the Common Stock is regularly quoted on an automated quotation system (including the OTC markets and systems maintained by OTC Markets Group Inc.) or by a recognized securities dealer, its Fair Market Value will be the closing sales price for such stock as quoted on such system or by such securities dealer on the date of determination, but if selling prices are not reported, the Fair Market Value of a Share will be the mean between the high bid and low asked prices for the Common Stock on the date of determination (or, if no such prices were reported on that date, on the last date such prices were reported), as reported in The Wall Street Journal or such other source as the Administrator deems reliable; or

(iii) In the absence of an established market for the Common Stock of the type described in (i) and (ii), above, the Fair Market Value thereof will be determined by the Administrator in good faith by application of a reasonable valuation method consistently applied and taking into consideration all available information material to the value of the Company in a manner in compliance with Section 409A, or in the case of an Incentive Stock Option, in a manner in compliance with Section 422 of the Code.

(y) "***Incentive Stock Option***" means an Option intended to qualify as an incentive stock option within the meaning of Section 422 of the Code.

(z) "***Non-statutory Stock Option***" means an Option that either (i) is not intended to qualify as an Incentive Stock Option, or (ii) fails to qualify as an Incentive Stock Option.

(aa) "***Officer***" means a person who is an officer of the Company or a Related Entity within the meaning of Section 16 of the Exchange Act and the rules and regulations promulgated thereunder.

(bb) "***Option***" means an option to purchase one or more Shares pursuant to an Award Agreement granted under the Plan.

(cc) "***Parent***" means a "parent corporation," whether now or hereafter existing, as defined in Section 424(e) of the Code.

(dd) "***Participant***" means the holder of an outstanding Award.

(ee) "***Performance Award***" means an Award under the Plan in which the vesting or other realization of the Award by a Participant is subject to the achievement of certain performance criteria over the course of a Performance Period, all as determined by the Administrator in accordance with Section 8 below.

(ff) "***Performance Period***" means the time period established by the Administrator during which specified performance criteria must be met in connection with a Performance Award as described in Section 8 below.

(gg) "***Plan***" means this flyExclusive, Inc. 2023 Equity Incentive Plan, as the same may be amended from time to time.

(hh) "***Post-Termination Exercise Period***" means the period specified in the Award Agreement of not less than 30 days commencing on the date of termination (other than termination by the Company or any Related Entity for Cause) of the Participant's Continuous Service, or such longer period as may be applicable upon death or Disability.

(ii) "***Related Entity***" means any Parent or Subsidiary of the Company.

(jj) "***Restricted Stock***" means Shares issued under the Plan to the Participant for such consideration, if any, and subject to such restrictions on transfer, rights of first refusal, repurchase provisions, forfeiture provisions, and other terms and conditions as established by the Administrator.

(kk) "***Restricted Stock Units***" means an Award which may be earned in whole or in part upon the passage of time or the attainment of performance criteria established by the Administrator and which may be settled for cash, Shares or other securities or a combination of cash, Shares or other securities as established by the Administrator.

(ll) "***Rule 16b-3***" means Rule 16b-3 promulgated by the Securities and Exchange Commission pursuant to the Exchange Act, as such rule may be amended from time to time, and includes any successor provisions thereto.

(mm) "***Stock Appreciation Right***" means an Award entitling the Participant to Shares or cash compensation, as established by the Administrator, measured by appreciation in the value of Common Stock.

(nn) "***Section 409A***" means Section 409A of the Code, the Treasury Regulations and other guidance issued thereunder by the United States Department of the Treasury (whether issued before or after the Effective Date), and all state laws of similar effect.

(oo) "***Share***" means a share of the Common Stock.

(pp) "***Subsidiary***" means a "subsidiary corporation," whether now or hereafter existing, as defined in Section 424(f) of the Code.

(qq) "***Tax Obligations***" means all federal, state, local, and foreign income tax, social insurance, payroll tax, fringe benefits tax, or other tax-related liabilities related to a Participant's participation in the Plan and the receipt of any benefits hereunder, as determined under the Applicable Laws.

3. Stock Subject to the Plan.

(a) Subject to adjustment as described in Section 13 below, the maximum aggregate number of Shares which may be issued pursuant to all Awards is 6,000,000 Shares. The Shares may be authorized, but unissued, or reacquired Common Stock.

(b) Subject to adjustment in accordance with Section 13, no more than 6,000,000 Shares may be issued in the aggregate pursuant to the exercise of Incentive Stock Options.

(c) Any Shares covered by an Award (or portion of an Award) which is forfeited, canceled or expires (whether voluntarily or involuntarily) will be deemed not to have been issued for purposes of determining the maximum aggregate number of Shares which may be issued under the Plan, except that the maximum aggregate number of Shares which may be issued pursuant to the exercise of Incentive Stock Options will not exceed the number specified in Section 3(b). Shares that actually have been issued under the Plan pursuant to an Award will not be returned to the Plan and will not become available for future issuance under the Plan, except that if unvested Shares are forfeited or repurchased by the Company, such Shares will become available for future grant under the Plan.

(d) In the event any Option or other Award granted under the Plan is exercised through the tendering of Shares (either actually or through attestation), or in the event tax withholding obligations are satisfied by tendering or withholding Shares, any Shares so tendered or withheld will not again be available for Awards under the Plan. To the extent that cash is delivered in lieu of Shares upon the exercise of a Stock Appreciation Right pursuant to Section 6(l), the Company will be deemed, for purposes of applying the limitation on the number of shares, to have issued the total number of Shares which were otherwise issuable upon such exercise, notwithstanding that cash was issued in lieu of such Shares. Shares reacquired by the Company on the open market or otherwise using cash proceeds from the exercise of Options will not be available for Awards under the Plan.

(e) During the term of the Plan, the Company will at all times reserve and keep available a sufficient number of Shares to satisfy the requirements of the Plan.

4. Administration of the Plan.

(a) Plan Administrator. The Plan will be administered by (i) the Board or (ii) a Committee designated by the Board, which Committee will be constituted in such a manner as to satisfy the Applicable Laws and to permit such grants and related transactions under the Plan to be exempt from Section 16(b) of the Exchange Act in accordance with Rule 16b-3. Once appointed, such Committee will continue to serve in its designated capacity until otherwise directed by the Board.

(b) Powers of the Administrator. Subject to the Applicable Laws, the provisions of the Plan, and in the case of a Committee, subject to the specific duties delegated by the Board to such Committee, the Administrator will have the authority, in its discretion:

(i) to select the Employees, Directors and Consultants to whom Awards may be granted from time to time hereunder;

(ii) to determine whether and to what extent Awards are granted hereunder;

(iii) to determine the number of Shares or the amount of other consideration to be covered by each Award granted hereunder;

(iv) determine the vesting schedule (if any) applicable to all Awards under the Plan;

(v) to determine the type, terms and conditions of any Award granted hereunder;

(vi) to accelerate vesting on any Award or to waive any forfeiture restrictions applicable thereto or to waive any other limitation or restriction with respect to an Award;

(vii) to approve forms of Award Agreements for use under the Plan;

(viii) to establish additional terms, conditions, rules or procedures to accommodate the rules or laws of applicable non-U.S. jurisdictions and to afford Participants favorable treatment under such rules or laws; provided, however, that no Award will be granted under any such additional terms, conditions, rules or procedures with terms or conditions which are inconsistent with the provisions of the Plan;

(ix) to amend the terms of any outstanding Award granted under the Plan, provided that any amendment that would materially adversely affect the Participant's rights under an outstanding Award will not be made without the Participant's written consent; provided, however, that an amendment or modification that may cause an Incentive Stock Option to become a Non-statutory Stock Option will not be treated as adversely affecting the rights of the Participant;

(x) to construe and interpret the terms of the Plan and Awards, including without limitation, any notice of Award or Award Agreement, granted pursuant to the Plan;

(xi) to make other determinations as provided in this Plan; and

(xii) to take such other action, not inconsistent with the terms of the Plan, as the Administrator deems appropriate.

The express grant in the Plan of any specific power to the Administrator will not be construed as limiting any power or authority of the Administrator; provided that the Administrator may not exercise any right or power reserved to the Board. Any decision made, or action taken, by the Administrator or in connection with the administration of this Plan will be final, conclusive and binding on all persons having an interest in the Plan.

(c) Delegation of Authority. To the extent permitted by Applicable Law, the Board or Committee may from time to time delegate to a committee of one or more Officers of the Company the authority to grant or amend Awards or to take other actions pursuant to this Section 4; provided, however, that in no event shall an Officer of the Company be delegated the authority to grant awards to, or amend Awards held by, the following individuals: (i) individuals who are subject to Section 16 of the Exchange Act, (ii) Directors, or (iii) Officers to whom authority to grant or amend Awards has been delegated hereunder; provided, further, that any delegation of authority shall only be permitted to the extent it is permissible under Applicable Law. Any delegation hereunder shall be subject to the restrictions and limits that the Board or Committee specifies at the time of such delegation, and the Board may at any time rescind the authority so delegated or appoint a new delegatee. At all times, the delegatee appointed under this Section 4(c) shall serve in such capacity at the pleasure of the Board and the Committee.

(d) Indemnification. In addition to such other rights of indemnification as they may have as members of the Board or as Officers or Employees of the Company or a Related Entity, members of the Board and any Officers or Employees of the Company or a Related Entity to whom authority to act for the Board, the Administrator or the Company is delegated will be defended and indemnified by the Company to the extent permitted by law on an after-tax basis against all reasonable expenses, including attorneys' fees, actually and necessarily incurred in connection with the defense of any claim, investigation, action, suit or proceeding, or in connection with any appeal therein, to which they or any of them may be a party by reason of any action taken or failure to act under or in connection with the Plan, or any Award granted hereunder, and against all amounts paid by them in settlement thereof (provided such settlement is approved by the Company) or paid by them in satisfaction of a judgment in any such claim, investigation, action, suit or proceeding, except in relation to such liabilities, costs, and expenses as may arise out of, or result from, the bad faith, gross negligence, willful misconduct, or criminal acts of such persons; provided, however, that within 30 days after the institution of such claim, investigation, action, suit or proceeding, such person will offer to the Company, in writing, the opportunity at the Company's expense to defend the same.

5. Eligibility. Awards other than Incentive Stock Options may be granted to Employees, Directors, and Consultants of the Company or any Related Entity. Incentive Stock Options may be granted only to Employees of the Company or a Related Entity. An Employee, Director, or Consultant who has been granted an Award may, if otherwise eligible, be granted additional Awards. Awards may be granted to such Employees, Directors, or Consultants who are residing in non-U.S. jurisdictions as the Administrator may determine from time to time.

6. Terms and Conditions of Awards.

(a) Types of Awards. The Administrator is authorized under the Plan to award any type of arrangement to an Employee, Director or Consultant that is not inconsistent with the provisions of the Plan and that by its terms involves or might involve the issuance of (i) Shares, (ii) cash or (iii) an Option, a Stock Appreciation Right, or similar right with a fixed or variable price related to the Fair Market Value of the Shares and with an exercise or conversion privilege related to the passage of time, the occurrence of one or more events, or the satisfaction of performance criteria or other conditions. Such Awards include, without limitation, Options, Stock Appreciation Rights, sales or bonuses of Restricted Stock, Restricted Stock Units, Performance Awards, and Dividend Equivalent Rights. An Award may consist of one such security or benefit, or two or more of them in any combination or alternative.

(b) Designation of Award. Each Award will be evidenced by an Award Agreement in form and substance satisfactory to the Administrator. The type of each Award will be designated in the Award Agreement. In the case of an Option, the Option will be designated as either an Incentive Stock Option or a Non-statutory Stock Option. However, notwithstanding such designation, any portion of an Option designated as an Incentive Stock Option that exceeds the $100,000 limitation of Section 422(d) of the Code will be treated as a Non-statutory Stock Option. The $100,000 limitation of Section 422(d) of the Code is calculated based on the aggregate Fair Market Value of the Shares subject to Options designated as Incentive Stock Options which become exercisable for the first time by a Participant during any calendar year (under all plans of the Company or any Related Entity). For purposes of this calculation, Incentive Stock Options will be taken into account in the order in which they were granted, and the Fair Market Value of the Shares will be determined as of the grant date of the relevant Option. Any Option granted which fails to satisfy the requirements of the Applicable Laws for treatment as an Incentive Stock Option will be a Non-statutory Stock Option.

(c) Conditions of Award. Subject to the terms of the Plan, the Administrator will determine the provisions, terms, and conditions of each Award including, but not limited to, the Award vesting schedule, repurchase provisions, rights of first refusal, forfeiture provisions, form of payment (cash, Shares, or other consideration) upon settlement of the Award, payment contingencies, and satisfaction of any performance criteria that may be established by the Administrator.

(d) Term of Award. The term of each Award will be the term stated in the Award Agreement as determined by the Administrator, provided, however, that the term of any Option will be no more than 10 years from the date of grant thereof, and provided further that in the case of an Incentive Stock Option granted to a Participant who, at the time the Option is granted, owns stock representing more than 10% of the voting power of all classes of stock of the Company or any Related Entity, the term of the Incentive Stock Option will be no more than five years from the date of grant thereof. Notwithstanding the foregoing, the specified term of any Award will not include any period for which the Participant has elected to defer the receipt of the Shares or cash issuable pursuant to the Award.

(e) Date of Grant. The date of grant of an Award will be, for all purposes, the date on which the Administrator makes the determination to grant such Award, or such other later date as is determined by the Administrator.

(f) Notice to Company of Disqualifying Disposition. Each Employee who receives an Incentive Stock Option must agree to notify the Company in writing immediately after the Employee makes a Disqualifying Disposition of any Common Stock acquired pursuant to the exercise of an Incentive Stock Option.

(g) Acquisitions and Other Transactions. The Administrator may issue Awards under the Plan in settlement, assumption or substitution for, outstanding awards or obligations to grant future awards in connection with the Company or a Related Entity acquiring another entity, an interest in another entity or an additional interest in a Related Entity whether by merger, stock purchase, asset purchase or other form of transaction.

(h) Deferral of Award Payment. The Administrator may establish one or more programs under the Plan to permit selected Participants the opportunity to elect to defer receipt of consideration upon exercise of an Award, satisfaction of performance criteria, or other event that absent the election would entitle the Participant to payment or receipt of Shares or other consideration under an Award. The Administrator may establish the election procedures, the timing of such elections, the mechanisms for payments of, and accrual of interest or other earnings, if any, on amounts, Shares or other consideration so deferred, and such other terms, conditions, rules and procedures that the Administrator deems advisable for the administration of any such deferral program.

(i) Separate Programs. The Administrator may establish one or more separate programs under the Plan for the purpose of issuing particular forms of Awards to one or more classes of Participants on such terms and conditions as determined by the Administrator from time to time.

(j) Early Exercise. An Award Agreement may, but need not, include a provision whereby the Participant may elect at any time while an Employee, Director or Consultant to exercise any part or all of the Award prior to full vesting of the Award. Any unvested Shares received pursuant to such exercise may be subject to a repurchase right in favor of the Company or a Related Entity or to any other restriction the Administrator determines to be appropriate.

(k) Transferability of Awards. Unless the Administrator provides otherwise, no Award may be sold, pledged, assigned, hypothecated, transferred, or disposed of in any manner other than by will or by the laws of descent or distribution and may be exercised, during the lifetime of the Participant, only by the Participant. Notwithstanding the foregoing, the Participant may designate one or more beneficiaries of the Participant's Award in the event of the Participant's death on a beneficiary designation form provided by the Administrator.

(l) Stock Appreciation Rights. Stock Appreciation Rights may be granted (i) with respect to any Option granted under this Plan, either concurrently with the grant of such Option or at such later time as determined by the Administrator (as to all or any portion of the Shares subject to the Option), or (ii) alone, without reference to any related Option. Each Stock Appreciation Right granted by the Administrator under this Plan will be subject to the following terms and conditions. Each Stock Appreciation Right granted to any Participant will relate to such number of Shares as determined by the Administrator, subject to adjustment as provided in Section 13. In the case of a Stock Appreciation Right granted with respect to an Option, the number of Shares to which the Stock Appreciation Right pertains will be reduced in the same proportion that the holder of the Option exercises the related Option. The exercise price of a Stock Appreciation Right will be determined by the Administrator at the date of grant but may not be less than 100% of the Fair Market Value of the Shares subject thereto on the date of grant. Subject to the right of the Administrator to deliver cash in lieu of Shares (which, as it pertains to Officers and Directors of the Company, will comply with all requirements of the Exchange Act), the number of Shares which issuable upon the exercise of a Stock Appreciation Right will be determined by dividing:

(i) the number of Shares as to which the Stock Appreciation Right is exercised multiplied by the amount of the appreciation in such Shares (for this purpose, the "appreciation" will be the amount by which the Fair Market Value of the Shares subject to the Stock Appreciation Right on the exercise date exceeds (A) in the case of a Stock Appreciation Right related to an Option, the exercise price of the Shares under the Option or (B) in the case of a Stock Appreciation Right granted alone, without reference to a related Option, an amount determined by the Administrator at the time of grant, subject to adjustment under Section 13); by

(ii) the Fair Market Value of a Share on the exercise date.

In lieu of issuing Shares upon the exercise of a Stock Appreciation Right, the Administrator may elect to pay the holder of the Stock Appreciation Right cash equal to the Fair Market Value on the exercise date of any or all of the Shares which would otherwise be issuable. No fractional Shares will be issued upon the exercise of a Stock Appreciation Right; instead, the holder of the Stock Appreciation Right will be entitled to receive a cash adjustment equal to the same fraction of the Fair Market Value of a Share on the exercise date or to purchase the portion necessary to make a whole share at its Fair Market Value on the date of exercise. The exercise of a Stock Appreciation Right related to an Option will be permitted only to the extent that the Option is exercisable under its terms on the date of surrender. Any Incentive Stock Option surrendered pursuant to the provisions of this Section 6(l) will be deemed to have been converted into a Non-statutory Stock Option immediately prior to such surrender.

7. Award Exercise or Purchase Price.

(a) Exercise or Purchase Price. The exercise or purchase price, if any, for an Award will be as follows.

(i) In the case of an Incentive Stock Option:

(1) granted to an Employee who, at the time of the grant of such Incentive Stock Option owns stock representing more than 10% of the voting power of all classes of stock of the Company or any Related Entity, the per Share exercise price will be not less than 110% of the Fair Market Value per Share on the date of grant; or

(2) granted to any Employee other than an Employee described in the preceding paragraph, the per Share exercise price will be not less than 100% of the Fair Market Value per Share on the date of grant.

(ii) In the case of a Non-statutory Stock Option, the per Share exercise price will be not less than 100% of the Fair Market Value per Share on the date of grant.

(iii) In the case of other Awards, such price as is determined by the Administrator.

(iv) Notwithstanding the foregoing provisions of this Section 7(a), in the case of an Award issued pursuant to Section 6(g) above, the exercise or purchase price for the Award will be determined in accordance with the provisions of the relevant instrument evidencing the agreement to issue such Award and the Applicable Laws.

(b) Consideration. Subject to Applicable Laws, the consideration to be paid for the Shares to be issued upon exercise or purchase of an Award, including the method of payment, will be determined by the Administrator. In addition to any other types of consideration the Administrator may determine, the Administrator is authorized to accept as consideration for Shares issued under the Plan the following:

(i) cash;

(ii) check;

(iii) surrender of Shares or delivery of a properly executed form of attestation of ownership of Shares as the Administrator may require which have a Fair Market Value on the date of surrender or attestation equal to the aggregate exercise price of the Shares as to which said Award is exercised;

(iv) with respect to Options, payment through a broker-dealer sale and remittance procedure pursuant to which the Participant (A) provides written instructions to a broker-dealer acceptable to the Company to effect the immediate sale of some or all of the purchased Shares and remit to the Company sufficient funds to cover the aggregate exercise price payable for the purchased Shares and (B) provides written directives to the

Company to deliver the certificates (or other evidence satisfactory to the Company to the extent that the Shares are uncertificated) for the purchased Shares directly to such broker-dealer in order to complete the sale transaction;

(v) with respect to Options, payment through a "net exercise" such that, without the payment of any funds, the Participant may exercise the Option and receive the net number of Shares equal to (i) the number of Shares as to which the Option is being exercised, multiplied by (ii) a fraction, the numerator of which is the Fair Market Value per Share (on such date as is determined by the Administrator) less the Exercise Price per Share, and the denominator of which is such Fair Market Value per Share;

(vi) past or future services actually or to be rendered to the Company or a Related Entity; or

(vii) any combination of the foregoing methods of payment.

The Administrator may at any time or from time to time, by adoption of or by amendment to the standard forms of Award Agreement described in Section 4(c)(vii), or by other means, grant Awards which do not permit all of the foregoing forms of consideration to be used in payment for the Shares or which otherwise restrict one or more forms of consideration.

8. Performance Awards.

(a) Grant of Performance Awards. The Administrator may issue Performance Awards under the Plan in accordance with this Section 8. Performance Awards may be Options, Stock Appreciation Rights, Restricted Stock, Restricted Stock Units, or any other form of Award permitted pursuant to the Plan.

(b) Award Agreement for Performance Awards. Any Award intended to be a Performance Award pursuant to this Section 8 will be evidenced by an Award Agreement that will specify the number of Shares covered by the Award, the applicable performance criteria, the duration of the Performance Period, and such other terms and conditions as the Administrator, in its sole discretion, will determine. Unless otherwise determined by the Administrator, payment of the Award to a Participant will occur following the end of the Performance Period, or if later, the date on which any applicable contingency or restriction has ended.

(c) Performance Criteria. The performance criteria for any Performance Awards will be established by the Administrator and may include, but are not limited to, any one of, or combination of, the following criteria:

(i) Net earnings or net income (before or after taxes);

(ii) Earnings per share;

(iii) Net sales growth;

(iv) Net operating profit;

(v) Return measures (including, but not limited to, return on assets, capital, equity, or sales);

(vi) Cash flow (including, but not limited to, operating cash flow, free cash flow, and cash flow return on capital);

(vii) Cash flow per share;

(viii) Earnings before or after taxes, interest, depreciation, and/or amortization;

(ix) Gross or operating margins;

(x) Productivity ratios;

(xi) Share price (including, but not limited to, growth measures and total shareholder return);

(xii) Expense targets or ratios;

(xiii) Charge-off levels;

(xiv) Improvement in or attainment of revenue levels;

(xv) Margins;

(xvi) Operating efficiency;

(xvii) Operating expenses;

(xviii) Economic value added;

(xix) Improvement in or attainment of expense levels;

(xx) Improvement in or attainment of working capital levels;

(xxi) Debt reduction;

(xxii) Capital targets;

(xxiii) Consummation of acquisitions, dispositions, projects or other specific events or transactions; or

(xxiv) Other significant operational or business milestones.

(d) Determination of Performance Criteria. Performance criteria may be measured on an absolute (e.g., plan or budget) or relative basis, and may be established on a corporate-wide basis or with respect to one or more business units, divisions, subsidiaries or business segments, or may be established on an individual basis. Relative performance may be measured against a group of peer companies, a financial market index or other acceptable objective and quantifiable indices. If the Administrator determines that a change in the business, operations, corporate structure or capital structure of the Company, or the manner in which the Company conducts its business, or other events or circumstances render the performance objectives unsuitable, the Administrator may modify the minimum acceptable level of achievement, in whole or in part, as the Administrator deems appropriate and equitable. Performance objectives may be adjusted for material items not originally contemplated in establishing the performance target for items resulting from discontinued operations, extraordinary gains and losses, the effect of changes in accounting standards or principles, acquisitions or divestitures, changes in tax rules or regulations, capital transactions, restructuring, nonrecurring gains or losses or unusual items. Performance measures may vary from Performance Award to Performance Award, and from Participant to Participant, and may be established on a stand-alone basis, in tandem or in the alternative. The Administrator will have the authority to impose such other restrictions on as it may deem necessary or appropriate to ensure that Performance Awards satisfy all requirements of the Applicable Laws.

(e) Administrator Certification of Achievement of Performance Criteria. Following the completion of each Performance Period, the Administrator will determine whether the applicable performance criteria have

been achieved for the Performance Awards for such Performance Period. In determining the amounts earned by a Participant pursuant to an Award issued pursuant to this Section 8, the Administrator will have the right to (i) adjust the amount payable at a given level of performance to take into account additional factors that the Administrator may deem relevant to the assessment of individual or corporate performance for the Performance Period, (ii) determine what actual Award, if any, will be paid in the event of a Corporate Transaction or in the event of a termination of employment following a Corporate Transaction prior to the end of the Performance Period, and (iii) determine what actual Award, if any, will be paid in the event of a termination of employment other than as the result of a Participant's death or Disability prior to a Corporate Transaction and prior to the end of the Performance Period.

9. Tax Withholding.

(a) Prior to the delivery of any Shares or cash pursuant to an Award (or the exercise thereof), or at such other time as the Tax Obligations are due, the Company, in accordance with the Code and any Applicable Laws, will have the power and the right to deduct or withhold, or require a Participant to remit to the Company, an amount sufficient to satisfy all Tax Obligations. The Administrator may condition such delivery, payment, or other event pursuant to an Award on the payment by the Participant of any such Tax Obligations.

(b) The Administrator, pursuant to such procedures as it may specify from time to time, may designate the method or methods by which a Participant may satisfy the Tax Obligations. As determined by the Administrator in its sole discretion from time to time, these methods may include one or more of the following:

(i) paying cash;

(ii) directing the Company withhold cash or Shares deliverable to the Participant having a Fair Market Value equal to the amount required to be withheld;

(iii) delivering to the Company already-owned Shares having a Fair Market Value equal to the amount required to be withheld or remitted, provided the delivery of such Shares will not result in any adverse accounting consequences as the Administrator determines;

(iv) selling a sufficient number of Shares otherwise deliverable to the Participant through such means as the Administrator may determine (whether through a broker or otherwise) equal to the Tax Obligations required to be withheld;

(v) retaining from salary or other amounts payable to the Participant cash having a sufficient value to satisfy the Tax Obligations; or

(vi) any other means which the Administrator determines to both comply with Applicable Laws, and to be consistent with the purposes of the Plan.

The amount of Tax Obligations will be deemed to include any amount that the Administrator determines may be withheld at the time the election is made, not to exceed the amount determined by using the maximum federal, state, local and foreign marginal income tax rates applicable to the Participant or the Company, as applicable, with respect to the Award on the date that the amount of tax or social insurance liability to be withheld or remitted is to be determined. The Fair Market Value of the Shares to be withheld or delivered will be determined as of the date that the Tax Obligations are required to be withheld.

10. Rights As a Stockholder.

(a) Restricted Stock. Except as otherwise provided in any Award Agreement, a Participant will not have any rights of a stockholder with respect to any of the Shares granted to the Participant under an Award of

Restricted Stock (including the right to vote or receive dividends and other distributions paid or made with respect thereto). No dividends or Dividend Equivalent Rights will be paid in respect of any unvested Award of Restricted Stock, unless and until such Shares vest.

(b) Other Awards. In the case of Awards other than Restricted Stock, a Participant will not have any rights of a stockholder, nor will dividends or Dividend Equivalent Rights accrue or be paid, with respect to any of the Shares granted pursuant to such Award until the Award is exercised or settled and the Shares are delivered (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company).

11. Exercise of Award.

(a) Procedure for Exercise.

(i) Any Award granted hereunder will be exercisable at such times and under such conditions as determined by the Administrator under the terms of the Plan and as specified in the Award Agreement.

(ii) An Award will be deemed to be exercised when written notice of such exercise has been given to the Company in accordance with the terms of the Award Agreement by the person entitled to exercise the Award and full payment for the Shares with respect to which the Award is exercised has been made in compliance with the terms of the Award Agreement and the Plan.

(b) Exercise of Award Following Termination of Continuous Service. In the event of termination of a Participant's Continuous Service for any reason other than Disability or death, such Participant may, but only during the Post-Termination Exercise Period (but in no event later than the expiration date of the term of such Award), exercise the portion of the Participant's Award that was vested at the date of such termination (or such greater portion of the Participant's Award as may be determined by the Administrator). Unless otherwise provided in the applicable Award Agreement, the Participant's right to exercise the Award will terminate concurrently with the termination of Participant's Continuous Service for Cause. In the event of a Participant's change of status from Employee to Consultant, an Employee's Incentive Stock Option will convert automatically to a Non-statutory Stock Option on the day three months and one day following such change of status. Unless otherwise determined by the Administrator, the unvested portion of a Participant's Award will terminate as of the date of termination. In addition, if the Participant does not exercise the vested portion of the Participant's Award within the Post-Termination Exercise Period, the Award will terminate upon the conclusion of the Post-Termination Exercise Period.

(c) Disability of Participant. In the event of termination of a Participant's Continuous Service as a result of his or her Disability, such Participant may, but only within 12 months from the date of such termination (or such longer period as specified in the Award Agreement but in no event later than the expiration date of the term of such Award as set forth in the Award Agreement), exercise the portion of the Participant's Award that was vested at the date of such termination; provided, however, that if such Disability is not a "disability" as such term is defined in Section 22(e)(3) of the Code, in the case of an Incentive Stock Option such Incentive Stock Option will automatically convert to a Non-statutory Stock Option on the day three months and one day following such termination. Unless otherwise determined by the Administrator, the unvested portion of a Participant's Award will terminate as of the date of such termination. In addition, if the Participant does not exercise the vested portion of the Participant's Award within the period specified in the Award Agreement following such termination, the Award will terminate upon the conclusion of such period.

(d) Death of Participant. In the event of a termination of the Participant's Continuous Service as a result of his or her death, or in the event of the death of the Participant during the Post-Termination Exercise Period or during the 12 month period following the Participant's termination of Continuous Service as a result of his or her Disability, the Participant's estate or a person who acquired the right to exercise the Award by bequest

or inheritance may exercise the portion of the Participant's Award that was vested as of the date of termination, within 12 months from the date of death (or such longer period as specified in the Award Agreement but in no event later than the expiration of the term of such Award as set forth in the Award Agreement). Unless otherwise determined by the Administrator, the unvested portion of a Participant's Award will terminate as of the date of the Participant's death. In addition, if the Participant's estate or a person who acquired the right to exercise the Award by bequest or inheritance does not exercise the vested portion of the Participant's Award within the period specified in the Award Agreement following the Participant's death, the Award will terminate upon the conclusion of such period.

(e) Extension if Exercise Prevented by Law. Notwithstanding the foregoing, if the exercise of an Award within the applicable time periods set forth in this Section 11 is prevented by the provisions of Section 12 below, the Award will remain exercisable until one month after the date the Participant is notified by the Company that the Award is exercisable, but in any event no later than the expiration of the term of such Award as set forth in the Award Agreement.

12. Conditions Upon Issuance of Shares; Manner of Issuance of Shares.

(a) Legal Compliance. Shares will not be issued pursuant to the exercise or vesting of an Award unless the issuance and delivery of such Shares will comply with Applicable Laws. If at any time the Administrator determines that the delivery of Shares pursuant to the exercise, vesting or any other provision of an Award is or may be unlawful under Applicable Laws, the vesting or right to exercise an Award or to otherwise receive Shares pursuant to the terms of an Award will be suspended until the Administrator determines that such delivery is lawful and will be further subject to the approval of counsel for the Company with respect to such compliance. The Company will have no obligation to effect any registration or qualification of the Shares under any Applicable Law.

(b) Investment Representations. As a condition to the exercise of an Award, the Company may require the person exercising such Award to represent and warrant at the time of any such exercise that the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares if, in the opinion of counsel for the Company, such a representation is required by any Applicable Laws.

(c) Inability to Obtain Authority. The inability of the Company to obtain authority from any regulatory body having jurisdiction, which authority is deemed by the Company's counsel to be necessary to the lawful issuance and sale of any Shares hereunder, will relieve the Company of any liability in respect of the failure to issue or sell such Shares as to which such requisite authority has not been obtained.

(d) Form of Issuance of Shares. Subject to the Applicable Laws and any governing rules or regulations, the Company will issue or cause to be issued the Shares acquired pursuant to an Award and will deliver such Shares to or for the benefit of the Participant by means of one or more of the following as determined by the Administrator: (i) by delivering to the Participant evidence of book entry Shares credited to the account of the Participant, (ii) by depositing such Shares for the benefit of the Participant with any broker with which the Participant has an account relationship, or (iii) by delivering such Shares to the Participant in certificate form.

(e) Fractional Shares. No fractional Shares will be issued pursuant to any Award under the Plan; any Participant who would otherwise be entitled to receive a fraction of a Share upon exercise or vesting of an Award will receive from the Company cash in lieu of such fractional Shares in an amount equal to the Fair Market Value of such fractional Shares, as determined by the Administrator.

13. Adjustments. Subject to any required action by the stockholders of the Company, the number of Shares covered by each outstanding Award, and the number of Shares which have been authorized for issuance under the Plan but as to which no Awards have yet been granted or which have been returned to the Plan, the exercise or purchase price of each such outstanding Award, as well as any other terms that the Administrator determines

require adjustment will be proportionately adjusted for (i) any increase or decrease in the number of issued and outstanding Shares resulting from a stock split, reverse stock split, stock dividend, combination or reclassification of the Shares, or similar transaction affecting the Shares, (ii) any other increase or decrease in the number of issued and outstanding Shares effected without receipt of consideration by the Company, or (iii) any other transaction with respect to the Company's Common Stock including a corporate merger, consolidation, acquisition of property or stock, separation (including a spin-off or other distribution of stock or property), reorganization, liquidation (whether partial or complete) or any similar transaction; provided, however that conversion of any convertible securities of the Company will not be deemed to have been "effected without receipt of consideration." Such adjustment will be made by the Administrator and its determination will be final, binding and conclusive. Except as the Administrator determines, no issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, will affect, and no adjustment by reason hereof will be made with respect to, the number or price of Shares subject to an Award. No adjustments will be made for dividends paid in cash or in property other than Common Stock of the Company, nor will cash dividends or dividend equivalents accrue or be paid in respect of unexercised Options or unvested Awards hereunder.

14. Corporate Transactions.

(a) Termination of Awards to Extent Not Assumed in Corporate Transaction Effective upon the consummation of a Corporate Transaction, all outstanding Awards under the Plan will terminate, except that Awards will not terminate to the extent they are Assumed in connection with the Corporate Transaction.

(b) Effect of a Corporate Transaction. The Administrator may establish such terms and conditions relating to the effect of a Corporate Transaction on Awards as the Administrator deems appropriate, including, but not limited to, determining that: (i) one or more Awards will vest and become exercisable, realizable, or payable, or restrictions applicable to an Award will lapse, in whole or in part prior to or upon consummation of such Corporate Transaction, and, to the extent the Administrator determines, terminate upon or immediately prior to the effectiveness of such Corporate Transaction; (ii) Awards will be Assumed by, or replaced with awards that have substantially equivalent terms by, the surviving corporation (or a parent or subsidiary of the surviving corporation); (iii) Participants will receive a payment in satisfaction of outstanding Awards of Restricted Stock Units or of other rights or benefits, in such amount and form as may be determined by the Administrator; (iv) outstanding Options and Stock Appreciation Rights be terminated or surrendered, in exchange for a payment by the Company, in cash or other property as determined by the Administrator, in an amount equal to the amount, if any, by which the then Fair Market Value of the Shares subject to the Participant's unexercised Options and Stock Appreciation Rights exceeds the exercise price (and, for the avoidance of doubt, if the Administrator determines in good faith that as of the date of the occurrence of the Corporate Transaction the per share Fair Market Value of the Shares does not exceed the per share exercise price of a given Award, then such Award may be terminated by the Company without payment), and (v) after giving Participants an opportunity to exercise all of their outstanding Options and Stock Appreciation Rights, the Administrator may terminate any or all unexercised Options and Stock Appreciation Rights at such time as the Administrator deems appropriate. In taking any of the actions permitted under this Section 14(b), the Administrator will not be obligated to treat all Awards, all Awards held by a Participant, or all Awards of the same type, similarly. Such action(s) by the Administrator will take place as of the date of the Corporate Transaction or such other date as the Administrator may specify.

(c) Effect of Acceleration on Incentive Stock Options. Any Incentive Stock Option accelerated under this Section 14 in connection with a Corporate Transaction will remain exercisable as an Incentive Stock Option under the Code only to the extent the $100,000 limitation of Section 422(d) of the Code is not exceeded.

(d) Change in Control. An Award may be subject to additional acceleration of vesting and exercisability upon or after a Change in Control as may be provided in the Award Agreement for such Award, in any other written agreement between the Company or any Related Entity and the Participant or in any director compensation policy of the Company, but in the absence of such provision, no such acceleration will occur.

15. Effective Date and Term of Plan; Stockholder Approval.

(a) This Plan became effective upon its adoption by the Board on November 10, 2023 (the "Effective Date"). The Plan will continue in effect for a period of 10 years from the Effective Date unless sooner terminated, subject to the approval of the Plan by the stockholders of the Company as described in Section 15(c) below.

(b) The expiration of the Plan will not have the effect of terminating any Awards outstanding on such date, except as otherwise provided in the applicable Award Agreement.

(c) The Plan will be subject to approval by the stockholders of the Company within 12 months after the date the Plan is adopted by the Board. Such stockholder approval will be obtained in the manner and to the degree required under Applicable Laws.

16. Amendment, Suspension or Termination of the Plan.

(a) The Board may at any time suspend or terminate the Plan, or amend the Plan in any respect, except that it may not, without the approval of the stockholders obtained within 12 months before or after the Board adopts a resolution authorizing any of the following actions, do any of the following:

(i) increase the total number of shares that may be issued under the Plan (except by adjustment pursuant to Section 13);

(ii) modify the provisions of Section 6 regarding eligibility for grants of Incentive Stock Options;

(iii) modify the provisions of Section 7(a) regarding the exercise price at which shares may be offered pursuant to Options (except by adjustment pursuant to Section 13); or

(iv) extend the expiration date of the Plan.

(b) Except as provided in Section 13 (including, without limitation, any stock dividend, stock split, extraordinary cash dividend, recapitalization, reorganization, merger, consolidation, split-up, spin-off, combination, or exchange of shares), the Company may not, without approval by the Company's stockholders, (i) lower the exercise price of an Option or Stock Appreciation Right, (ii) cancel an Option or Stock Appreciation Right when the exercise price per Share exceeds the Fair Market Value of a Share in exchange for cash or another Award, or (iii) take any other action with respect to an Option or Stock Appreciation Right that would be treated as a repricing under the rules and regulations of the principal U.S. national securities exchange on which the Shares are listed.

(c) No Award may be granted during any suspension of the Plan or after termination of the Plan. No suspension or termination of the Plan will adversely affect any rights under Awards already granted to a Participant without his or her consent.

17. No Effect on Terms of Employment/Consulting Relationship. Neither the Plan nor any Award will confer upon any Participant any right with respect to the Participant's Continuous Service, nor will either interfere in any way with the Participant's right or the right of the Company or a Related Entity to terminate the Participant's Continuous Service at any time, with or without Cause, and with or without notice. The ability of the Company or any Related Entity to terminate the employment of a Participant who is employed on an "at will" basis is in no way affected by its determination that the Participant's Continuous Service has been terminated for Cause for the purposes of this Plan.

18. No Effect on Retirement and Other Benefit Plans. Except as specifically provided in a retirement or other benefit plan of the Company or a Related Entity, Awards will not be deemed compensation for purposes of

computing benefits or contributions under any retirement plan of the Company or a Related Entity, and will not affect any benefits under any other benefit plan of any kind or any benefit plan subsequently instituted under which the availability or amount of benefits is related to level of compensation. The Plan is not a "Retirement Plan" or "Welfare Plan" under the Employee Retirement Income Security Act of 1974, as amended.

19. Information to Participants. The Company will provide to each Participant, during the period for which such Participant has one or more Awards outstanding, such information as required by Applicable Laws.

20. Electronic Delivery. The Administrator may decide to deliver any documents related to any Award granted under the Plan through an online or electronic system established and maintained by the Company or another third party designated by the Company or to request a Participant's consent to participate in the Plan by electronic means. By accepting an Award, each Participant consents to receive such documents by electronic delivery and agrees to participate in the Plan through an online or electronic system established and maintained by the Company or another third party designated by the Company, and such consent will remain in effect throughout Participant's Continuous Service with the Company and any Related Entity and thereafter until withdrawn in writing by Participant.

21. Data Privacy. The Administrator may decide to collect, use and transfer, in electronic or other form, personal data as described in this Plan or any Award for the exclusive purpose of implementing, administering and managing participation in the Plan. By accepting an Award, each Participant acknowledges that the Company holds certain personal information about Participant, including, but not limited to, name, home address and telephone number, date of birth, social security number or other identification number, salary, nationality, job title, details of all Awards awarded, cancelled, exercised, vested or unvested, for the purpose of implementing, administering and managing the Plan (the "Data"). Each Participant further acknowledges that Data may be transferred to any third parties assisting in the implementation, administration and management of the Plan and that these third parties may be located in jurisdictions that may have different data privacy laws and protections, and Participant authorizes such third parties to receive, possess, use, retain and transfer the Data, in electronic or other form, for the purposes of implementing, administering and managing the Plan, including any requisite transfer of such Data as may be required to a broker or other third party with whom the recipient or the Company may elect to deposit any Shares acquired upon any Award.

22. Application of Section 409A. This Plan and the Awards granted hereunder will be construed and administered such that the Awards either qualify for an exemption from the application of Section 409A or satisfy the requirements of Section 409A. If an Award is subject to Section 409A: (i) distributions will only be made in a manner and upon an event permitted under Section 409A, (ii) payments to be made upon a termination of employment will only be made upon a "separation from service" under Section 409A, (iii) payments to be made upon a Corporate Transaction will only be made upon an event that qualifies as a "change in control event" under Section 409A (without giving effect to any elective provisions permitted thereunder), and (iv) in no event will a Participant, directly or indirectly, designate the calendar year in which a distribution is made, except in accordance with Section 409A. Each payment in any series of installment payments under an Award will be treated as a separate payment for purposes of Section 409A. Any Award granted under this Plan that is subject to Section 409A and that is to be distributed to a "specified employee" (as defined in Section 409A) upon a separation from service will be administered so that any distribution with respect to such Award will be postponed for six months following the date of the Participant's separation from service, if required by Section 409A. If a distribution is so delayed pursuant to Section 409A, the distribution will be paid within 30 days after the end of the six-month period or the Participant's death, if earlier. Notwithstanding any provision of the Plan to the contrary, in the event that following the Effective Date the Administrator determines that any Award may be subject to Section 409A, the Administrator may adopt such amendments to the Plan and the applicable Award Agreement or adopt other policies and procedures, or take any other actions, that the Administrator determines are necessary or appropriate to (A) exempt the Award from Section 409A and/or preserve the intended tax treatment of the benefits provided with respect to the Award, or (B) comply with the requirements of Section 409A. Notwithstanding anything in the Plan or any Award Agreement to the contrary,

each Participant will be solely responsible for the tax consequences of Awards, and in no event will the Company have any responsibility or liability if an Award does not meet any applicable requirements of Section 409A. Although the Company intends to administer the Plan to avoid taxation under Section 409A, the Company does not represent or warrant that the Plan or any Award is exempt from, or compliant with, Section 409A.

23. Clawback/Repayment. All Awards will be subject to reduction, cancellation, forfeiture or recoupment to the extent necessary to comply with (i) any applicable clawback, forfeiture or other similar policy adopted by the Board and as in effect from time to time; and (ii) applicable law. Further, to the extent that the Participant receives any amount in excess of the amount that the Participant should otherwise have received under the terms of the Award for any reason (including, without limitation, by reason of a financial restatement, mistake in calculations or other administrative error), the Participant may be required to repay any such excess amount to the Company.

24. Unfunded Obligation. Participants will have the status of general unsecured creditors of the Company. Any amounts payable to Participants pursuant to the Plan will be unfunded and unsecured obligations for all purposes, including, without limitation, Title I of the Employee Retirement Income Security Act of 1974, as amended. Neither the Company nor any Related Entity will be required to segregate any monies from its general funds, or to create any trusts, or establish any special accounts with respect to such obligations. The Company will retain at all times beneficial ownership of any investments, including trust investments, which the Company may make to fulfill its payment obligations hereunder. Any investments or the creation or maintenance of any trust or any Participant account will not create or constitute a trust or fiduciary relationship between the Administrator, the Company or any Related Entity and a Participant, or otherwise create any vested or beneficial interest in any Participant or the Participant's creditors in any assets of the Company or a Related Entity. The Participants will have no claim against the Company or any Related Entity for any changes in the value of any assets that may be invested or reinvested by the Company with respect to the Plan.

25. Construction. Captions and titles contained herein are for convenience only and will not affect the meaning or interpretation of any provision of the Plan. Except when otherwise indicated by the context, the singular includes the plural and the plural includes the singular. Use of the term "or" is not intended to be exclusive, unless the context clearly requires otherwise.

FLYEXCLUSIVE, INC.
EMPLOYEE STOCK PURCHASE PLAN

December 27, 2023

1. Establishment of Plan; Purposes. The purpose of the Plan is to provide Eligible Employees of the Company with a convenient means of acquiring an equity interest in the Company through payroll deductions, to enhance such employees' sense of participation in the affairs of the Company and Participating Subsidiaries, and to provide an incentive for continued employment. The Company intends that the Plan qualify as an "employee stock purchase plan" under Section 423 of the Code, and accordingly the Plan will be construed so as to extend and limit Plan participation in a uniform and nondiscriminatory basis consistent with the requirements of Section 423 of the Code. Any term not expressly defined in this Plan but defined for purposes of Section 423 of the Code will have the same definition herein.

2. Definitions. As used in the Plan, the following terms shall have the meanings provided in this Section 2.

(a) "***Acquiring Corporation***" shall have the meaning ascribed to it in Section 17(a).

(b) "***Administrator***" means the Committee or one or more of the Company's officers or management team appointed by the Board or Committee to administer the day-to-day operations of the Plan. Except as otherwise provided in the Plan, the Board or Committee may assign any of its administrative tasks to the Administrator.

(c) "***Base Compensation***" means an Eligible Employee's annualized regular, fixed base salary or wages based on the Eligible Employee's salary or wage rate (and number of hours per week) in effect as of the day prior to the Date of Grant of a given Offering Period, and excludes any bonus, sales commissions, overtime payment, payment of deferred compensation or equity compensation, contribution by the Company or a Participating Subsidiary to an employee benefit plan or other similar payment or contribution.

(d) "***Board***" means the Board of Directors of the Company.

(e) "***Code***" means the United States Internal Revenue Code of 1986, as amended or replaced to date or hereafter. References to a specific section of the Code or United States Treasury Regulation thereunder will include such section or regulation, any valid regulation or other official applicable guidance promulgated under such section, and any comparable provision of any future legislation or regulation amending, supplementing or superseding such section or regulation.

(f) "***Committee***" means the Compensation Committee of the Board or any subcommittee referred to in Section 5(c).

(g) "***Common Stock***" means the common stock of the Company, $0.0001 par value per share, as the same may be converted, changed, reclassified or exchanged.

(h) "***Company***" means flyExclusive, Inc. a Delaware corporation, or any successor to all or substantially all of the Company's business that adopts this Plan.

(i) "***Contributions***" means the amount of Base Compensation contributed by a Participant through payroll deductions to fund the exercise of any Options granted to such Participants pursuant to the Plan.

(j) "***Corporate Transaction***" shall have the meaning ascribed to it in Section 17(b).

(k) "***Date of Grant***" means the first day of each Offering Period.

(l) "***Enrollment Date***" means the date an Eligible Employee: (i) satisfies the eligibility requirements of the Plan, and (ii) delivers to the Company's Chief Financial Officer (or his or her designee) not later than three (3) business days before the next Date of Grant a fully-completed enrollment document (utilizing a form provided by the Company for such purpose) indicating the Eligible Employee's election to participate in the Plan and authorizing Contributions as described herein.

(m) "***Eligible Employee***" shall have the meaning ascribed to such term in Section 6(a).

(n) "***Exchange Act***" means the Securities Exchange Act of 1934, as amended from time to time.

(o) "***Fair Market Value***" shall have the meaning ascribed to it in Section 10.

(p) "***Holding Period***" means a required holding period applicable to Shares purchased in a particular Offering Period established in accordance with Section 12(h) below.

(q) "***Notice Period***" shall have the meaning ascribed to it in Section 20.

(r) "***Offering Period***" means the periods established in accordance with Section 7 during which rights to purchase Shares may be granted pursuant to the Plan and may be purchased on one or more Purchase Dates. The duration and timing of Offering Periods may be changed pursuant to Sections 7 and 29.

(s) "***Option***" means the right to purchase Shares under the Plan during an Offering Period.

(t) "***Option Price***" shall mean the purchase price per share at which a Share may be acquired pursuant to an Option, determined in accordance with Section 9.

(u) "***Parent Corporation***" means a "parent corporation," whether now or hereafter existing, as defined in Section 424(e) of the Code.

(v) "***Participant***" means an Eligible Employee who enrolls in the Plan.

(w) "***Participating Subsidiaries***" means those Parent Corporations and/or Subsidiaries that the Committee designates from time to time as corporations that participate in the Plan.

(x) "***Plan***" means flyExclusive, Inc. Employee Stock Purchase Plan, as the same may be amended from time to time.

(y) "***Principal Exchange***" means the principal stock exchange or market on which the Common Stock is then traded.

(z) "***Purchase Date***" means the last day of each Offering Period, subject to adjustment as described in Section 7.

(aa) "***Shares***" means the shares of Common Stock reserved for issuance under the Plan.

(bb) "***Subsidiary***" means a "subsidiary corporation," whether now or hereafter existing, as defined in Section 424(f) of the Code.

(cc) "***Termination Date***" shall have the meaning ascribed to it in Section 3.

(dd) "***Trading Day***" means a day on which the Principal Exchange is open for trading.

(ee) "***Withdrawal Date***" shall have the meaning ascribed to it in Section 13(c).

(ff) "***Withdrawal Notice***" means a Participant's written notice to the Company, made on a form provided by the Company for such purpose, of the Participant's intention to withdraw from an Offering Period.

3. Effective Date; Termination Date. The Plan will be subject to approval by a vote of the holders of a majority of the shares of the Company's Common Stock present or represented, in person or by proxy, and entitled to vote at a meeting of the Company's stockholders held in accordance with Delaware law. Subject to such approval, the Plan is effective as of November 10, 2023, and unless sooner terminated as provided herein, will terminate at 5:00 P.M. Eastern time on October 31, 2033 (the "***Termination Date***"). This Plan shall continue until the earlier to occur of (a) termination of this Plan by the Board (which termination may be effected by the Board at any time pursuant to Section 29 below), (b) issuance of all the Shares, or (c) the Termination Date. Following the Termination Date, no further Options may be granted under the Plan, but such termination will not affect any Option granted prior to the Termination Date.

4. Stock Subject to Plan. A total of 1,500,000 shares of the Company's Common Stock are reserved and will be available for issuance under this Plan. Such number will be subject to adjustments effected in accordance with Section 16 of this Plan. In the event that an Option or part thereof expires or is otherwise canceled or terminated, the Shares subject to the unexercised portion of such Option will be available for re-use in future Option grants under the Plan.

5. Administration.

(a) The Plan will be administered by the Committee. Anything in the Plan to the contrary notwithstanding, subject to Applicable Law, any authority or responsibility that, under the terms of the Plan, may be exercised by the Committee may alternatively be exercised by the Board. Subject to Applicable Law, no member of the Board or Committee (or its delegates) will be liable for any good faith action or determination made in connection with the operation, administration or interpretation of the Plan. In the performance of its responsibilities with respect to the Plan, the Committee will be entitled to rely upon, and no member of the Committee will be liable for any action taken or not taken in reliance there upon, information and/or advice furnished by the Company's officers or employees, the Company's accountants, the Company's counsel and any other party that the Committee deems necessary. The Company will pay all reasonable expenses incurred by the Administrator and the Company in connection with the administration of this Plan.

(b) The Committee shall have full power and authority to: administer the Plan, including, without limitation, the authority to (i) construe, interpret, reconcile any inconsistency in, correct any default in and supply any omission in, and apply the terms of the Plan and any enrollment form or other instrument or agreement relating to the Plan, (ii) determine eligibility and adjudicate all disputed claims filed under the Plan, including whether Eligible Employees shall participate in an Option grant and which Parent Corporation(s) and Subsidiaries of the Company shall be Participating Subsidiaries participating in an offering, (iii) determine the terms and conditions of any right to purchase Shares under the Plan, (iv) establish, amend, suspend or waive such rules and regulations and appoint such agents as it shall deem appropriate for the proper administration of the Plan, (v) amend an outstanding right to purchase Shares, including any amendments to a right that may be necessary for purposes of effecting a transaction contemplated under Section 16 hereof (including, but not limited to, an amendment to the class or type of stock that may be issued pursuant to the exercise of a right or the Option Price applicable to a right), provided that the amended right otherwise conforms to the terms of the Plan, and (vi) make any other determination and take any other action that the Committee deems necessary or desirable for the administration of the Plan. Notwithstanding any provision to the contrary in this Plan, the Committee may adopt rules or procedures relating to the operation and administration of the Plan to accommodate the specific requirements of local laws and procedures for jurisdictions outside of the United States. All determinations by

the Committee in carrying out and administering the Plan and in construing and interpreting the Plan and any enrollment form other instrument or agreement relating to the Plan shall be made in the Committee's sole discretion and shall be final, binding and conclusive for all purposes and upon all interested persons.

(c) To the extent not prohibited by Applicable Law, the Committee may, from time to time, delegate some or all of its authority under the Plan to a subcommittee or subcommittees of the Committee or other persons or groups of persons as it deems necessary, appropriate or advisable under conditions or limitations that it may set at or after the time of the delegation. For purposes of the Plan, references to the "Administrator" shall be deemed to refer to any subcommittee, subcommittees, or other persons or groups of persons to whom the Committee delegates authority pursuant to this Section 5(c).

6. Eligibility.

(a) Every employee of the Company or the Participating Subsidiaries on a Date of Grant (including every employee who is on paid or authorized but unpaid leave of absence on such Date of Grant) is eligible to participate in the offering for such Offering Period (each such employee, except as excluded pursuant to Section 6(b) or 6(c) below, an "***Eligible Employee***").

(b) In establishing the terms of an Option granted hereunder, the Committee may exclude one or more of the following categories of employees from participation in such Offering Period:

(i) any employee who has a period of employment with the Company and/or a Participating Subsidiary of less than 2 years (or some shorter period of employment as may be established by the Committee);

(ii) any employee whose customary employment with the Company and/or a Participating Subsidiary is less than 20 hours per week (or at the discretion of the Committee a threshold less than 20 hours per week);

(iii) any employee whose customary employment is less than 5 months (or at the discretion of the Committee a threshold less than 5 months) with the Company and/or a Participating Subsidiary in any calendar year; or

(iv) any employee who is a "highly compensated employee" as defined in Section 414(q) of the Code of the Company or a Participating Subsidiary, and provided that the Committee may also exclude subsets of highly compensated employees to the extent permitted by Section 423 of the Code and the regulations issued thereunder.

(c) Notwithstanding anything else provided herein, an Option may not be granted in an Offering Period to an employee who, together with any other person whose stock would be attributed to such employee pursuant to Section 424(d) of the Code, (i) owns stock or holds options to purchase stock possessing five percent (5%) or more of the total combined voting power or value of all classes of stock of the Company or any of its Participating Subsidiaries, or (ii) as a result of being granted an option under this Plan with respect to such Offering Period, would own stock or hold options to purchase stock possessing five percent (5%) or more of the total combined voting power or value of all classes of stock of the Company (or any Parent Corporation or Subsidiary of the Company).

7. Offering Periods. Unless otherwise determined by the Committee, this Plan will be administered on the basis of sequentialsix-month Offering Periods until the Plan is terminated: (a) the six (6) month period commencing on January 1 and ending on the following June 30, and (b) the six (6) month period commencing on July 1 and ending on the following December 31. The Committee may establish additional or alternative sequential or overlapping Offering Periods, which may have different durations, provided that no Offering Period may exceed twenty-seven (27) months. In the event that the Purchase Date of a given Offering Period is not a Trading Day, then the Purchase Date will be the last day prior to such date which is a Trading Day.

8. Grant of Option; Expiration. Each person who is an Eligible Employee on a Date of Grant will be granted an Option for the Offering Period. Such Option will be for up to the whole number of Shares to be determined by the lesser of (a) the number of Shares obtained by dividing 12,500 by the Fair Market Value of one Share determined as of the Date of Grant, or (b) 50,000 Shares. In any event, Options granted to Eligible Employees are subject to the individual limit set forth in Section 14. In order to participate in the Plan for a given Offering Period, an Eligible Employee must enroll as described in Section 11 below. The Options granted hereunder will be exercised only as described in Section 12 below. Any portion of an Option remaining unexercised after the Purchase Date for the Offering Period to which such Option relates will expire immediately upon the end of such Offering Period.

9. Option Price. The purchase price per share at which a Share may be acquired on a Purchase Date will be eighty-five percent (85%) of the lesser of: (a) the Fair Market Value of a Share on the Date of Grant (or, if the Date of Grant is not a Trading Day, the first Trading Day of the Offering Period), or (b) the Fair Market Value of a Share on the Purchase Date, provided, however, that the Committee may, prior to the commencement of any Offering Period, provide for an Option Price for such Offering Period based on a discount of less than fifteen percent (15%) of the Fair Market Value of a Share on the Date of Grant or the Purchase Date.

10. Fair Market Value. For purposes of the Plan, the "***Fair Market Value***" of a Share will be determined as follows:

(a) If the Company's Common Stock is publicly traded as of a given date of determination hereunder, the Fair Market Value will be the closing selling price per share of Common Stock on such date of determination, as such price is reported on the Principal Exchange. If there is no closing selling price for the Common Stock on a given date of determination hereunder, then the Fair Market Value will be the closing selling price on the last preceding date for which such quotation exists.

(b) If the Company's Common Stock is at the time not publicly traded, the Fair Market Value as of a given date will be determined by the Committee, in good faith, taking into account any and all information known to the Company regarding the price and number of shares traded, if any, in privately negotiated transactions, and such other factors as it deems appropriate.

11. Enrollment by Eligible Employee.

(a) Enrollment. An Eligible Employee will be able to participate in the Plan on the first Date of Grant after his or her Enrollment Date. The Company may, from time to time, change the Enrollment Date as deemed advisable by the Administrator in its sole discretion for proper administration of the Plan, upon providing reasonable notice. For avoidance of doubt, an employee who becomes eligible to participate in the Plan after an Offering Period has commenced will not be eligible to participate in such Offering Period but may participate in any subsequent Offering Period provided such employee is still eligible to participate in the Plan as of the commencement of any such subsequent Offering Period.

(b) Failure to Enroll. An Eligible Employee who does not deliver an enrollment form to the Company's Chief Financial Officer (or his or her designee) on or before the third (3rd) business day before the next Date of Grant will not participate in the Plan for that Offering Period, nor for any subsequent Offering Period unless such Eligible Employee subsequently enrolls in the Plan by filing such an enrollment form with the Company's Chief Financial Officer (or his or her designee) on or before the third (3rd) business day before the next Date of Grant of such subsequent Offering Period.

(c) Continuance of Enrollment. Once enrolled, a Participant's enrollment carries forward to each subsequent Offering Period, unless and until such Participant's employment with the Company ends, the Participant changes payroll withholding as described in Section 12(d) below, or the Participant withdraws from participation as described in Section 13 below.

12. Payroll Deduction Plan; Exercise of Option and Payment of Option Price. Shares which are acquired pursuant to the exercise of an Option hereunder may be paid for only by means of Contributions made by the Participant during the Offering Period. Except as set forth below, the amount of Contributions withheld from a Participant's Base Compensation during each pay period will be determined by the Participant's enrollment form.

(a) Limitations on Payroll Withholding. Payroll withholding with respect to the Plan for any Participant will be in whole percentages from 1% to 10% (or such greater percentage as the Administrator may establish from time to time before an Offering Period begins) of the Participant's Base Compensation for each pay period during the applicable Offering Period. Notwithstanding the foregoing, the Administrator may change the limits on payroll withholding effective as of a future Date of Grant, upon reasonable notice to the Eligible Employees. Amounts withheld will be reduced by any amounts contributed by the Participant and applied to the purchase of Company stock pursuant to any other employee stock purchase plan qualifying under Section 423 of the Code.

(b) Payroll Withholding. Payroll deductions will commence on the first payday following the Date of Grant and will continue on each payday through the end of the Offering Period unless sooner altered or terminated by the Participant or otherwise as provided in the Plan.

(c) Participant Accounts. An individual bookkeeping account will be maintained under the Plan for each Participant. All payroll deductions from a Participant's Base Compensation will be credited to such account and will be deposited with the general funds of the Company. There is no obligation on the part of the Company to segregate funds for each Participant. All Contributions received or held by the Company may be used by the Company for any corporate purpose. Interest will not be paid on any Contributions held pursuant to this Plan, unless the Administrator elects to make such payments to all Participants on a non-discriminatory basis.

(d) Election to Decrease or Stop Withholding. During an Offering Period, a Participant may elect to (i) decrease the amount to be withheld as many times as desired, or (ii) stop further withholding, by filing a payroll deduction change form (utilizing a form provided by the Company for such purpose) with the Company's Chief Financial Officer (or his or her designee). Any such change will be effective on the first day of the first pay period that is at least seven (7) days after such notice is received; provided, however, that the Administrator may specify a longer or shorter period, upon reasonable notice to the Eligible Employees. Notwithstanding any of the foregoing, no change in withholding is permitted during the last thirty (30) days of an Offering Period.

(e) Exercise of Option. On each Purchase Date, each Participant who has not withdrawn from the Offering Period or whose participation in the Offering Period has not terminated on or before such Purchase Date will automatically exercise his or her Option to acquire the number of whole Shares arrived at by dividing the total amount of the Participant's accumulated Contributions for the Offering Period by the Option Price; provided, however, in no event will the number of Shares purchased by the Participant exceed the number of Shares subject to the Participant's Option or the limitations imposed by Section 14 hereof. No Shares will be purchased on a Purchase Date on behalf of a Participant whose participation in the Offering Period or the Plan has terminated on or before such Purchase Date.

(f) Issuance of Shares. As promptly as practicable after the Purchase Date, the Company will, at its election, either: (i) issue a certificate to each Participant representing the Shares deliverable to such Participant upon the exercise of the Option; or (ii) document each Participant's interest in the Shares deliverable to such Participant by registering such Shares with the Company's transfer agent (or another custodian selected by the Company) in book-entry form in each such Participant's name.

(g) Remaining Cash Balance. Any cash balance remaining in a Participant's account at the end of a Purchase Date will be refunded to the Participant as soon as practicable after such Purchase Date. In the event the cash to be returned to a Participant pursuant to the preceding sentence is an amount less than the amount necessary to purchase a whole Share, the Company may establish procedures whereby such cash is maintained in the Participant's account and applied toward the purchase of Shares in the subsequent Offering Period.

(h) Holding Period. The Committee may, in its discretion, establish a Holding Period for any Shares purchased in a particular Offering Period, during which Holding Period such Shares may not be sold, unless such Holding Period is prohibited by Applicable Law. Such a Holding Period, if any, will commence on the Purchase Date and will continue for a period established by the Committee prior to the commencement of the applicable Offering Period, but not longer than the later of: (i) the second anniversary of the Date of Grant or (ii) the first anniversary of the Purchase Date. The Committee may provide that the Holding Period, if any, with respect to any Participant will end automatically if either (x) the Participant is no longer an Eligible Employee, or (y) a Corporate Transaction occurs. The Holding Period will apply to all Participants in a particular Offering Period and otherwise be implemented in accordance with Section 423 or any successor provision of the Code and the related regulations. During such Holding Period, the holder of the Shares will not be permitted to sell such Shares and the Shares will be designated with an applicable resale restriction. The applicable Holding Period will be set forth in the documentation establishing the terms of the applicable Offering Period, and each Participant will be required to agree to such Holding Period as a condition to participating in the Offering Period.

13. Participant Withdrawal.

(a) Withdrawal from Offering Period. A Participant may withdraw from an Offering Period by signing and delivering to the Company's Chief Financial Officer (or his or her designee) a Withdrawal Notice. Such withdrawal may be elected at any time up to fifteen (15) days (or such other number of business days as deemed advisable by the Administrator in its sole discretion for proper administration of the Plan, upon reasonable notice) prior to the end of an Offering Period. A Participant so withdrawing is prohibited from again participating in that Offering Period. Subject to Section 13(c), by withdrawing from an Offering Period, a Participant does not waive the right to participate in subsequent offerings, and may commence participation in the next Offering Period commencing immediately thereafter by again satisfying the requirements of Section 11 above. The Company may impose, from time to time, a requirement that the Withdrawal Notice be on file with the Company's Chief Financial Officer (or his or her designee) for a reasonable period prior to the effectiveness of the Participant's withdrawal from an Offering Period.

(b) Return of Contributions. Upon withdrawal from an Offering Period pursuant to Section 13(a), the withdrawn Participant's accumulated Contributions which have not been applied toward the purchase of Shares under the Plan will be returned as soon as practicable after the withdrawal, without the payment of any interest to the Participant (unless the Administrator has determined otherwise pursuant to Section 12(c) above), and the Participant's interest in the Offering Period will terminate.

(c) Participation Following Withdrawal. An employee who is also an officer or director of the Company subject to section 16 of the Exchange Act and who is deemed to "cease participation" in the Plan within the meaning of Rule 16b-3 promulgated under the Exchange Act as amended from time to time or any successor rule or regulation as a consequence of his or her withdrawal from an Offering Period pursuant to Section 13(a) above will not again participate in the Plan for at least six months after the date of such withdrawal (the "***Withdrawal Date***"). Unless otherwise construed to be an earlier date pursuant to any applicable law, the Withdrawal Date for purposes of this paragraph refers to the date that the related Withdrawal Notice is provided to the Company as required by Section 13(a).

14. Limitations on Shares to be Purchased. No Eligible Employee will be entitled to purchase stock under this Plan at a rate which, when aggregated with his or her rights to purchase Shares under all other employee stock purchase plans of the Company or any Participating Subsidiary, exceeds $25,000 in fair market value,

determined as of the Date of Grant (or such other limit as may be imposed by the Code) for each calendar year in which the employee participates in this Plan. The Company will automatically suspend the payroll deductions of any Participant as necessary to enforce such limit provided that when the Company automatically resumes such payroll deductions, the Company must apply the rate in effect immediately prior to such suspension. In the event the number of Shares which might be purchased by all Participants in the Plan exceeds the number of Shares available under the Plan as set forth in Section 4, the Company will make a pro rata allocation of the remaining Shares in as uniform a manner as is practicable and as the Administrator determines to be equitable.

15. Effect of Termination of Employment. Termination of an Eligible Employee's employment with the Company or a Participating Subsidiary for any reason (including for retirement, disability, or death), immediately terminates his or her participation in this Plan. In addition, an Eligible Employee's failure to remain eligible to participate in the Plan as described in Section 6 above immediately terminates his or her participation in this Plan. In either such event, the Contributions credited to the Eligible Employee's account will be returned to him or her or, in the case of his or her death, as described in Section 26, as soon as practicable. Interest will not be paid on sums returned to a Participant pursuant to this Section 15 unless the Administrator elects otherwise pursuant to Section 12(c) above. For purposes of this Section, an Eligible Employee will not be deemed to have terminated employment or failed to remain in the continuous employ of the Company or of a Participating Subsidiary in the case of medical leave, military leave, or any other leave of absence approved by the Administrator; provided that such leave is for a period of not more than ninety (90) days or reemployment upon the expiration of such leave is guaranteed by contract or law.

16. Capital Changes. In the event of any change affecting the number, class or terms of the Company's Common Stock by reason of any stock split, stock dividend, recapitalization, combination of shares, exchange of shares or other change affecting the outstanding Common Stock as a class without the Company's receipt of consideration, the Administrator will make appropriate adjustments to (i) the maximum number and class of securities issuable under the Plan, and (ii) the number and class of securities and the price per Share in effect under each outstanding Option in order to prevent the dilution or enlargement of benefits thereunder. Except as expressly provided herein, no issue by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, will affect, and no adjustment by reason thereof will be made with respect to, the number or Option Price of Shares subject to an Option.

17. Corporate Transactions.

(a) Effect of Corporate Transaction. In the event of a Corporate Transaction (as defined below), the Board, in its sole discretion, may arrange with the surviving, continuing, successor, or purchasing corporation, as the case may be (the "***Acquiring Corporation***"), for the Acquiring Corporation to assume the Company's rights and obligations under the Plan. In the event that the Company's rights and obligations under the Plan are not so assumed, then the Plan will terminate effective as of the date of such Corporate Transaction, and all outstanding Options will terminate effective as of the date of the Corporate Transaction to the extent that the Option is not exercised as of the date of the Corporate Transaction. In the event of such termination, the Contributions credited to a Participant's account and not previously used to purchase Shares pursuant to an Option prior to such termination will, as soon as practicable, be returned to the Participant. Interest will not be paid on such sums returned to a Participant pursuant to this Section 17(a) unless the Administrator elects otherwise pursuant to Section 12(c) above.

(b) Corporate Transaction Defined. As used in this Plan, the term "***Corporate Transaction***" means any of the following transactions, provided, however, that the Administrator shall determine under parts (iv) and (v) whether multiple transactions are related, and its determination shall be final, binding and conclusive:

(i) a merger or consolidation in which the Company is not the surviving entity, except for a transaction the principal purpose of which is to change the state in which the Company is incorporated;

(ii) the sale, transfer or other disposition of all or substantially all of the assets of the Company;

(iii) the complete liquidation or dissolution of the Company;

(iv) any reverse merger or series of related transactions culminating in a reverse merger (including, but not limited to, a tender offer followed by a reverse merger) in which the Company is the surviving entity but (A) the shares of Common Stock outstanding immediately prior to such merger are converted or exchanged by virtue of the merger into other property, whether in the form of securities, cash or otherwise, or (B) in which securities possessing more than fifty percent (50%) of the total combined voting power of the Company's outstanding securities are transferred to a person or persons different from those who held such securities immediately prior to such merger or the initial transaction culminating in such merger; or

(v) acquisition in a single or series of related transactions by any person or related group of persons (other than the Company or by a Company-sponsored employee benefit plan) of beneficial ownership (within the meaning of Rule 13d-3 of the Exchange Act) of securities possessing more than fifty percent (50%) of the total combined voting power of the Company's outstanding securities.

18. Nonassignability. Neither Contributions credited to a Participant's account nor any rights with regard to the exercise of an Option or to receive Shares under this Plan may be assigned, transferred, pledged or otherwise disposed of in any way (other than by will, the laws of descent and distribution or as provided in Section 26 below) by a Participant. Any such attempt at assignment, transfer, pledge or other disposition is void and without effect.

19. Reports. Each Participant will receive promptly after the end of each Offering Period a report of his or her account setting forth the total Contributions accumulated, the number of Shares purchased, the per share price thereof and the remaining cash balance, if any, carried forward to the next Offering Period.

20. Notice of Disposition. Each Participant will notify the Company in writing if the Participant disposes of any of the shares purchased in any Offering Period pursuant to this Plan if such disposition occurs within two (2) years from the Date of Grant or within one (1) year from the Purchase Date on which such shares were purchased (the "***Notice Period***"). The Company may, at any time during the Notice Period, through appropriate legends on any certificate representing shares acquired pursuant to this Plan or otherwise, request that the Company's transfer agent to notify the Company of any transfer of the shares. The obligation of the Participant to provide such notice will continue notwithstanding any such request to the Company's transfer agent.

21. No Right to Continued Employment. Neither this Plan nor the grant of any Option hereunder will confer any right on any employee to remain in the employ of the Company or any Participating Subsidiary, or restrict the right of the Company or any Participating Subsidiary to terminate such employee's employment.

22. Rights as a Stockholder. No Eligible Employee will have any rights as a stockholder of the Company with respect to any Shares subject to an Option until: (a) such Option has been validly exercised in the manner described herein, (b) full payment of the Option Price has been made for such Shares, and (c) the Shares have been actually delivered to Employee in either certificated or book-entry form as described in Section 12(f) above. Except for adjustments as provided in Section 16 above, no adjustment will be made for dividends (ordinary or extraordinary, whether in cash, securities or other property), distributions or other rights as to which the record date for determining stockholders entitled to receive the same is prior to the date of the delivery of such Shares as described in Section 12(f) above.

23. Payment of Taxes. Each Participant will be responsible for all federal, state, local or other taxes of any nature imposed pursuant to any law or governmental regulation or ruling on the exercise of any Options or on any income which a Participant is deemed to recognize in connection with an Option. If the Administrator determines to its reasonable satisfaction that the Company or any Participating Subsidiary is required to pay or

withhold the whole or any part of any federal, state, local, or foreign income, payroll, estate, inheritance, or other tax with respect to or in connection with any Option, the exercise thereof or a Participant's resale of any Shares, then the Company or such Participating Subsidiary will have the full power and authority to withhold and pay such tax out of any Shares purchased by the Participant or from the Participant's salary or any other funds otherwise payable to the Participant, or, prior to and as a condition of exercising such Option, the Company may require that the Participant pay to it in cash the amount of any such tax which the Administrator, in good faith, determines is required to be withheld.

24. Equal Rights and Privileges. All Eligible Employees will have equal rights and privileges with respect to this Plan so that this Plan qualifies as an "employee stock purchase plan" within the meaning of Section 423 or any successor provision of the Code and the related regulations. Any provision of this Plan which is inconsistent with Section 423 or any successor provision of the Code will, without further act or amendment by the Company, the Administrator or the Board, be reformed to comply with the requirements of Section 423. This Section takes precedence over all other provisions in this Plan.

25. Notices. Except as otherwise provided herein, any notice which the Company or an Eligible Employee may be required or permitted to give to the other will be in writing and will be deemed duly given when delivered personally or deposited in the United States mail, first class postage prepaid, and properly addressed. Notice, if to the Company, will be sent to the following address:

flyExclusive, Inc.
2860 Jetport Road
Kinston, North Carolina 28504
Attn: Cason Maddison

Any notice sent by mail by the Company to an Eligible Employee will be sent to the most current address of the Eligible Employee as reflected on the records of the Company or its Participating Subsidiaries as of the time said notice is required. In the case of a deceased Eligible Employee, any notice will be given to the Eligible Employee's personal representative if such representative has delivered to the Company evidence satisfactory to the Company of such representative's status as such and has informed the Company of the address of such representative by notice pursuant to this Section.

26. Designation of Beneficiary.

(a) A Participant may file on a form provided by the Company a written designation of a beneficiary who is to receive any Shares and cash, if any, from the Participant's account under this Plan in the event of such Participant's death subsequent to the end of a Purchase Period but prior to delivery to him of such Shares and cash. In addition, a Participant may file on a form provided by the Company a written designation of a beneficiary who is to receive any cash from the Participant's account under this Plan in the event of such Participant's death prior to a Purchase Date.

(b) A Participant may change such designation of beneficiary at any time by written notice on a form provided by the Company. In the event of the death of a Participant and in the absence of a beneficiary validly designated under this Plan who is living at the time of such Participant's death, the Company will deliver such Shares or cash to the executor or administrator of the estate of the Participant, or if no such executor or administrator has been appointed (to the knowledge of the Company), the Company, in its discretion, may deliver such shares or cash to the spouse or to any one or more dependents or relatives of the Participant, or if no spouse, dependent or relative is known to the Company, then to such other person as the Administrator may designate.

27. Conditions upon Issuance of Shares; Limitation on Sale of Shares. The issuance of Shares under the Plan will be subject to compliance with all applicable requirements of foreign, federal or state law with respect to the Shares. An Option may not be exercised if the issuance of Shares upon such exercise would constitute a violation of any applicable foreign, federal or state securities laws or other law or regulations or the requirements

of any stock exchange or automated quotation system upon which the Shares may then be listed. Shares will not be issued with respect to an Option unless (i) a registration statement under the Securities Act of 1933, as amended, is in effect at the time of exercise with respect to the Shares issuable upon exercise of the Option, or (ii) in the opinion of legal counsel to the Company, the Shares issuable upon exercise of the Option may be issued in accordance with the terms of an applicable exemption from the registration requirements of such Act. As a condition to the exercise of an Option, the Company may require a Participant to satisfy any qualifications that may be necessary or appropriate, to evidence compliance with any applicable law or regulation, and to make any representation or warranty with respect thereto as may be requested by the Company.

28. Applicable Law. The Plan will be governed by the substantive laws (excluding the conflict of laws rules) of the State of Delaware.

29. Amendment or Termination of this Plan. The Board may, from time to time, amend, modify, suspend or discontinue the Plan at any time without notice, provided that no Eligible Employee's existing rights pursuant to an Option are adversely affected thereby; and, provided further that, except with the approval of stockholders of the Company, no such amendment of the Plan will: (a) increase the aggregate number of shares which may be sold upon the exercise of Options granted under the Plan; (b) change the formula by which the number of shares which any Participant may purchase is determined; or, (c) make any other material change for which stockholder approval is required by the rules of the Principal Exchange. In the event the Board terminates or discontinue the Plan, no further Options may be granted under the Plan, but such termination will not affect any Option granted prior to the termination; any Options outstanding as of the date of any such termination will remain in full force and effect according to their terms as though the Plan had not been terminated. Notwithstanding the foregoing, the Board may make such amendments to the Plan as the Board determines to be advisable, if the continuation of the Plan or any Offering Period would result in financial accounting treatment for the Plan that is different from the financial accounting treatment in effect on the date this Plan is adopted by the Board.

30. Successors and Assigns. Subject to Sections 18 and 26, this Plan will bind and inure to the benefit of the Company, any Eligible Employee, and their respective successors, assigns, personal or legal representatives and heirs.

31. Severability. It is intended that each provision of this Plan be viewed as separate and divisible, and in the event that any provision hereof is held to be invalid or unenforceable, the remaining provisions will continue to be in full force and effect.

32. Titles. Titles of Sections are provided herein for convenience only, do not modify or affect the meaning of any provision herein, and do not serve as a basis for interpretation or construction of this Plan.

33. Gender and Number. As used herein, the masculine gender includes the feminine and neuter, the singular numbers the plural, and vice versa, whenever such meanings are appropriate.

CERTIFICATE OF SECRETARY

The undersigned Secretary of flyExclusive, Inc. hereby certifies that the foregoing **EMPLOYEE STOCK PURCHASE PLAN** was duly adopted by the Company's Board of Directors on November 10, 2023 and was approved by a vote of a majority of the shares of the Company's Common Stock present or represented, in person and by proxy, at a meeting of the Company's stockholders.

This the 27th day of December, 2023.

/s/ Cason Maddison
Cason Maddison, Secretary

Exhibit 10.12

Obligor File Name: Exclusive Jets, LLC, a North Carolina Limited Liability Company

Loan Account #[ ]
Officer Name: [ ] Officer email address: [ ]
Amount $60,000,000.00

Dated as of March 15, 2023

MASTER NOTE

This Note (as modified from time to time, the "Note") has been executed by Exclusive Jets, LLC, a limited liability company organized under the law of the State of North Carolina ("Borrower"), with Borrower's principal residence or office at 2860 Jetport Rd. Kinston, NC 28504-7344. If more than one party executes this Note, "Borrower" refers to each of them individually and some or all of them collectively, and their obligations hereunder shall be joint and several. If any party comprising "Borrower" is a trustee(s), "Trust Agreement" means the governing trust agreement and/or instruments governing the trust, as modified from time to time, and all related documents and instruments, and "Borrower" also refers to the trustee(s) in its capacity as such and the trust individually and collectively. Various capitalized terms have the meanings set forth in the Section entitled "DEFINITIONS."

1. REVOLVING UNCOMMITTED LINE OF CREDIT LOANS.

(a) FOR VALUE RECEIVED, on or before March 9, 2024 (the "Scheduled Maturity Date"), Borrower promises to pay to the order of THE NORTHERN TRUST COMPANY, an Illinois banking corporation (hereafter, together with any subsequent holder hereof, called "Lender"), at its banking office at 3282 Northside Pkwy NW, Suite 100, Atlanta, Georgia 30327, or at such other place as Lender may direct, the aggregate unpaid principal balance of each advance (together with portions thereof outstanding from time to time hereunder, as applicable, each a "Loan" and collectively the "Loans") made by Lender to Borrower hereunder. The total principal amount of Loans outstanding at any one time hereunder shall not exceed **SIXTY MILLION AND 00/100 UNITED STATES DOLLARS ($60,000,000.00)**. Subject to the other terms and conditions hereof, including Lender's right to decline to make any Loan as provided in (b) of this Section, Borrower may borrow, repay and reborrow hereunder until the Scheduled Maturity Date. Lender has no obligation to refinance this Note.

(b) By its acceptance of this Note, Lender shall be deemed to have agreed to make available to Borrower an uncommitted revolving line of credit. Borrower may request one or more Loans hereunder from time to time until the Scheduled Maturity Date, provided, however, that the making of any Loan hereunder shall remain in the sole and absolute discretion of Lender and Lender shall have no obligation whatsoever to make any Loan or otherwise to extend credit to Borrower hereunder. Lender shall have no obligation to give Borrower or any other person or entity notice of the existence of any Event of Default or Unmatured Event of Default or of any decision not to make any Loan or otherwise extend credit to Borrower hereunder.

(c) Without limiting any other rights of Lender under this Note or any Related Document, including Lender's right to determine, in its sole and absolute discretion, whether to make any Loan to Borrower hereunder, Lender may request that Borrower furnish to Lender certified copies of Constituent Documents, resolutions, legal opinions, and other documents and information in such form as Lender may request. Borrower's satisfaction of any such request shall not require Lender to make any Loan and any failure by Lender to request (or any delay in requesting) such documents and information from Borrower shall not be construed as a waiver of any of Lender's rights under this Note, any Related Document or applicable law.

2. DEFINITIONS.

(a) As used in this Note the following terms shall have the indicated meanings:

"Affiliate" means any entity (other than a Subsidiary) which, directly or indirectly is in control of, is controlled by, or is under common control with the Borrower. For purposes of this definition, "control" means the power, directly or indirectly through one or more intermediaries, to direct or cause the direction of the management of such entity whether through the exercise of voting power, by contract or otherwise.

"Anti-Terrorism Law" means any law relating to terrorism or money-laundering, including Executive Order No. 13224 and the USA Patriot Act.

"Commodity Exchange Act" means the Commodity Exchange Act (7 U.S.C. §1 et seq.), as amended from time to time, and any successor statute.

"Constituent Documents" means the articles or certificate of incorporation, by-laws, partnership agreement, certificate of limited partnership, limited liability company operating agreement, limited liability company articles of organization or certificate of formation, trust agreement, and all other documents and instruments pertaining to the formation and ongoing existence of any person or entity which is not a natural person.

"Credit Support Party" means any person, or any persons severally, who now or hereafter guarantees payment or collection of all or any part of this Note or provides any collateral for this Note.

"Dollar" and "$" means lawful money of the United States of America, unless otherwise specified.

"Event of Default"—see Section entitled "EVENTS OF DEFAULT."

"Executive Order No. 13224" means Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001.

"Lender Affiliate" means Northern Trust Corporation or any direct or indirect subsidiary of Northern Trust Corporation (other than Lender itself).

The term "margin stock" shall have the same meaning herein as in Federal Reserve Board Regulation U, or any successor regulation, as and if modified from time to time. The verbs "purchase" and "carry" when used with respect to margin stock shall have the same meaning as in such Regulation or successor and applicable authorities thereunder.

The term "person" means any individual, corporation, company, limited liability company, voluntary association, partnership, trust, estate, unincorporated organization, other entity, or government (or any agency, instrumentality, or political subdivision thereof).

"Prohibited Person" means: (i) a person that is listed in the Annex to, or is otherwise subject to the provisions of, Executive Order No. 13224; (ii) a person owned or controlled by, or acting for or on behalf of, any person that is listed in the Annex to, or is otherwise subject to the provisions of, Executive Order No. 13224; (iii) a person with whom Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law; (iv) a person who commits, threatens or

conspires to commit or supports "terrorism" as defined in Executive Order No. 13224; (v) a person that is named as a "specially designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website or at any replacement website or at any other official publication of such list; and (vi) a person who is affiliated with a person described in clauses (i) – (v) above.

"Related Document(s)" means this Note as well as any note, agreement, guaranty, Swap Agreement, or other document or instrument previously, now or hereafter delivered to Lender in connection with this Note.

"Related Party(ies)" means any Credit Support Party, any Subsidiary, and, in addition: (i) as to any Borrower which is a natural person, trusts for the benefit of Borrower; and (ii) as to any Borrower which is not a natural person, to the extent applicable, any general or limited partner, controlling shareholder, joint venturer, member or manager, of Borrower.

"Subsidiary" means any corporation, partnership, limited liability company, joint venture, trust, or other legal entity of which Borrower owns directly or indirectly 50% or more of the outstanding voting stock or interest, or of which Borrower has effective control, by contract or otherwise.

"Swap Agreement" means any agreement, document or instrument executed or delivered by Borrower or any Credit Support Party pertaining to any Swap Obligation.

"Swap Obligation" means, with respect to Borrower or any Credit Support Party, any obligation to pay or perform under any agreement, contract, or transaction that constitutes a "swap" within the meaning of section 1(a)(47) of the Commodity Exchange Act, as amended from time to time, if entered into with Lender or any Lender Affiliate.

"Unmatured Event of Default" means any event or condition that would become an Event of Default with notice or the passage of time or both.

"USA Patriot Act" means the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001" (Public Law 107-56, signed into law on October 26, 2001), as amended from time to time.

(b) As used in this Note, unless otherwise specified: the term "including" means "including without limitation;" the term "days" means "calendar days"; and terms such as "herein," "hereof" and words of similar import refer to this Note as a whole. Unless otherwise defined herein or the context requires otherwise, all terms (including those not capitalized) that are defined in the Uniform Commercial Code of Illinois shall have the same meanings herein as in such Code, as such Code may be amended from time to time (the "UCC"); however, no amendment to the UCC after the date hereof shall limit any rights of Lender hereunder or in connection herewith. Unless the context requires otherwise, wherever used herein the singular shall include the plural and vice versa, and the use of one gender shall also denote the others. Captions herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof; references herein to sections or provisions without reference to the document in which they are contained are references to this Note.

3. INTEREST; PAYMENTS & PREPAYMENTS.

(a) Borrower agrees to pay interest on the unpaid principal amount from time to time outstanding hereunder, at the option of Borrower subject to the terms and conditions hereof, at a rate per year equal to:

(i) the "Prime-Based Rate," defined as the greater of (A) one and twenty five hundredths percent (1.250%) (the "Prime Rate Note Floor") or (B) the Prime Rate *minus* one and eight hundred seventy five thousandths percent (-1.875%); or

(ii) the "Daily Simple SOFR-Based Rate," defined as the greater of: (A) one and twenty five hundredths percent (1.250%) (the "Daily Simple SOFR Rate Note Floor") or (B) Daily Simple SOFR plus one and twenty five hundredths percent (1.250%).

(b) For purposes hereof:

"Banking Day" means a day on which Lender is generally open for banking business at its main office in Chicago, Illinois.

"Daily Simple SOFR" means, for any day (a "SOFR Rate Day"), a rate per annum equal to the greater of (a) SOFR for the day (such day, a "SOFR Determination Day") that is five (5) U.S. Government Securities Business Days prior to (i) if such SOFR Rate Day is a U.S. Government Securities Business Day, such SOFR Rate Day or (ii) if such SOFR Rate Day is not a U.S. Government Securities Business Day, the U.S. Government Securities Business Day immediately preceding such SOFR Rate Day and (b) the Index Floor. If by 5:00 p.m. (New York City time) on the second (2nd) U.S. Government Securities Business Day immediately following any SOFR Determination Day, the SOFR in respect of such SOFR Determination Day has not been published on the SOFR Administrator's Website then the SOFR for such SOFR Determination Day will be the SOFR as published in respect of the first preceding U.S. Government Securities Business Day for which such SOFR was published on the SOFR Administrator's Website; provided that any SOFR determined pursuant to this sentence shall be utilized for purposes of calculating Daily Simple SOFR for no more than three (3) consecutive SOFR Rate Days. Any change in Daily Simple SOFR due to a change in SOFR shall be effective from and including the effective date of such change in SOFR without notice to Borrower.

"Index Floor" means, regardless of whether this Note bears interest at a Prime-Based Rate or a Daily Simple SOFR-Based Rate, a per annum rate of interest equal to zero percent (0%).

"Interest Rate Option(s)" means the Prime-Based Rate and the Daily Simple SOFR-Based Rate.

"Prime Rate" means the rate announced from time to time by Lender called its prime rate, which may not at any time be the lowest rate charged by Lender, provided that if such prime rate shall be less than the Index Floor, such rate shall be deemed to be the Index Floor for the purposes of this Note. Changes in the rate of interest resulting from a change in the Prime Rate shall take effect on the date set forth in each announcement of a change in the Prime Rate.

"SOFR" means a rate per annum equal to the secured overnight financing rate as administered by the SOFR Administrator.

"SOFR Administrator" means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"SOFR Administrator's Website" means the website of the Federal Reserve Bank of New York, currently at http://www.newyorkfed.org, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

"U.S. Government Securities Business Day" means any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

(c) Notwithstanding any other provision of this Section, if an Event of Default has occurred and is continuing, Borrower agrees to pay interest on the Loans outstanding at a rate per year equal to two percent (2%) in addition to the rate otherwise applicable under this Note.

Subject to the other terms and conditions hereof, each Interest Rate Option is subject to change on a daily basis.

(d) (i) If Borrower wishes to borrow funds at any Interest Rate Option or to change the rate of interest on any principal, within the limits described herein, from the other Interest Rate Option, it shall, at or before 11:00 A.M. Chicago time on the day such borrowing or change is to take effect (which day must be a Banking Day), give Lender written or telephonic notice thereof, which shall be irrevocable. Borrowings and changes requested after such time may not be available until the next Banking Day. Such notice shall specify the principal to which the applicable Interest Rate Option is to apply. Subject to the other terms and conditions hereof, principal bearing interest at any Interest Rate Option will continue to bear interest at such Interest Rate Option until and if Borrower selects another available Interest Rate Option pursuant to this Note.

(ii) If Borrower does not notify Lender as to its selection of the Interest Rate Option with respect to any new Loan advance, then in the absence of such notice Borrower shall be deemed to have elected to have such Loan accrue interest at the Prime-Based Rate.

(e) Borrower agrees to pay accrued interest monthly on the 9th day of each month, beginning with the first of such dates to occur after the date of the first Loan, at maturity of this Note, and upon payment in full, whichever is earlier or more frequent. After maturity, whether by acceleration or otherwise, interest shall be payable upon demand.

(f) The selection by Borrower of any Interest Rate Option, and the maintenance of principal at such Interest Rate Option shall be subject to the following additional terms and conditions:

(i) If Lender notifies Borrower that (A) reasonable means do not exist for Lender to determine the Daily Simple SOFR-Based Rate as determined by Lender in its sole discretion or (B) there is a public statement or publication of information by or on behalf of the SOFR Administrator, the regulatory supervisor for the SOFR Administrator, the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the SOFR Administrator or a court or an entity with similar insolvency or resolution authority over the SOFR Administrator, announcing that (1) the SOFR Administrator has ceased to provide SOFR permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide SOFR or (2) SOFR is not representative (including pursuant to an earlier statement or announcement that SOFR will not be representative as of a specified future date), then the principal subject or to be subject to the Daily Simple SOFR-Based Rate shall immediately accrue or shall continue to accrue interest at the Prime-Based Rate and Borrower will be deemed to have converted any election for a requested borrowing into an election to borrow funds at the Prime-Based Rate.

(ii) Lender shall have the right to make technical, administrative or operational changes to this Note from time to time (collectively, "Conforming Changes") that Lender decides may be appropriate to reflect the use and administration of Daily Simple SOFR and, notwithstanding anything to the contrary herein or in any Related Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of Borrower or any other party to any Related Document. Lender will promptly notify Borrower of the effectiveness of any Conforming Changes.

(iii) If any treaty, statute, regulation, interpretation thereof, or any directive, guideline, or otherwise by a central bank or fiscal authority (whether or not having the force of law) shall prohibit or restrict the making or maintenance of a Loan based on the Daily Simple SOFR-Based Rate, or the determination or charging of interest rates based upon the Daily Simple SOFR-Based Rate, then, on and as of the date the prohibition or restriction becomes effective, the principal subject to that prohibition or restriction shall immediately accrue or shall continue to accrue interest at the Prime-Based Rate.

(iv) All payments of principal and interest shall be made net of any taxes, costs, fees, losses and expenses incurred or charged by Lender resulting from having principal outstanding hereunder at any Interest Rate Option, including:

(A) Taxes (or the withholding of amounts for taxes) of any nature whatsoever including income, excise, and interest equalization taxes (other than income taxes imposed by the United States or any State thereof on the income of Lender), as well as all levies, imposts, duties, or fees whether now in existence or resulting from a change in, or promulgation of, any treaty, statute, regulation, interpretation thereof, or any directive, guideline, or otherwise, by a central bank or fiscal authority (whether or not having the force of law) or a change in the basis of, or time of payment of, such taxes and other amounts resulting therefrom;

(B) Any reserve or special deposit requirements against assets or liabilities of, or deposits with or for the account of, Lender with respect to principal outstanding at any Interest Rate Option (including those imposed under Regulation D of the Federal Reserve Board) or resulting from a change in, or the promulgation of, such requirements by treaty, statute, regulation, interpretation thereof, or any directive, guideline, or otherwise by a central bank or fiscal authority (whether or not having the force of law); and

(C) Any other costs resulting from compliance with treaties, statutes, regulations, interpretations, or any directives or guidelines, or otherwise by a central bank or fiscal authority (whether or not having the force of law).

If Lender incurs or charges any such taxes, costs, fees, losses and expenses, Borrower, upon demand in writing specifying the amounts thereof, shall promptly pay them; save for manifest error Lender's specification shall be presumptively deemed correct.

(g) Borrower may from time to time prepay any principal bearing interest at any Interest Rate Option in whole or in part without breakage fee, penalty or premium; provided, however, that if a Swap Agreement with a Daily Simple SOFR-Based Rate is in effect between Lender and Borrower in connection with a Loan made pursuant to this Note, any applicable swap breakage fees, penalties, premiums and costs will apply.

(h) Interest shall be computed for the actual number of days elapsed on the basis of a year consisting of 360 days, including the date a Loan is made and excluding the date a Loan (or any portion thereof, if applicable) is paid or prepaid. **Calculating interest on the basis of a year other than a calendar year may result in a higher effective interest rate than any numeric rate stated in or determined pursuant to this Note.**

(i) Lender is hereby authorized by Borrower at any time and from time to time at Lender's sole option to attach a schedule (grid) to this Note and to endorse thereon notations with respect to each Loan specifying the date and principal amount thereof, the applicable interest rates, the date and amount of each payment of principal and interest made by Borrower with respect to each Loan, and other relevant details. Lender's endorsements as well as its records relating to the Loans shall be rebuttably presumptive evidence of the outstanding principal, interest and other relevant details, and, in the event of inconsistency, shall prevail over any records of Borrower and any written confirmations of Loans given by Borrower.

(j) If any payment of principal or interest to be made pursuant to this Note, other than a prepayment or a payment due on the maturity date of this Note, shall fall due on a day that is not a Banking Day, payment shall be made on the next succeeding Banking Day, except that, if such next succeeding Banking Day would fall in the next calendar month, such payment shall be made on the immediately preceding Banking Day. Any extension or contraction of time shall be reflected in computing interest or fees, as the case may be.

(k) Notwithstanding the foregoing or any other provision hereof or of any Related Document, in no event shall the interest rate under this Note exceed the maximum interest rate allowed under applicable law.

(l) Notwithstanding the foregoing or anything to the contrary herein, if at any time(s) Borrower and Lender enter into any Swap Agreement with respect to any Loan, such Loan shall bear interest at the Daily Simple SOFR-Based Rate and Lender, in its reasonable discretion, may adjust, to coordinate with its and/or industry practices pursuant to the Swap Agreement, any or all of: (i) the capitalized terms defined in this Section, and the determination and application thereof; and (ii) interest payment dates. In such circumstances the remainder of this Section and this Note shall continue to apply without change. Borrower confirms that its obligations under any Swap Agreement are in addition to and not in contravention of its obligations under this Note. Any full or partial repayment or prepayment of this Note shall not in and of itself relieve Borrower from its obligations under any Swap Agreement.

4. CROSS-REFERENCES.

(a) This Note is secured without limitation as provided in the following and all related documents, in each case as amended, modified, renewed, restated or replaced from time to time:

Pledge Agreement dated as of March 15, 2023, in favor of Lender.

5. **USE OF PROCEEDS.** Borrower agrees not to use proceeds of Loans directly or indirectly to purchase or carry margin stock unless both: (a) Lender has consented thereto; and (b) if the Loans are secured directly or indirectly by margin stock, Borrower has indicated such in an FR U-1 statement furnished to Lender.

Borrower represents and warrants that the proceeds of this Note will be used solely for business purposes, and not for personal, family or household use, within the meaning of Federal Truth-in-Lending and similar state laws and regulations.

6. REPRESENTATIONS AND WARRANTIES.

(a) Borrower represents and warrants to, and agrees in favor of, Lender that:

(i) (A) If Borrower is an organization (including a trust that is a registered organization), then Borrower is an entity of the type, and is organized under the laws of the jurisdiction, specified in the preamble hereto. Borrower's name as shown in the preamble hereto is the full exact name that appears in Borrower's organizational documents. If Borrower is a registered organization, Borrower's name as shown in the preamble hereto is as shown on the public organic record most recently filed with or issued or enacted by Borrower's jurisdiction of organization which purports to state, amend, or restate Borrower's name. If Borrower is an organization but not a registered organization, if it has only one place of business that place of business is at Borrower's address indicated in the preamble hereto, but if it has more than one place of business, its chief executive office is at such address.

(B) If Borrower is a trust which is not itself a registered organization, then: (1) if the Trust Agreement specifies a name for the trust, Borrower's name as shown in the preamble hereto is the name so specified; (2) Borrower has provided the name of its settlor(s) or testator(s) to Lender; and (3) if Borrower has only one place of business, that place of business is at Borrower's address indicated in the preamble hereto, but if it has more than one place of business, its chief executive office is at such address.

(C) If Borrower is a natural person, then:

(1) Borrower's principal residence is located at the address shown in the preamble hereto; and

(2) i. if Borrower has a driver's license or alternative identification that has not expired and that was issued by the state of Borrower's principal residence, Borrower's name shown in the preamble hereto is exactly the same as shown on that driver's license or alternative identification card; or

ii. if Borrower does not have a driver's license or alternative identification card that has not expired and that was issued by the state of Borrower's principal residence, then: (x) Borrower's first given name and surname are as shown in the preamble hereto; and (y) if Borrower obtains a driver's license or alternative identification card from the state of Borrower's principal residence, then Borrower shall, within thirty (30) days of the issuance of such driver's license or alternative identification card, provide Lender with a true and accurate copy of such driver's license or alternative identification card, showing Borrower's name and address, the state of issuance and the expiration date thereof; and

(3) in any event, Borrower shall provide Lender notice within thirty (30) days of the happening of each of the following events:

i. Borrower's principal residence has changed;

ii. the name of Borrower on Borrower's driver's license or alternative identification card has changed in any manner, no matter how small;

iii. Borrower's driver's license or alternative identification has been surrendered, suspended, changed or terminated in any manner, no matter how small or for how short a time;

iv. Borrower's driver's license or alternative identification card has expired; or

v. Borrower has changed his or her first given name or surname, whether as a result of marriage, divorce, legal proceeding or otherwise.

(D) The representations and warranties made by Borrower in (A)-(C) of this (i), as applicable, would have been accurate at all times during the five years and six months prior to the date hereof except as and if Borrower has specifically notified Lender in writing prior to Borrower's execution of this Note.

(ii) Borrower (if Borrower is not a natural person) and any Subsidiary are validly existing and in good standing under the laws of their state of organization or formation, and are duly qualified, in good standing and authorized to do business in each jurisdiction where failure to do so would reasonably be expected to have a material adverse impact on the assets, condition or prospects of Borrower.

(iii) The execution, delivery and performance of this Note and all Related Documents: are within Borrower's powers and have been authorized by all necessary action required by law and (unless Borrower is a natural person) Borrower's Constituent Documents; have received any and all necessary governmental approval; and do not and will not contravene or conflict with any provision of law, any Constituent Document or any agreement affecting Borrower or its property. This Note and all Related Documents are enforceable against Borrower and/or the applicable Related Parties in accord with their terms, except to the extent, if any, that such enforceability may be limited by equitable principles, whether applied in a court of law or equity, or by bankruptcy, insolvency and other laws affecting creditors' rights generally.

(iv) There has been no material adverse change in the business, financial condition, properties, assets, operations or prospects of Borrower or any Related Party since the date of the latest financial statements or other documentation provided by or on behalf of Borrower or any Related Party to Lender.

(v) Borrower has filed or caused to be filed all foreign, federal, state, and local tax returns that are required to be filed, and has paid or has caused to be paid all of its taxes, including any taxes shown on such returns or on any assessment received by it, to the extent that such taxes have become due.

(vi) The execution, delivery and performance of this Note and all Related Documents are in Borrower's best interest in its current and future operations and will materially benefit Borrower. Borrower has received adequate, fair and valuable consideration, and at least reasonably equivalent value, to enter into and perform this Note and all Related Documents. Borrower's assets at fair valuation exceed the sum of Borrower's debts. Borrower is able to pay its debts as they become due. Borrower does not have unreasonably small capital with which to conduct its business.

(vii) This sub-subsection applies if and only if "Borrower" consists of two or more persons. Each person comprising "Borrower" acknowledges that by acting together to borrow on a combined joint and several basis, each Borrower is able to and does obtain a larger amount of credit, better terms and conditions and at a lower cost of funds than would otherwise be available to each Borrower individually. Each Borrower acknowledges that it thereby receives fair, reasonable and equivalent value for the joint and several obligations undertaken under this Note. Each Borrower's obligations hereunder shall not be subject to any setoff, defense or counterclaim that is or would be available at law or in equity to a guarantor, surety or accommodation party, all of which setoffs, defenses or counterclaims each Borrower hereby expressly waives. Each party comprising Borrower shall be jointly and severally liable hereunder and under the Related Documents regardless of whether such Borrower has received the proceeds of any Loan or has benefited from any Loan.

(b) The request or application for any(the) Loan shall be a representation and warranty by Borrower as of the date of such request or application that: (i) no Event of Default or Unmatured Event of Default has occurred and is continuing as of such date; and (ii) Borrower's representations and warranties herein and in any Related Document are true and correct as of such date as though made on such date.

7. **EVENTS OF DEFAULT.** Each of the following shall constitute an "Event of Default":

(a) (i) failure to pay, when and as due, any principal, interest or other amounts payable hereunder or under any Related Document; (ii) failure by any Affiliate to pay, when and as due, any principal, interest or other amounts payable under any note or instrument issued by Affiliate to Lender in connection with a loan from Lender to such Affiliate; (iii) failure to comply with or perform any agreement or covenant of Borrower or any Related Party contained herein or in any Related Document, which failure does not otherwise constitute an Event of Default, subject to any applicable notice, grace or cure period; or (iv) if Borrower or any Related Party is a natural person, failure to furnish or cause to be furnished to Lender when and as requested by Lender, but not more often than once every twelve months, fully completed personal financial statements of Borrower or such Related Party on Lender's then-standard form together with such supporting information pertaining to creditworthiness of Borrower or such Related Party as Lender may reasonably request; or

(b) any default, event of default, or similar event shall occur or continue under any Related Document or under any note, agreement, guaranty, Swap Agreement or other instrument delivered by any Affiliate to Lender in connection with a loan from Lender to such Affiliate, and shall continue beyond any applicable notice, grace or cure period set forth in such Related Document; or

(c) there shall occur any default or event of default, any similar event, any event that requires the prepayment of borrowed money or permits the acceleration of the maturity thereof, or any event or condition that might become any of the foregoing with notice or the passage of time or both, under the terms of any evidence of indebtedness or other agreement issued or assumed or entered into by Borrower or any Related Party, or under the terms of any document or instrument under which any such evidence of indebtedness or other agreement is issued, assumed, secured, or guaranteed, and such event shall continue beyond any applicable notice, grace or cure period; or

(d) any representation, warranty, certificate, financial statement, report, notice, or other writing furnished by or on behalf of Borrower or any Related Party to Lender is false or misleading in any material respect on the date as of which the facts therein set forth are stated or certified; or

(e) this Note or any Related Document, including any guaranty of or pledge of collateral security for this Note, shall be repudiated or shall become unenforceable or incapable of performance in accord with its terms; or

(f) Borrower or any Related Party (in each case if not a natural person) shall fail to maintain their existence in good standing in their state of organization or formation or shall fail to be duly qualified, in good standing and authorized to do business in each jurisdiction where failure to do so would reasonably be expected to have a material adverse impact on the assets, condition or prospects of Borrower or any Related Party; or

(g) Borrower or any Related Party shall die, be declared legally incompetent, dissolve, liquidate, merge, consolidate, or cease to be in existence for any reason; or, if Borrower is a partnership or joint venture, any general or limited partner or joint venturer of Borrower shall withdraw from Borrower, or any general partner shall become a limited partner; or the trust under the Trust Agreement shall terminate in whole or in part or be the subject of a distribution of other than income but, in the case of a distribution, only if such distribution would otherwise cause an Event of Default or Unmatured Event of Default to occur; or

(h) except for a successor trustee under the Trust Agreement, any person or entity presently not in control of a Borrower or Related Party which is not a natural person shall obtain control directly or indirectly of such a Borrower or Related Party, whether by purchase or gift of stock or assets, by contract, or otherwise; or

(i) any proceeding (judicial or administrative) shall be commenced against Borrower or any Related Party, or with respect to any of their assets, which would reasonably be expected to have a material and adverse effect on the ability of Borrower to repay this Note; or a judgment or settlement shall be entered or agreed to in any such proceeding which would reasonably be expected to have a material and adverse effect on the ability of Borrower to repay this Note; or any garnishment, summons, writ of attachment, citation, levy or the like is issued against or served upon Lender for the attachment of any property of Borrower or any Related Party in Lender's possession or control; or

(j) Lender shall not have a perfected security interest in any collateral for this Note, of first- priority, and enforceable in accord with the applicable Related Documents; or any notice of a federal tax lien against Borrower or any Related Party shall be filed with any public recorder; or

(k) there shall be any material loss or depreciation in the value of any collateral for this Note for any reason (except that the preceding part of this subsection shall not apply if Borrower and any Related Party are in compliance with any "Minimum Liquidity Balance" or other specific borrowing base or like requirement under all Related Documents); or Lender shall otherwise reasonably deem itself insecure; or, unless expressly permitted by this Note or the Related Documents, all or any part of any such collateral or any direct, indirect, legal, equitable or beneficial interest therein is assigned, transferred or sold without Lender's prior written consent; or

(l) any bankruptcy, insolvency, reorganization, arrangement, readjustment, liquidation, dissolution, or similar proceeding, domestic or foreign, is instituted by or against Borrower or any Related Party, and, if instituted against Borrower or any Related Party, shall not be dismissed or vacated within sixty (60) days after the filing or other institution thereof; or

(m) Borrower or any Related Party shall become insolvent, generally shall fail or be unable to pay its debts as they mature, shall admit in writing its inability to pay its debts as they mature, shall make a general assignment for the benefit of its creditors, shall enter into any composition or similar agreement, or shall suspend the transaction of all or a substantial portion of its usual business.

8. **DEFAULT REMEDIES.**

(a) Upon the occurrence of any Event of Default specified in (a)-(k) of the Section entitled "EVENTS OF DEFAULT," Lender at its option may declare this Note (principal, interest and other amounts) immediately due and payable without notice or demand of any kind, **ALL OF WHICH ARE HEREBY EXPRESSLY WAIVED BY BORROWER** (except as and if otherwise specifically set forth herein), whereupon the entire unpaid principal balance of this Note, all interest accrued thereon, and any other amounts payable hereunder shall thereupon at once mature and become due and payable. Upon the occurrence of any Event of Default specified in (l)-(m) of the Section entitled "EVENTS OF DEFAULT," this Note (principal, interest and other amounts) shall be immediately and automatically due and payable without notice, demand or other action of any kind, **ALL OF WHICH ARE HEREBY EXPRESSLY WAIVED BY BORROWER.** Upon the occurrence of any Event of Default, Lender may exercise any rights and remedies under this Note or any Related Document (including any Related Document pertaining to collateral), and at law or in equity. The time of payment of this Note is also subject to acceleration if an Event of Default occurs.

(b) Lender may, by written notice to Borrower, at any time and from time to time, waive any Event of Default or Unmatured Event of Default which shall be for such period and subject to such conditions as shall be specified in any such notice. In the case of any such waiver, Lender and Borrower shall be restored to their former position and rights hereunder, and any Event of Default or Unmatured Event of Default so waived shall be deemed to be cured and not continuing; but no such waiver shall extend to or impair any subsequent or other Event of Default or Unmatured Event of Default. No failure to exercise, and no delay in exercising, on the part of Lender of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies of Lender herein provided are cumulative and not exclusive of any rights or remedies provided by law.

(c) Except as and if otherwise specifically set forth herein, Borrower irrevocably waives presentment, protest, notice of protest, notice of intent to accelerate, notice of acceleration, demand, diligence, grace, notice of dishonor or default, notice of nonpayment, notice of acceptance, notice of any loans made, extensions granted or other action taken in reliance hereon, and all other demands and notices of any kind in connection with this Note.

9. **NO INTEREST OVER LEGAL RATE.** It is the intent of Lender and Borrower in the execution of this Note and all other instruments now or hereafter securing this Note to contract in strict compliance with applicable usury law. In furtherance thereof, Lender and Borrower stipulate and agree that none of the terms and provisions contained in this Note, or in any other instrument executed in connection herewith, shall ever be construed to create a contract to pay for the use, forbearance or detention of money, interest at a rate in excess of the maximum interest rate permitted to be charged by applicable law; that neither the undersigned nor any guarantors, endorsers or other parties now or hereafter becoming liable for payment of this Note shall ever be obligated or required to pay interest on this Note at a rate in excess of the maximum interest that may be lawfully charged under applicable law; and that the provisions of this paragraph shall control over all other provisions of this Note and any other instruments now or hereafter executed in connection herewith which may be in apparent conflict herewith. The holder of this Note expressly disavows any intention to charge or collect excessive unearned interest or finance charges in the event the maturity of this Note is accelerated. If the maturity of this Note shall be accelerated for any reason or if the principal of this Note is paid prior to the end of the term of this Note, and as a result thereof the interest received for the actual period of existence of the Loans evidenced by this Note exceeds the applicable maximum lawful rate, the holder of this Note shall, at its option, either refund to the undersigned the amount of such excess or credit the amount of such excess against the principal balance of this Note then outstanding and thereby shall render inapplicable any and all penalties of any kind provided by applicable law as a result of such excess interest. In the event that Lender or any other holder of this Note shall contract for, charge or receive any amount or amounts and/or any other thing of value which are determined to constitute interest which would increase the effective interest rate on this Note to a rate in excess of that permitted to be charged by applicable law, an amount equal to interest in excess of the lawful rate shall, upon such determination, at the option of the holder of this Note, be either immediately returned to the undersigned or credited against the principal balance of this Note then outstanding, in which event any and all penalties of any kind under applicable law as a result of such excess interest shall be inapplicable. By execution of this Note Borrower acknowledges that it believes the Loans evidenced by this Note to be non-usurious and agrees that if, at any time, Borrower should have reason to believe that any such Loan is in fact usurious, it will give the holder of this Note notice of such condition and the undersigned agrees that said holder shall have ninety (90) days in which to make appropriate refund or other adjustment in order to correct such condition if in fact such exists. The term “applicable law” as used in this Note shall mean the laws of the State of Illinois or the laws of the United States, whichever laws allow the greater rate of interest, as such laws now exist or may be changed or amended or come into effect in the future.

10. **PAYMENTS, ETC.** All payments hereunder shall be made in immediately available funds, and shall be applied first to accrued interest and then to principal; however, if an Event of Default occurs, Lender may, in its sole discretion, and in such order as it may choose, apply any payment to interest, principal and/or lawful charges and expenses then accrued. Borrower shall receive immediate credit on payments received during Lender's normal banking hours if made in cash, immediately available funds, or by debit to available balances in an account at Lender; otherwise payments shall be credited after clearance through normal banking channels. Borrower authorizes Lender to charge any account of Borrower maintained with Lender for any amounts of principal, interest, taxes, duties, or other charges or amounts due or payable hereunder or under any Related Document, with the amount of such payment subject in Lender's discretion to availability of collected balances. Unless Borrower instructs otherwise, all Loans shall be credited to an account(s) of Borrower with Lender. All payments shall be made without deduction for or on account of any present or future taxes, duties or other charges levied or imposed on this Note, the proceeds, Lender, Borrower or any Related Party by any government or political subdivision thereof. Borrower shall upon request of Lender pay all such taxes, duties or other charges in addition to principal and interest, including all documentary stamp and intangible taxes, but excluding income taxes based solely on Lender's income.

11. **SETOFF.** If an Event of Default has occurred and is continuing, then, to the maximum extent permitted by law, any account, deposit or other indebtedness owing by Lender to Borrower, and any securities or other property of Borrower delivered to or left in the possession of Lender or any affiliate or subsidiary of Lender, or its or their nominee or bailee, may (at any time and without notice of any kind) be set off against and applied in payment of any obligation hereunder or under any Related Document.

12. **NOTICES.** Except as and if otherwise provided herein, all notices, requests and demands to or upon the respective parties hereto shall be in writing and shall be deemed to have been given or made five business days after a record has been deposited in the mail, postage prepaid, or one business day after a record has been deposited with a recognized overnight courier, charges prepaid or to be billed to the sender, or on the day of delivery if delivered manually with receipt acknowledged, in each case addressed or delivered:

a. if to Lender to **The Northern Trust Company, Attention: Credit Administration Team,IL-CD-BB-11, 50 South LaSalle, Chicago, IL 60603**, with a copy to [ ]; and

b. if to Borrower to its address indicated in the preamble hereto,

or to such other address as may be hereafter designated in writing by the respective parties hereto by a notice in accord with this Section. Notwithstanding the foregoing, unless otherwise provided herein to the contrary: Borrower may make requests for Loans (including directions to disburse Loan proceeds) and select among interest rate options (if this Note provides for more than one interest rate option) orally, by e-mail or such other means as Lender and Borrower may establish from time to time; and Lender may rely upon such requests and selections.

13. **MISCELLANEOUS.** Except as and if otherwise specifically agreed in any Related Document, and only as to such Related Document, and to the extent, if any, that the UCC or other law provides for the application of the law of a different state, this Note and the Related Documents shall be: (i) governed by and construed in accordance with the internal law of the State of Illinois; and (ii) deemed to have been executed in the State of Illinois. This Note shall bind Borrower, its(his)(her) heirs, trustees (including successor and replacement trustees), executors, personal representatives, successors and assigns, and shall inure to the benefit of Lender, its successors and assigns, except that Borrower may not transfer or assign any rights or obligations hereunder without the prior written consent of Lender. If an Event of Default has occurred and is continuing, Borrower agrees to pay upon demand all expenses (including reasonable attorneys' fees, legal costs and expenses, and time charges of attorneys who may be employees of Lender, in each case whether in or out of court, in original or appellate proceedings or in bankruptcy) incurred or paid by Lender in connection with the enforcement or preservation of its rights hereunder or under any Related Document. Time is of the essence in

the performance of all obligations under this Note. This Note is, and is intended to take effect as, an instrument under seal. Whenever possible, each provision of this Note shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Note shall be prohibited by or invalid under such law, such provision shall be ineffective only to the extent and duration of such prohibition or invalidity without invalidating the remainder of such provision, the applicability of such provision in any other instance, or the remaining provisions of this Note. To the maximum extent permitted by applicable law, Lender is hereby authorized by Borrower without notice to Borrower to fill in any blank spaces and dates herein or in any Related Document to conform to the terms of the transaction and/or understanding evidenced hereby. This Note may not be amended, waived or terminated without the prior written consent of Lender, and shall remain in effect notwithstanding that at any particular time there shall be no amounts outstanding hereunder. This Note shall continue to be effective or be automatically reinstated, as the case may be, if at any time a payment made to Lender hereunder is rescinded or otherwise must be restored or returned by Lender upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of Borrower, as though such payment had not been made. **THIS NOTE AND THE RELATED DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AS TO THE SUBJECT MATTER HEREOF AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

14. **NO PUNITIVE DAMAGES. NO PARTY HERETO MAY SEEK OR RECOVER PUNITIVE DAMAGES IN ANY PROCEEDING BROUGHT UNDER OR IN CONNECTION WITH THIS NOTE OR ANY RELATED DOCUMENT. THIS PROVISION IS A MATERIAL INDUCEMENT TO LENDER TO PROVIDE THE LOAN(S).**

15. **TELEPHONIC INSTRUCTIONS; AUTHORIZATION TO RECORD PHONE CALLS. LENDER AT ITS OPTION MAY MAKE LOANS HEREUNDER UPON TELEPHONIC INSTRUCTIONS AND IN SO DOING SHALL BE FULLY ENTITLED TO RELY SOLELY UPON INSTRUCTIONS, INCLUDING INSTRUCTIONS TO MAKE TRANSFERS TO THIRD PARTIES, REASONABLY BELIEVED BY LENDER TO HAVE BEEN GIVEN BY AN AUTHORIZED PERSON, WITHOUT INDEPENDENT INQUIRY OF ANY TYPE. FOR ITSELF AS WELL AS ANY RELATED PARTY AND ANY AGENT, DIRECTOR, EMPLOYEE, MANAGER, MEMBER, OFFICER, OR PARTNER OF BORROWER, AS APPLICABLE, BORROWER IRREVOCABLY CONSENTS TO LENDER'S RECORDING OF ANY TELEPHONE CONVERSATION PERTAINING TO LOANS UNDER THIS NOTE.**

16. **ANTI-TERRORISM LAW.**

(a) **By its acceptance of this Note as evidenced by its making of any Loan Lender hereby notifies Borrower and any Related Party that, pursuant to the requirements of the USA Patriot Act, Lender may be required to obtain, verify and record information that identifies Borrower and any Related Party, which information may include the name and address of Borrower and any Related Party and other information that will allow Lender to identify Borrower and any Related Party in accord with the USA Patriot Act. Borrower hereby agrees to take any action necessary to enable Lender to comply with the requirements of the USA Patriot Act.**

(b) Borrower covenants, represents and warrants as follows:

(i) Neither Borrower nor any Related Party is or, to the best of Borrower's knowledge, will be in violation of any Anti-Terrorism Law.

(ii) Neither Borrower nor any Related Party is or, to the best of Borrower's knowledge, will be a Prohibited Person.

(iii) Neither Borrower nor any Related Party: (A) conducts any business or engages in any transaction or dealing with any Prohibited Person, including making or receiving any contribution of funds, goods or services to or for the benefit of any Prohibited Person; (B) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224; or (C) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

(iv) Neither Borrower nor any Related Party will engage in any of the activities described in (iii) of this subsection (b) in the future.

(v) Borrower and each Related Party will ensure that the proceeds of the Loans are not used to violate any foreign asset control regulations of the U.S. Office of Foreign Assets Control ("OFAC") or of any enabling statute or any Executive Order relating thereto.

(vi) Borrower will deliver to Lender any certification or other evidence requested from time to time by Lender in its sole reasonable discretion, confirming Borrower's and any Related Party's compliance with this Section.

(vii) Borrower has implemented procedures, and will consistently apply those procedures while this Note is in effect, to ensure that the representations and warranties in this Section remain true and correct while this Note is in effect.

17. **JURISDICTION AND VENUE. Except as and if otherwise specifically agreed in any Related Document, and only as to suits, actions or other proceedings pertaining to such Related Document, Borrower and (by its acceptance hereof) Lender:**

(a) **agree irrevocably that all suits, actions or other proceedings with respect to, arising out of or in connection with this Note or any Related Document shall be subject to litigation in courts having situs within or jurisdiction over Fulton County, State of Georgia;**

(b) **consent and submit to the jurisdiction of any such court; and**

(c) **waive any right to transfer or change the venue of any suit, action or other proceeding brought in accordance with this Section, or to claim that any such proceeding has been brought in an inconvenient forum.**

18. **WAIVER OF JURY TRIAL. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER AND (BY ITS ACCEPTANCE HEREOF) LENDER VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT THEY OR ANY OF THEM MAY HAVE TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) BETWEEN OR AMONG BORROWER AND LENDER ARISING OUT OF OR IN ANY WAY RELATED TO THIS NOTE, ANY RELATED DOCUMENT, OR ANY RELATIONSHIP BETWEEN LENDER AND BORROWER.**

(Signature page to follow)

To the extent applicable under any state law, Borrower executed this Note as of the date stated at the top of the first page, intending to create an instrument executed under seal.

BORROWER:

Exclusive Jets, LLC, a North Carolina Limited Liability Company

By: /s/ Thomas J. Segrave, Jr.
Print Name: Thomas J. Segrave, Jr.
Title: Manager

Exhibit 10.13

SUBLEASE AGREEMENT

[Kinston Jet Center, LLC ~ Exclusive Jets, LLC]

This Sublease dated as of January 1, 2021, is made between Kinston Jet Center, LLC (Hereinafter "Sublandlord") and Exclusive Jets, LLC d/b/a flyExclusive (Hereinafter "Subtenant").

ARTICLE I: Defined Terms; Background

1. Each reference in this Sublease to the capitalized terms set forth below shall have the meanings given to them in this Article I.

Sublandlord:	Kinston Jet Center, LLC
Address:	2860 Jetport Rd. Kinston NC, 28504
Subtenant:	Exclusive Jets, LLC dba flyExclusive
Address:	2860 Jetport Rd. Kinston NC, 28504
Prime Lease:	Master Full Service Fixed Building Operator Lease Agreement dated May 20, 2020, between Prime Landlord and Sublandlord.
Prime Landlord:	[ ]
Prime Leased Premises:	Premises A [ ] Premises B or "Office and Hangar" ([i] the office and aircraft hangar located at 2730 Rouse Road, Kinston, NC, subject to reservations in the Prime Lease, [ii] Ramp and Apron Area at the Hangar, [iii] certain automobile parking spaces at the Hangar, and [iv] a vehicle and equipment access easement across the aircraft parking facilities), all as more fully defined in the Prime Lease.
Airport Complex:	Kinston Regional Jet Port in Lenoir County, NC

Sublease Commencement Date:	January 1, 2021
Sublease Term:	See Section 2, below.
Subleased Premises:	The Prime Leased Premises *excluding only:* Premises A [ ], • An easement for maintenance and repair of Premises A, • The reception area, restrooms, pilot's lounge, and offices belonging to [ ] and [ ], within the office building in Premises B, and • One reserved parking space. The Subleased Premises, as well as the above-described excluded areas are more particularly shown on the diagram attached hereto as Exhibit B.
Base Monthly Rent:	$720,000.00 (Seven Hundred Twenty Thousand Dollars) annually, or $60,000 (Sixty Thousand Dollars) per month.
Security Deposit:	None.
Excluded Provisions of the Prime Lease:	Kinston Jet Center shall be responsible for all of the rental payment to the Prime Landlord, and for all fees pursuant the Prime Lease and payable to the Prime Landlord that relate to its operations as a Fixed-Based Operator. Subtenant shall be responsible for all expenses related to maintaining and operating its sublet premises, including, but not limited to insurance, maintenance, and utilities. Articles II(H), VII, X, Part A (Articles XXVI, XXVII, XXVIII, and XXIX), Article XXXIII [Rent for Premises B], and Exhibit A-2, Exhibit E, and Exhibit I.

2. Sublandlord is the tenant under the Prime Lease. Sublandlord and Subtenant wish to enter into a sublease of the Subleased Premises on the terms and conditions set forth herein.

ARTICLE II: Agreements

NOW, THEREFORE, the parties agree as follows:

I. PREMISES

Sublandlord hereby subleases to Subtenant, on the terms and conditions set forth in this Sublease, the Subleased Premises. Sublandlord shall deliver the Subleased Premises to Subtenant on the Sublease Commencement Date in broom clean condition but otherwise in their "AS IS, WHERE IS" condition. Subtenant acknowledges that Sublandlord has made no representations or warranties concerning the Subleased Premises or the Building or their fitness for Subtenant's purposes, except as expressly set forth in this Sublease.

2. SUBLEASE TERM

a. The term of this Sublease shall commence on the Sublease Commencement Date and continue for the Sublease Term through July 31, 2035, unless terminated prior to such date pursuant to the terms hereof or pursuant to law.

b. The Sublease may be extended if, and only if, Sublandlord extends its lease with Prime Landlord. The rent between Subtenant and Sublandlord shall increase by the same percentage that the Prime Lease rent increases pursuant its extension.

3. RENT

a. Subtenant shall pay to Sublandlord the Base Monthly Rent (pro-rated in the case of any partial calendar month at the beginning or end of the Sublease Term, based upon the actual number of days in the month), without deduction, offset, notice, or demand, on or before the same date that rental is payable by Sublandlord under the Prime Lease. All charges, costs, expenses and sums required to be paid or borne by Subtenant under this Sublease in addition to Base Rent shall be deemed "Additional Rent", and Base Rent and Additional Rent shall hereinafter collectively be referred to as "Rent". Subtenant's covenant to pay Rent shall be independent of every other covenant in this Sublease.

b. Any rent increases for the Primary Lease for extensions or renewals shall be the basis of a rent increase of the Sublease. The percentage of rent increase for the Primary Lease shall be used to compute the increase in the sublease using the same percentage of the Primary Lease.

4. INSURANCE

Prior to occupancy Subtenant shall obtain, and through the Sublease Term shall maintain, with Sublandlord and Landlord named as additional insured, such liability and other insurance in such amounts as is required of Sublandlord under **Article IX(D)** of the Prime Lease. Subtenant agrees the Prime Landlord and not Sublandlord shall provide insurance on the buildings and the real property owned by Prime Landlord on which the buildings are situated (the "Land"), and restore the Subleased Premises, or the building, as applicable, in the event of a fire or other casualty.

Neither Sublandlord nor Subtenant shall be liable to the other party for damages to the Subleased Premises, the Subleased Premises, the improvements located thereon, or the contents thereof to the extent that such liability is coverable by a policy of insurance required to be maintained or actually maintained by the damaged party. Sublandlord and Subtenant hereby grant to one another on behalf of any insurer providing insurance to either covering the Subleased Premises or the Prime Leased Premises, the improvements located thereon or the contents thereof, a waiver of any right of subrogation any such insurer of one party may acquire against the other by virtue of payment of any loss under any such insurance. The foregoing provision shall be of no force or effect to the extent its existence or enforceability would adversely affect the enforceability, validity and/or collectability of any insurance coverage claimed by either party provided that both parties agree to obtain any insurance endorsements which may be available at nominal cost if such endorsements would permit the effectiveness of this provision under circumstances where it would otherwise be ineffective. If a party is unable to obtain such endorsement, it shall immediately notify the other of this inability. In the absence of such notification, each party shall be deemed to have obtained such waiver of subrogation.

5. USE OF PREMISES

Subtenant shall use and occupy the Subleased Premises only for the uses permitted by the Prime Lease, and only to the extent permitted by all laws governing or affecting Subtenant's use of the Subleased Premises.

6. ASSIGNMENT AND SUBLETTING

Subtenant shall not assign this Sublease or further sublet all or any part of the Subleased Premises without the prior written consent of Sublandlord, which consent Sublandlord may grant, withhold or condition in its sole and absolute discretion. Without limiting the generality of the foregoing, any change in a majority of the voting rights or other controlling rights or interests of Subtenant shall be deemed an assignment of this Sublease for the purposes of this Section 6. Any attempt by Subtenant to assign, sublet or transfer its rights in the Subleased Premises without the prior written consent of Sublandlord shall be void. Notwithstanding the preceding terms of this Section 6, without any approval of or notice to Sublandlord, Subtenant may license or sublet the Subleased Premises to, or otherwise allow the use of all or a part of the Subleased Premises by, a Subtenant Subsidiary, as defined herein. A "Subtenant Subsidiary" means: (1) any corporation, limited partnership or limited liability company that is controlled by Subtenant; or (2) any corporation, limited partnership or limited liability company in which Subtenant owns in excess of 25% of the beneficial interests, whether directly or indirectly.

7. SERVICES; FUEL

a. No services are currently included in Base Monthly Rent except for any provided by Prime Landlord to Sublandlord under the Prime Lease. Subtenant shall have no right to require Sublandlord to perform any of such services. Subtenant shall not enter the FBO business in competition with the Sublandlord.

8. CONDITION OF PREMISES; SUBTENANT'S WORK; TRADE FIXTURES

Any personal property or trade fixtures that are necessary for the conduct of Subtenant's business and that are installed by or for Subtenant in the Subleased Premises in accordance with the terms of the Prime Lease shall, at the termination of this Sublease, be removed by Subtenant and Subtenant shall restore the Subleased Premises at Subtenant's sole cost to the state and condition in which they existed on the Sublease Commencement Date, ordinary wear and tear excepted, and otherwise in accordance with the Prime Lease. If Subtenant fails to comply with the provisions of this paragraph, Sublandlord or Prime Landlord may make such repairs or restoration, and the reasonable cost thereof shall be additional rent payable by Subtenant on demand. All such personal property and trade fixtures shall be and remain the property of Subtenant, provided that any such trade fixtures remaining on the Subleased Premises after the expiration or termination of the term hereof shall be deemed abandoned by Subtenant and shall, at Sublandlord's option, become the property of Sublandlord without payment therefor. Further, Subtenant acknowledges that Sublandlord is obligated to remove its own personal property no later than the expiration or earlier termination of the Lease pursuant to **Article XVl(C),** and that Subtenant shall have no claim against Sublandlord for any such removal.

9. ALTERATIONS AND IMPROVEMENTS

Sublandlord shall have no obligation to make any alterations, additions, improvements or installations in or to the Subleased Premises ("Alterations") for Subtenant's use or occupancy thereof. Notwithstanding any provisions of the Prime Lease to the contrary, Subtenant shall not make any Alterations in the Subleased Premises without in each instance obtaining the prior written consent of both Prime Landlord and Sublandlord, which they may grant, withhold or condition in their respective sole and absolute discretion. If Sublandlord and Prime Landlord consent to any such Alterations, Subtenant shall perform and complete such Alterations at its expense, in a good and workmanlike manner and in compliance with applicable laws and the Prime Lease. If Prime Landlord requires removal and restoration of any Alterations made by Subtenant, Subtenant shall cause the same to be removed in accordance with the Prime Lease, but if Subtenant fails to comply with such requirements, Sublandlord may undertake such removal and restoration and Subtenant shall be liable to Sublandlord for all costs and expenses incurred by the Subtenant in connection therewith.

10. SUBORDINATION TO PRIME LEASE

a. This Sublease shall at all times be subject and subordinate to the terms and provisions of the Prime Lease. Except for the Excluded Sections of the Prime Lease and except as otherwise set forth in this Sublease, all of the terms and conditions contained in the Prime Lease are hereby incorporated herein by this reference as terms and conditions of this Sublease, except that references in the Prime Lease to the terms listed in Column A below shall be deemed to be references to the terms set forth in this Sublease listed in the same row in Column B below:

Column A	
Lease or Agreement	Sublease
Lessor or Authority	Sublandlord
Lessee	Subtenant
"the (t/T)erm of this Agreement", "the Term", "the term of this (1/L)ease", "the lease term", "the original term" or "the term hereof"	Sublease Term
Annual Base Rental or Monthly Base Rent	Base Monthly Rent (which amount shall be annualized where the context so admits)
"Premises" or "Premises A and B" or "Premises B"	Subleased Premises
"Airport"	Airport Complex

b. Notwithstanding any other provision of this Sublease, Sublandlord, as sublandlord under this Sublease, shall have the benefit of all rights, waivers, remedies and limitations of liability enjoyed by Prime Landlord, as the landlord under the Prime Lease, but (i) Sublandlord shall have no obligation to perform the obligations of Prime Landlord, as landlord under the Prime Lease; (ii) Sublandlord shall not be bound by any representations or warranties of the Prime Landlord under the Prime Lease; (iii) in any instance where the consent of Prime Landlord is required under the terms of the Prime Lease, the consent of Sublandlord and Prime Landlord shall be required; and (iv) Sublandlord shall not be liable to Subtenant for any failure or delay in Prime Landlord's performance of its obligations, as landlord under the Prime Lease.

c. Subtenant shall have no rights, and hereby waives any claims with respect to, to any award or other compensation under **Article XVIII** in the event of any Taking, but this Sublease and Subtenant's rights otherwise shall remain subject in all respects to the obligations of and limitations upon Lessee under **Article XVIII.**

d. Upon the default by Subtenant in the full and timely payment and performance of its obligations under the Sublease, Sublandlord may exercise any and all rights and remedies granted to Prime Landlord by the Prime Lease with respect to default by the Tenant or Lessee under the Prime Lease. Subtenant shall not commit or suffer any act or omission that will violate any of the provisions of the Prime Lease. If the Prime Lease terminates for any reason, this Sublease shall terminate and the parties shall be relieved of any further liability or obligation under this Sublease; provided, however, that Subtenant shall pay to Sublandlord all sums due and accrued under this Sublease as of the termination date.

e. The cure periods set forth in**Article XIX(A)** of the Prime Lease are hereby adjusted for purposes of this Sublease as follows: (A) the clause (i) cure period of five (5) business days is hereby shortened to three (3) business days, (B) the clause (ii) cure period of 30 days is hereby shortened to 21 days, (C) the clause (iii) cure period of 90 days is hereby shortened to 60 days, and (D) the clause (iv) cure period of 60 days is hereby shortened to 30 days.

f. If any response is needed from Subtenant in order for Sublandlord to respond to an estoppel certificate requested by Prime Landlord, Subtenant shall provide such response as soon as possible, but in the event that Subtenant shall take more than four (4) business days to respond to such a request from Sublandlord, then Sublandlord shall be empowered to answer on Subtenant's behalf, and Subtenant shall be bound by and estopped from denying any such facts as are represented by Sublandlord.

g. In the event that a provision of this Sublease conflicts with any provision of the Prime Lease, as between Sublessor and Sublessee, to the extent of such conflict, the terms of this Sublease shall control.

11. INDEMNITY

Subtenant shall indemnify, defend and hold harmless Sublandlord from all claims, liabilities, losses, damages and expenses arising out of (a) a default by Subtenant in the full and timely payment and performance of its obligations, as subtenant under this Sublease, (b) any accident or injury to property or person in the Subleased Premises, (c) the negligence and willful misconduct of Subtenant, its agents, employees, invitees or contractors or (d) a default under the Prime Lease caused by Subtenant, its agents, employees or contractors. Sublandlord shall indemnify, defend and hold harmless Subtenant from all claims, liabilities, losses, damages and expenses arising out of a default under the Prime Lease by Sublandlord with respect to the full and timely payment of its monetary obligations thereunder, except in the event that any such default arises out of Subtenant's default hereunder with respect to payment of Rent.

12. NOTICES OR DEMANDS

All notices and demands under this Sublease shall be in writing and shall be effective (except for notices to Prime Landlord, which shall be given in accordance with the provisions of the Prime Lease) upon the earlier of (i) receipt at the Sublandlord's Notice Addresses or the Subtenant's Notice Addresses, or the notice address of the Prime Landlord set forth in the Prime Lease, as the case may be, by the party being served, or (ii) upon delivery being refused. All such notices or demands shall be sent by United States certified mail, return receipt requested, postage prepaid, or by a nationally recognized overnight delivery service that provides tracking and proof of receipt. Either party may change its address for notices and demands under this Sublease by ten (10) days' notice to the other party.

13. PARKING

Subtenant shall be entitled to use and enjoy all of Sublandlord's parking rights under the Prime Lease, on anon-exclusive basis, and on the terms and conditions provided in the Prime Lease, excluding only that reserved parking space designated as an Excluded Area on Exhibit B.

14. MISCELLANEOUS

a. This Sublease shall be governed by the laws of the State of North Carolina.

b. This Sublease, together with any exhibits and attachments hereto and the Prime Lease, constitutes the entire agreement between Sublandlord and Subtenant relative to the Subleased Premises, and this Sublease and the exhibits and attachments may be altered, amended or revoked only by an instrument in writing signed by both Sublandlord and Subtenant. Sublandlord and Subtenant agree hereby that all prior or contemporaneous oral discussions, letters or written documents between and among themselves and their agents and representatives relative to the subleasing of the Subleased Premises are merged in or revoked by this Sublease.

c. This Sublease may be signed in multiple counterparts, all of which counterparts when taken together shall have the same force and effect as if all parties hereto had executed a single copy of this Sublease. Any signature on a counterpart of this Sublease sent by electronic transmission, or made via DocuSign or other comparable electronic signature software, shall be deemed valid and binding upon the party employing or utilizing the same.

d. This Sublease shall inure to the benefit of and be binding upon the respective heirs, administrators, executors, successors and assigns of the parties hereto; provided, however, that this provision shall not be construed to allow an assignment or subletting which is otherwise specifically prohibited hereby.

e. The section and paragraph headings are included only for the convenience of the parties and are not part of this Sublease and shall not be used to interpret the meaning of provisions contained herein or the intent of the parties hereto.

f. Sublandlord shall furnish to Subtenant one (1) key for each lock on the Subleased Premises, which Subtenant is permitted to use hereunder, and shall, on Subtenant's request and at Subtenant's expense, provide additional duplicate keys. Subtenant shall not make any duplicate keys. All keys shall be returned to Sublandlord upon the termination of this Sublease, and Subtenant shall give to Sublandlord the explanation of the combination of any safes, vaults and combination locks in the Subleased Premises. Prime Landlord shall at all times keep a pass key to the Subleased Premises. All entrance doors to the Subleased Premises shall be left locked when the Subleased Premises are not in use. Subtenant assumes and agrees to perform and observe all provisions, terms, covenants, and conditions of the Tenant/Sublandlord under the Prime Lease as the same relate to the Subleased Premises and to Sublessee's use and occupancy of the same and use of the Common Areas during the Sublease Term. Regular business hours for the Airport Complex are specified in Article IV (E) of the Prime Lease. Additional access security measures and additional charges for HVAC service may apply outside of regular business hours.

15. BROKERS

Sublandlord and Subtenant each represent and warrant to the other that it has not dealt with any broker or finder in connection with the consummation of this Sublease. The Sublandlord shall indemnify, defend and hold Subtenant -harmless from and against any and all claims, losses, liabilities, damages, demands, costs and expenses (including actual, reasonable attorneys' fees at or before the trial level and any appellate proceedings) arising out of any claim made by any realtor, broker, finder, or any other intermediary who claim to have been engaged, contracted or utilized by Sublandlord in connection with the transaction which is the subject matter of this Sublease. The Subtenant shall indemnify, defend and hold Sublandlord harmless from and against any and all claims, losses, liabilities, damages, demands, costs and expenses (including actual, reasonable attorneys' fees at or before the trial level and any appellate proceedings) arising out of any claim made by any realtor, broker, finder, or any other intermediary who claim to have been engaged, contracted or utilize d by Subtenant in connection with the transaction which is the subject matter of this Sublease. The indemnification obligations provided in this Section shall survive the termination of the Sublease and Prime Lease.

16. PRIME LANDLORD CONSENT

Each and every one of Sublandlord's obligations hereunder are conditioned upon Sublandlord obtaining Prime Landlord's consent to this Sublease, for all purposes under the Prime Lease. Sublandlord shall notify Subtenant in the event such consent is obtained, and in the event that Prime Landlord shall require Subtenant and Sublandlord to execute a commercially reasonable form of sublease consent agreement, the parties shall cooperate with regard to finalizing and executing the same.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Sublease to be signed by their duly authorized representatives to be effective on the date first set out above.

Sublandlord:

Kinston Jet Center, LLC

By: /s/ Jim Segrave
Name: Jim Segrave
Title: Manager
Date: 12/21, 2020

Subtenant:

Exclusive Jets, LLC, d/b/a flyExclusive

By: /s/ Jim Segrave
Name: Jim Segrave
Title: Manager
Date: 12/21, 2020

List of Exhibits

Exhibit A – Prime Lease

Exhibit B – Diagram of Subleased Premises and Excluded Areas

Exhibit 16.1

January 3, 2024

Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Commissioners:

We have read the statements made by EG Acquisition Corp. under Item 4.01 of its Form8-K dated January 3, 2024. We agree with the statements concerning our Firm in such Form 8-K; we are not in a position to agree or disagree with other statements of EG Acquisition Corp. contained therein.

Very truly yours,

/s/ Marcum LLP

Marcum LLP

Exhibit 21.1

Listing of Subsidiaries

Name of Subsidiary	Jurisdiction of Incorporation
Exclusive Jets, LLC	North Carolina
Jetstream Aviation, LLC	North Carolina
LGM Enterprises, LLC	North Carolina

Exhibit 99.1

INDEX TO FINANCIAL STATEMENTS OF
LGM ENTERPRISES, LLC

LGM ENTERPRISES, LLC
CONDENSED CONSOLIDATED BALANCE SHEETS
(Unaudited, in thousands)

	September 30, 2023	December 31, 2022
ASSETS		
Current assets:		
Cash and cash equivalents	$ 10,265	$ 23,179
Accounts receivable, net	719	14,088
Other receivables	4,075	4,925
Inventory	6,636	5,872
Investment in available-for-sale securities	71,148	69,448
Due from related parties, current	1,511	2,996
Notes receivable - noncontrolling interests, current portion	296	261
Prepaid engine overhauls, current	14,110	5,127
Prepaid expenses and other current assets	7,298	5,865
Total current assets	116,058	131,761
Property and equipment, net	267,628	252,693
Intangible assets, net	2,295	2,432
Operating lease right-of-use assets	75,536	51,051
Prepaid engine overhauls, non-current	36,881	48,310
Notes receivable - noncontrolling interests, non-current portion	27,713	4,856
Due from related parties, non-current	2,683	2,629
Other long-term assets	557	484
Total assets	$ 529,351	$ 494,216
LIABILITIES AND MEMBER'S EQUITY		
Current liabilities:		
Accounts payable	$ 21,895	$ 21,756
Due to related parties	—	72
Deferred revenue, current	76,641	58,023
Short-term notes payable	14,325	3,704
Operating lease liability, current portion	16,018	9,782
Long-term notes payable, current portion	84,839	23,581
Accrued expenses and other current liabilities	28,809	21,777
Total current liabilities	242,527	138,695
Deferred revenue, non-current	7,676	2,579
Long-term notes payable, non-current portion	222,861	222,320
Operating lease liability, non-current portion	60,426	40,731
Derivative liability	4,548	971
Other non-current liabilities	10,899	41,503
Total liabilities	$ 548,937	$ 446,799
Commitments and contingencies (Note 17)		
Equity:		
LGM Enterprises, LLC members' deficit	(51,909)	(4,641)
Accumulated other comprehensive loss	(811)	(476)
Noncontrolling interests	33,134	52,534
Total members' (deficit) equity	(19,586)	47,417
Total liabilities and members' equity	$ 529,351	$ 494,216

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

LGM ENTERPRISES, LLC
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE (LOSS) INCOME
(Unaudited, in thousands)

	Nine Months Ended September 30,	
	2023	2022
Revenue	$ 239,397	$ 237,629
Costs and expenses:		
Cost of revenue	193,564	186,262
Selling, general and administrative	51,957	36,082
Depreciation and amortization	20,176	16,823
Total costs and expenses	265,697	239,167
Loss from operations	(26,300)	(1,538)
Other (expense) income:		
Interest income	2,989	553
Interest expense	(15,601)	(4,342)
CARES Act Grant	339	—
Gain on aircraft sold	12,435	14,321
Change in fair value of derivative liability	(3,577)	—
Other expense	(736)	(43)
Total other (expense) income, net	(4,151)	10,489
Net (loss) income	(30,451)	8,951
Net loss attributable to noncontrolling interest	(6,762)	(6,632)
Net (loss) income attributable to LGM Enterprises, LLC	$ (23,689)	$ 15,583
Other comprehensive loss:		
Unrealized loss on available-for-sale debt securities	(335)	(1,418)
Comprehensive (loss) income	(24,024)	14,165
Comprehensive (loss) income attributable to LGM Enterprises, LLC	$ (24,024)	$ 14,165

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

LGM ENTERPRISES, LLC
CONDENSED CONSOLIDATED STATEMENTS OF MEMBERS' (DEFICIT) EQUITY
(Unaudited, in thousands)

	LGM Enterprises, LLC Members' Deficit	Accumulated other comprehensive loss	Noncontrolling Interests	Total Members' Equity (Deficit)
Balances at December 31, 2022	$ (4,641)	$ (476)	$ 52,534	$ 47,417
Contributions	394	—	9,208	9,602
Distributions	(31,292)	—	(14,527)	(45,819)
Other comprehensive income	—	(335)	—	(335)
Exchanges of aircraft ownership interests	7,319	—	(7,319)	—
Net loss	(23,689)	—	(6,762)	(30,451)
Balances at September 30, 2023	$ (51,909)	$ (811)	$ 33,134	$ (19,586)

	LGM Enterprises, LLC Members' (Deficit) Equity	Accumulated other comprehensive income (loss)	Noncontrolling Interests	Total Members' Equity
Balances at December 31, 2021	$ (11,737)	$ 22	$ 61,402	$ 49,687
Contributions	6,378	—	14,379	20,757
Distributions	(9,587)	—	(10,874)	(20,461)
Other comprehensive loss	—	(1,418)	—	(1,418)
Net income (loss)	15,583	—	(6,632)	8,951
Balances at September 30, 2022	$ 637	$ (1,396)	$ 58,275	$ 57,516

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

LGM ENTERPRISES, LLC
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited, in thousands)

	Nine Months Ended September 30,	
	2023	**2022**
Cash flows from operating activities:		
Net (loss) income	$(30,451)	$ 8,951
Adjustments to reconcile net (loss) income to net cash provided by operating activities:		
Depreciation and amortization	20,176	16,823
Amortization of contract costs	558	511
Non-cash interest income	(2,282)	—
Non-cash interest expense	7,373	312
Non-cash lease expense	12,547	9,748
Gain on sale of property and equipment and engine overhauls	(12,435)	(14,321)
Gain on leased right-of-use assets	(38)	(36)
Change in fair value of derivative liability	3,577	—
Provision for bad debt expense	(1)	23
Realized losses on investment securities	238	131
Changes in operating assets and liabilities, net of effects from acquisitions:		
Accounts receivable	13,369	(10,474)
Due from related parties	1,431	(2,675)
Other receivables	850	(1,044)
Aircraft inventory	(764)	(978)
Prepaid expenses and other current assets	809	(5,598)
Operating lease right-of-use assets	(11,063)	(9,459)
Other assets	(73)	(313)
Accounts payable	919	4,579
Other current liabilities	5,838	4,503
Due to related parties	(72)	(28)
Deferred revenue	23,715	18,245
Customer deposits	(37,500)	12,500
Other non-current liabilities	6,896	2,400
Cash flows provided by operating activities	3,617	33,800
Cash flows used in investing activities:		
Capitalized development costs	(585)	(373)
Purchases of property and equipment	(66,962)	(99,231)
Proceeds from sales of property and equipment	38,073	42,821
Purchases of engine overhauls	(14,548)	(16,178)
Purchases of investments	(68,837)	(3,360)
Sale of investments	68,746	2,696
Cash flows used in investing activities	(44,113)	(73,625)
Cash flows provided by financing activities:		
Proceeds from issuance of debt	97,769	64,646
Repayment of debt	(32,528)	(27,976)
Payment of debt issuance costs	(195)	(402)
Proceeds from notes receivable noncontrolling interest	208	194
Payment of deferred financing costs	(1,455)	—
Cash contributions from members	394	6,378
Cash distributions to members	(31,292)	(9,587)
Cash contributions from non-controlling interests	9,208	14,379
Cash distributions to non-controlling interests	(14,527)	(10,874)
Cash flows provided by financing activities	27,582	36,758
Net decrease in cash and cash equivalents	(12,914)	(3,067)
Cash and cash equivalents at beginning of period	23,179	21,131
Cash and cash equivalents at end of period	$ 10,265	$ 18,064
Supplemental disclosure of cash flow information:		
Interest paid	$ 8,227	$ 4,030
Supplemental disclosure of noncash financing and investing activity:		
Transfers from prepaid engine overhaul to property and equipment	$ 10,229	$ 6,582
Change in purchases of property and equipment in accounts payable	$ 930	$ 1,007
Unrealized change in fair value of available-for-sale securities	$ 335	$ 1,418
Right of use asset impact for new leases	$ 34,269	$ 16,831
Non-cash exchanges of aircraft ownership interests	$ 7,319	$ —
Non-cash aircraft sale-leaseback transactions	$ 23,100	$ —

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

1. Organization and Operations

Nature of the Business

LGM Enterprises, LLC ("LGM"), the parent company of Exclusive Jets, LLC ("flyExclusive"), was formed and organized on October 3, 2011, under the laws of the state of North Carolina. LGM is a premier owner, operator of jet aircraft and aircraft sales, with a focus on private jet charter. LGM provides private jet charter services primarily in North America. On February 28, 2020, LGM acquired Sky Night, LLC ("Sky Night"), in order to develop its international presence. LGM's businesses provide separate offerings such as wholesale and retail ad hoc flights, a jet club program, partnership program, fractional program, and other services as well. As part of its plan to become a full-service private aviation company, in 2021, LGM launched its maintenance, repair, and overhaul operations ("MRO"), offering maintenance, interior and exterior refurbishment to third parties in addition to maintaining its own fleet.

Basis of Presentation

The accompanying unaudited interim condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP") for interim financial information, and with the rules and regulations of the United States Securities and Exchange Commission (the "SEC"). Accordingly, they do not include all of the financial information and footnotes required by U.S. GAAP for complete financial statements. In the opinion of the Company's management, the financial statements include all adjustments (consisting of normal recurring adjustments) necessary for a fair statement of the results for the interim periods presented. The results for the nine months ended September 30, 2023 are not necessarily indicative of the results to be expected for any subsequent quarter or for the fiscal year ending December 31, 2023.

These unaudited interim condensed consolidated financial statements should be read in conjunction with the annual audited consolidated financial statements as of December 31, 2022 and 2021 and for the years ended December 31, 2022, 2021, and 2020, included elsewhere in this prospectus.

Principles of Consolidation

The condensed consolidated financial statements include the accounts of LGM, its wholly-owned subsidiaries, all majority owned subsidiaries where the ownership is more than 50% and the accounts of variable interest entities ("VIE") for which LGM or its subsidiary is the primary beneficiary, regardless of the ownership percentage (collectively, the "Company").

All significant intercompany transactions and balances have been eliminated in consolidation. Where the Company's ownership interest is less than 100%, the noncontrolling ownership interests held by third parties in the financial position and operating results of the Company's subsidiaries and/or consolidated VIEs are reported as noncontrolling interest in the condensed consolidated balance sheets within equity.

2. Summary of Significant Accounting Policies

Reclassification

Certain amounts presented in the Company's previously issued financial statements have been reclassified to conform to the current period presentation. In the condensed consolidated balance sheets, the Company has made a reclassification within the current assets and the operating assets remain unchanged from the previously issued balance sheet as of December 31, 2022.

Fair Value Measurement

Certain assets and liabilities are carried at fair value under U.S. GAAP. Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. Valuation techniques used to measure fair value must maximize the use of observable inputs and minimize the use of unobservable inputs. Financial assets and liabilities carried at fair value are to be classified and disclosed in one of the following three levels of the fair value hierarchy, of which the first two are considered observable and the last is considered unobservable:

Level 1 — Quoted prices in active markets for identical assets or liabilities.

Level 2— Observable inputs (other than Level 1 quoted prices), such as quoted prices in active markets for similar assets or liabilities, quoted prices in markets that are not active for identical or similar assets or liabilities, or other inputs that are observable or can be corroborated by observable market data.

Level 3 — Unobservable inputs that are supported by little or no market activity that are significant to determining the fair value of the assets or liabilities, including pricing models, discounted cash flow methodologies and similar techniques.

The Company's cash equivalents and investments in securities are carried at fair value in Level 1 or Level 2, determined according to the fair value hierarchy described above (see Note 3 Fair Value Measurements). The carrying values of the Company's accounts receivable, other receivables, inventory, accounts payable and accrued expenses and other current liabilities approximate their fair values due to the short-term nature of these instruments.

The Company's convertible note (see Note 13 Debt) contains an embedded derivative feature that was required to be bifurcated and remeasured to fair value at each reporting period based on significant inputs not observable in the market, and is classified as a Level 3 measurement according to the fair value hierarchy described above. The carrying amount of the Company's convertible note approximates its fair value as the interest rates of the convertible note are based on prevailing market rates.

Customer Concentration

The Company performs ongoing credit evaluations of its customers' financial condition and generally requires no collateral.

During the nine months ended September 30, 2023 and 2022, one customer accounted for $67,688 and $93,356 of net sales, which represents 28% and 39% of total revenue, respectively.

As of September 30, 2023, one customer accounted for $118 of accounts receivable. This represented approximately 15% of accounts receivable as of September 30, 2023. As of December 31, 2022, one customer accounted for $13,348 of accounts receivable. This represented approximately 94% of accounts receivable as of December 31, 2022.

During the nine months ended September 30, 2023, one vendor accounted for $29,213 of cost of revenue, which represents 15% of total cost of revenue. During the nine months ended September 30, 2022, one vendor accounted for $37,012 of cost of revenue, which represents 20% of total cost of revenue.

There were no vendors accounting for greater than 10% of total accounts payable as of September 30, 2023 and December 31, 2022.

Accounts Receivable, Net of Allowance for Credit Losses

Accounts receivables are recorded at the invoiced or earned amount billed to the customers and are reported as net of an allowance for credit losses. Prior to adopting Accounting Standards Codification ("ASC") Topic 326, Financial Instruments – Credit Losses ("ASC Topic 326"), as set forth in "Recently Adopted Accounting Pronouncements" below, the Company applied an incurred loss estimate to calculate the allowance for doubtful accounts. Under ASC Topic 326, the Company maintains an allowance for credit losses and considers the level of past-due accounts based on the contractual terms of the receivables, historical write offs and existing economic conditions, as well as its relationships with, and the economic status of individual accounts to calculate the allowance for credit losses. The estimated credit losses charged to the allowance is classified as "Bad debt expense" in the condensed consolidated statements of operations and comprehensive (loss) income. Accounts receivables are written off when deemed uncollectible based on individual credit evaluations and specific circumstances. The Company had an allowance for credit losses of $80 and $82 as of September 30, 2023 and December 31, 2022, respectively.

Investments in securities

Investments in securities consist of fixed-income securities including corporate bonds, government bonds, municipal issues and U.S. treasury bills that are classified as available-for-sale ("AFS") pursuant to ASC Topic 320, Investments—Debt and Equity Securities ("ASC Topic 320"). The Company classifies investments available to fund current operations as current assets on its condensed consolidated balance sheets. The Company determines the appropriate classification of its investments at the time of purchase and re-evaluates the designations annually. The Company may sell certain marketable securities prior to their stated maturities for strategic reasons including, but not limited to, anticipation of credit deterioration and duration management.

ASC Topic 326 eliminated the concept of other-than-temporary impairment for securities. For securities AFS in an unrealized loss position, the Company determines whether they intend to sell or if it is more likely than not that it will be required to sell the security before recovery of the amortized cost basis. If either of the criteria regarding intent or requirement to sell is met, the new standard requires the security's amortized cost basis to be written down to fair value through income with an allowance being established under ASC Topic 326. For securities AFS with unrealized losses not meeting these criteria, the Company evaluates whether any decline in fair value is due to credit loss factors. In making this assessment, the Company considers the extent of the unrealized loss, any changes to the rating of the security by rating agencies and adverse conditions specifically related to the issuer of the security, among other factors. If this assessment indicates that a credit loss exists, impairment related to credit-related factors must be recognized as an allowance for credit losses ("ACL") on the balance sheet with a corresponding adjustment to earnings. Impairment related to non-credit factors is recognized in other comprehensive income (loss). The Company evaluates AFS securities for impairment on a periodic basis.

As of September 30, 2023 and at adoption of ASC Topic 326 on January 1, 2023, there was no ACL related to debt securities AFS. Accrued interest receivable on debt securities was excluded from the estimate of credit losses.

Realized losses were $238 and $131 for the nine months ended September 30, 2023 and 2022, respectively. There were 31 and 24 debt securities in an unrealized loss position as of September 30, 2023 and December 31, 2022, respectively. The fair value of these debt securities in an unrealized loss position as of September 30, 2023 and December 31, 2022, was $30,210 and $7,236, respectively. Additionally, as of September 30, 2023 and December 31, 2022, the total fair value of debt securities in an unrealized loss position greater than one year was $3,334 and $1,765, which the total unrealized losses of these investments were $661 and $98, respectively. The Company determined that the decline in the market value of these securities was primarily attributable to current economic conditions.

Deferred Revenue

The Company manages Jet Club Memberships, Guaranteed Fleet, MRO, and Fractional Ownership programs. These programs require deposits for future flight services. Consideration received in excess of revenue earned results in deferred revenue and is recorded as a liability in the condensed consolidated balance sheets. See Note 14 Other Non-Current Liabilities and Note 16 Revenue below for additional disclosures regarding deferred revenue related to these programs.

Revenue Recognition

Revenue is recognized when the promised services are performed and in an amount that reflects the consideration the Company expects to be entitled to in exchange for those services using the following steps: 1) identification of the contract, or contracts with a customer, 2) identification of performance obligations in the contract, 3) determination of the transaction price, 4) allocation of the transaction price to the performance obligations in the contract and 5) recognition of revenue when or as the performance obligations are satisfied. Determining the transaction price may require significant judgment and is determined based on the consideration the Company expects to be entitled to in exchange for transferring services to the customer, excluding amounts collected on behalf of third parties such as sales taxes.

During the nine months ended September 30, 2023 and 2022, the Company earned revenue primarily from the programs below:

Jet Club Membership

Jet Club members are guaranteed access to the Company's fleet of light, midsize and super-midsize aircraft in exchange for membership fees. New members pay a minimum deposit of $100 up to a maximum of $500 depending on their level of membership. Membership levels determine the daily rate a member is charged for future flights. Incidental fees are also applied against members' accounts. The initial and any subsequent deposits are non-refundable and must be used for the monthly membership fee or for future flight services. These customer deposits are included in deferred revenue on the condensed consolidated balance sheets until used by the customer. The membership services performance obligation is satisfied over time on a monthly basis. Revenue for flights and related services is recognized when such services are provided to the customer at a point in time.

Guaranteed Revenue Program

The Company launched a guaranteed revenue program with a single customer on November 1, 2021. Under this program, the Company serves as an on-demand charter air carrier and guarantees the services of a specified fleet of aircraft as directed by the customer. The term of the agreement is for a minimum of 28 months, which includes a drawdown period of 10 months if the agreement is terminated. The agreement will continue indefinitely unless terminated by either party. The Company requires a deposit of $1,250 per reserved aircraft. These deposits are included within other non-current liabilities on the condensed consolidated balance sheets. The customer is charged hourly rates for flight services depending on aircraft type in addition to incidental fees. The customer is committed to a minimum number of flight hours per aircraft and a minimum number of aircraft. Revenue is recognized using the right-to-invoice practical expedient. The guaranteed minimum is enforceable and billable on a quarterly basis. As a result of the termination of this program as described in Note 17 Commitments and Contingencies below, the Company has recognized the remaining deposits as revenue during the nine months ended September 30, 2023 and therefore the Guaranteed Revenue Program deposits balance was zero as of September 30, 2023. See Note 14 Other Non-Current Liabilities.

Fractional Ownership

The fractional revenue stream involves a customer purchasing a fractional ownership interest in an aircraft for a contractual term of up to 5 years. Customers have the right to flight and membership services from a fleet of aircraft, including the aircraft they have fractionally purchased. Customers are charged for flight services as incurred based on agreed upon daily and hourly rates in addition to the upfront fractional ownership purchase price. At the end of the contractual term, the Company has the unilateral right to repurchase the fractional interest. In certain contracts the customer can require the Company to repurchase their ownership interest after a fixed period of time but prior to the contractual termination date of the contract. The repurchase price, whether at the contractual termination date or at the specified earlier date, is calculated as follows: 1) the fair market value of the aircraft at the time of repurchase, 2) multiplied by the fractional ownership percentage, 3) less a remarketing fee. At the time of repurchase, all fractional ownership interests revert to the Company, and all rights to flight and membership services are relinquished. The Company assessed whether these repurchase agreements result in a lease contract under the scope of ASC 842 but determined that they are revenue contracts under the scope of ASC 606 since the repurchase price is lower than the original selling price, and the customer does not have a significant economic incentive to exercise the put option. Further, the fractional ownership sales are accounted for as containing a right of return and the resulting liability is included within other non-current liabilities on the condensed consolidated balance sheets. The consideration from the fractional ownership interest, as adjusted for any related customer right of return, is included in deferred revenue on the condensed consolidated balance sheets and recognized over the term of the contract on a straight-line basis as the membership services are provided. Variable consideration generated from flight services is recognized in the period of performance.

Maintenance Repair and Overhaul

The Company separately provides maintenance, repair and overhaul services for aircraft owners and operators at certain facilities. MRO ground services are comprised of a single performance obligation for aircraft maintenance services such as modifications, repairs and inspections. MRO revenue is recognized over time based on the cost of inventory consumed and labor hours worked for each service provided. Any billing for MRO services that exceeds revenue earned to date is included in deferred revenue on the condensed consolidated balance sheets.

Aircraft Sales

The Company occasionally sells aircraft from its fleet. The gain or loss from each transaction is recognized upon completion of the sale as other (expense) income within the condensed consolidated statements of operations and comprehensive (loss) income. During the nine months ended September 30, 2023 and 2022, the Company recorded gains of $12,435 and $14,321 on aircraft sold, respectively.

Contract Acquisition Costs

The Company pays commissions on deposits from new and recurring Jet Club member contracts. These commissions are contract acquisition costs that are capitalized as an asset on the condensed consolidated balance sheets as these are incremental amounts directly related to attaining contracts with customers. Capitalized sales commissions were $919 and $728 during the nine months ended September 30, 2023 and 2022, respectively. As of September 30, 2023 and December 31, 2022, contract acquisition costs of $576 and $290, respectively, were included within prepaid expenses and other current assets and $558 and $484, respectively, were included within other long-term assets on the condensed consolidated balance sheets. Capitalized contract costs are periodically reviewed for impairment.

Capitalized contract costs are amortized on a straight-line basis concurrently over the same period of benefit in which the associated revenue is recognized. Amortization expense related to capitalized contract costs included in selling, general, and administrative expense in the condensed consolidated statements of operations and comprehensive (loss) income was $558 and $511 during the nine months ended September 30, 2023 and 2022, respectively.

Income Taxes

The Company is a limited liability company. As a limited liability company, the Company has elected to be treated as a partnership for federal and state income tax reporting purposes. Accordingly, for federal and certain state income tax purposes, the Company's income will be included in the income tax returns of its members. In most jurisdictions, income tax liabilities and/or tax benefits are passed through to the individual members. The Company is subject to the North Carolina unincorporated business tax. Additionally, ASC Topic 740, *Income Taxes,* provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure, and transition. The Company has not identified any uncertain tax positions through the period ended September 30, 2023.

Advertising Expense

The Company expenses all advertising costs when incurred. Advertising expenses were $4,082 and $2,110 during the nine months ended September 30, 2023 and 2022, respectively. This is included within selling, general, and administrative costs on the condensed consolidated statements of operations and comprehensive (loss) income.

(In thousands)

Recently Adopted Accounting Pronouncements

In June 2016, the Financial Accounting Standards Board (the "FASB") issued ASU2016-13, Financial Instruments – Credit Losses (Topic 326) ("ASU 2016-13"), which requires entities to measure all expected credit losses for financial assets held at the reporting date based on historical experience, current conditions, and reasonable and supportable forecasts. This replaces the existing incurred loss model and is applicable to the measurement of credit losses on financial assets measured at amortized cost. ASU 2016-13 became effective for the Company for annual and interim reporting periods beginning after December 15, 2022. The adoption of this guidance did not have a material impact on the Company's condensed consolidated financial statements.

In March 2020, the FASB issued ASU 2020-03, "Codification Improvements to Financial Instruments" ("ASU 2020-03"). ASU 2020-03 improves and clarifies various financial instruments topics. ASU 2020-03 includes seven different issues that describe the areas of improvement and the related amendments to GAAP, intended to make the standards easier to understand and apply by eliminating inconsistencies and providing clarifications. The Company adopted ASU 2020-03 upon issuance, which did not have a material effect on the Company's current financial position, results of operations or financial statement disclosures.

In March 2020, the FASB issued ASU2020-04, "Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting", which provides optional expedients and exceptions for a period of time to ease the potential burden in accounting for the transition from reference rates that are expected to be discontinued. Regulators and market participants in various jurisdictions have undertaken efforts to eliminate certain reference rates and introduce new reference rates that are based on a larger and more liquid population of observable transactions. The amendments in this update apply only to contracts, hedging relationships and other transactions that reference LIBOR or another reference rate expected to be discontinued because of reference rate reform. The expedients and exceptions provided by the amendments do not apply to contract modifications made and hedging relationships entered into or evaluated after December 31, 2022, except for hedging relationships existing as of December 31, 2022, that an entity has elected certain optional expedients for and that are retained through the end of the hedging relationship. In January 2021, the FASB issued clarification on the scope of relief related to the reference rate reform. In December 2022, the FASB extended the period of time entities can use the reference rate reform relief guidance by two years which defers the sunset date from December 31, 2022 to December 31, 2024. The Company adopted this ASU in fiscal 2023 and it had no impact on its financial statements.

Recently Issued Accounting Standards Not Yet Adopted

In August 2020, the FASB issued ASU 2020-06," Debt—Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging - Contracts in Entity's Own Equity (Subtopic 815 - 40)" ("ASU 2020-06"). ASU 2020-06 simplifies the accounting for certain financial instruments with characteristics of liabilities and equity, including convertible instruments and contracts on an entity's own equity. The ASU is part of the FASB's simplification initiative, which aims to reduce unnecessary complexity in U.S. GAAP. The ASU's amendments are effective for fiscal years beginning after December 15, 2023, and interim periods within those fiscal years. The Company is currently evaluating the impact ASU 2020-06 will have on its financial statements.

In March 2023, the FASB issued ASU 2023-01, which amends the application of ASU 2016-02, Leases (Topic 842), related to leases with entities under common control, also referred to as common control leases. The amendments to this update require an entity to consider the useful life of leasehold improvements associated with common control leases from the perspective of the common control group and amortize the leasehold improvements over the useful life of the assets to the common control group, instead of the term of the lease. Any remaining value for the leasehold improvement at the end of the lease would be adjusted through equity. The standard is effective for fiscal years beginning after December 15, 2023, with early adoption permitted. The adoption is not expected to have a material impact on the Company's financial statements.

3. Fair Value Measurements

The following tables present the Company's fair value hierarchy for its assets and liabilities that are measured at fair value on a recurring basis and indicate the level within the fair value hierarchy of the valuation techniques the Company utilized to determine such fair value:

	Fair Value Measurements at September 30, 2023			
	Level 1	Level 2	Level 3	Total
Assets:				
Cash equivalents:				
Money market mutual funds	$ 146	$ —	$ —	$ 146
Short-term investments	—	71,148	—	71,148
	$ 146	$71,148	$ —	$71,294
Liabilities:				
Derivative liability	$ —	$ —	$4,548	$ 4,548
	$ —	$ —	$4,548	$ 4,548

(In thousands)

	Fair Value Measurements at December 31, 2022			
	Level 1	Level 2	Level 3	Total
Assets:				
Cash equivalents:				
Money market mutual funds	$ 515	$ —	$ —	$ 515
Short-term investments	—	69,448	—	69,448
	$ 515	$69,448	$ —	$69,963
Liabilities:				
Derivative liability	$ —	$ —	$ 971	$ 971
	$ —	$ —	$ 971	$ 971

The fair values of government money market funds have been measured on a recurring basis using Level 1 inputs, which are based on unadjusted quoted market prices within active markets. The short-term investments, including investments in fixed income securities, have been measured using Level 2 inputs based on alternative pricing sources and models utilizing observable market inputs.

The Company's Level 3 liability consists of an embedded derivative liability associated with the Company's convertible note (see Note 13 Debt). On October 17, 2022, (the "Closing Date"), the Company recorded the fair value of the embedded derivative liability associated with the convertible note. The embedded derivative liability is subject to remeasurement at the end of each reporting period, with changes in fair value recognized as a component of other income (expense). The fair value of derivative liability was determined using a Monte Carlo Simulation ("MCS") analysis, which uses Level 3 inputs. The MCS analysis contains inherent assumptions related to expected stock price volatility, estimated deSPAC date, risk-free interest rate, estimated market yield and the probability of a successful transaction. Due to the use of significant unobservable inputs, the overall fair value measurement of the derivative liability is classified as Level 3.

As of September 30, 2023, the fair value of the derivative liability was determined using the following assumptions:

	September 30, 2023
Exchange closing price	$ 10.66
Contractual conversion price	$ 10.00
Risk-free rate	5.6%
Estimated volatility	3.7%

The following table shows the change in the fair value of the derivative liability during the nine-month period ended September 30, 2023:

	Amount
Balance as of December 31, 2022	$ 971
Change in fair value of derivative instrument	3,577
Balance as of September 30, 2023	$ 4,548

There have been no changes in valuation techniques and related inputs. As of September 30, 2023 and December 31, 2022, there were no transfers between Level 1, Level 2 and Level 3.

4. Variable Interest Entities ("VIE")

As part of the organizational structure, the Company has established numerous single-asset LLC entities ("SAEs") each for the primary purpose of holding a single identifiable asset, individual planes / aircraft and leasing the asset to the Company through its wholly-owned subsidiaries. There are SAEs in which the Company has less than 100% equity interest (generally 50% or less) ("SAEs with Equity"). There are also SAEs in which the Company holds zero equity interests. Generally, in these instances, the Company initially acquired the aircraft, contributed the aircraft to the SAE, and subsequently sold 100% of the equity interests in the SAE and leased the aircraft back from the third-party in a sale-leaseback structured transaction ("SAEs without Equity"). The Company also has a 50% non-controlling ownership interest in an entity that operates an aircraft paint facility ("paint entity").

(In thousands)

Management analyzes the Company's variable interests including loans, guarantees, and equity investments, to determine if the Company has any variable interests in these entities. This analysis includes both qualitative and quantitative reviews. Qualitative analysis is based on an evaluation of the design and primary risk of these entities, their organizational structures including decision making abilities, and financial and contractual agreements. Quantitative analysis is based on these entities' equity interests and investment. The Company determined it has variable interests in the paint entity and SAEs with Equity as a result of its equity interest in these entities. For those SAEs without Equity that the Company has a (a) lease agreement for the aircraft which is the primary asset of these entities (the "lessor SAEs without Equity"), and (b) either (i) has a call option and/or (ii) a lessor put option for a fixed purchase price, it is determined that the Company has variable interests in the lessor SAEs without Equity.

The Company then determines whether the entities that the Company has variable interests in are VIEs. ASC Topic 810,*Consolidation*, defines a VIE as an entity that either (i) lacks sufficient equity to finance its activities without additional subordinated financial support from other parties; or (ii) whose equity holders, as a group, lack the characteristics of a controlling financial interest. Paint entity, SAEs with Equity and lessor SAEs without Equity are VIEs as they met at least one of the criteria above.

A VIE is consolidated by its primary beneficiary, which is defined as the party who has a controlling financial interest in the VIE through (a) power to direct the activities of the VIE that most significantly affect the VIE's economic performance, and (b) obligation to absorb losses or right to receive benefits of the VIE that could be significant to the VIE.

The Company uses qualitative and quantitative analyses to determine if it is the primary beneficiary of VIEs including evaluation of (a) the purpose and design of the VIE, and (b) activities that most significantly impact economic performance of the VIE. The Company also determines how decisions about significant activities are made in the VIE and the party or parties that make them. The Company determined that it is the primary beneficiary of these VIEs because it acts as manager of the entities' aircraft or retains control of the entity through terms in the leases, thereby giving it the power to direct activities of the entities that most significantly impact its economic performance. In addition, the Company either (a) has obligations to the losses of the VIEs and the right to receive benefits from the VIEs that could potentially be significant to the entities as a result of its equity interests, or (b) is deemed to have a controlling financial interest in the VIEs due to the other equity holders of these VIEs, as a group, lacking the characteristics of a controlling financial interest.

The Company's condensed consolidated balance sheets include the following assets and liabilities of these VIEs:

	September 30, 2023	December 31, 2022
Cash	$ 814	$ 1,041
Property and equipment, net	73,338	63,913
Long-term notes payable, current portion	3,227	5,841
Long-term notes payable, non-current portion	38,891	40,562

The Company's condensed consolidated statements of operations and comprehensive income (loss) include the following expenses of these VIEs:

	Nine Months Ended September 30,	
	2023	2022
Interest expense	$ 1,540	$ 1,201
Depreciation and amortization	5,767	5,277

The assets of the Company's VIEs are only available to settle the obligations of these entities. Creditors of each of the VIEs have no recourse to the general credit of the Company.

While the Company has no contractual obligation to do so, it may voluntarily elect to provide the VIEs with additional direct or indirect financial support based on its business objectives. The Company provided financial contributions to the VIEs in the amount of $9,208 and $14,379 during the nine months ended September 30, 2023 and 2022, respectively.

(In thousands)

5. Investments in Securities

The cost and fair value of marketable securities are as follows:

	September 30, 2023			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
U.S. treasury bill	$ 61,717	$ 53	$ (39)	$ 61,731
Municipal bond	9,287	5	(840)	8,452
Corporate/government bond	477	5	—	482
Other bonds	478	5	—	483
	$ 71,959	$ 68	$ (879)	$ 71,148

	December 31, 2022			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
U.S. treasury bill	$ 59,764	$ 319	$ —	$ 60,083
Municipal bond	9,205	40	(838)	8,407
Corporate/government bond	477	—	—	477
Other bonds	478	3	—	481
	$ 69,924	$ 362	$ (838)	$ 69,448

The aggregated unrealized losses on available-for-sale debt securities in the amounts of $811 and $476 have been recognized in accumulated other comprehensive loss in the Company's condensed consolidated balance sheets as of September 30, 2023 and December 31, 2022, respectively.

6. Inventory

Inventory consists primarily of finished goods and materials and supplies. Inventory, net of reserve consisted of the following:

	September 30, 2023	December 31, 2022
Aircraft parts	$ 5,351	$ 3,350
Materials and supplies	1,285	2,522
	$ 6,636	$ 5,872

7. Other Receivables

Other receivables consisted of the following:

	September 30, 2023	December 31, 2022
Rebate receivables	$ 513	$ 1,375
Federal excise tax receivable	2,492	2,506
Insurance settlement in process	906	931
Other	164	113
	$ 4,075	$ 4,925

(In thousands)

8. Prepaid Expenses and Other Current Assets

Prepaid expenses and other current assets consisted of the following:

	September 30, 2023	December 31, 2022
Prepaid vendor expenses	$ 2,026	$ 2,009
Prepaid insurance	154	1,894
Capitalized SPAC costs	4,033	1,233
Prepaid maintenance	211	181
Prepaid non-aircraft subscriptions	298	135
Deferred commission	576	413
	$ 7,298	$ 5,865

9. Property and Equipment, Net

Property and equipment, net consisted of the following:

	September 30, 2023	December 31, 2022
Transportation equipment	$ 317,487	$ 294,846
Office furniture and equipment	3,067	2,591
Leasehold improvements	—	137
Construction in progress	617	447
Deposits on transportation equipment	29,204	29,729
	350,375	327,750
Less: Accumulated depreciation and amortization	(82,747)	(75,057)
Property and equipment, net	$ 267,628	$ 252,693

Depreciation and amortization expense of property and equipment for the nine months ended September 30, 2023 and 2022 was $19,341 and $16,084, respectively. The net carrying value of disposals of long-lived assets as of September 30, 2023 and December 31, 2022 was $40,336 and $45,209, respectively.

Interest payments on borrowings to acquire aircraft are capitalized for the month of acquisition when the aircraft'sin-service date begins following the 15th of the month. (Interest payments for the month of acquisition would be expensed if the aircraft is placed into service before the 15th of the month). Capitalized interest was immaterial and $161 as of September 30, 2023 and December 31, 2022, respectively, and was included as a component of construction in progress prior to the equipment's in-service date.

(In thousands)

10. Intangible Assets

Intangible assets, net are as follows:

	September 30, 2023			
	Intangible Assets, Gross	Accumulated Amortization	Intangible Assets, Net	Weighted-Average Useful Life (in years)
Software - in service	$ 3,269	$ (1,624)	$ 1,645	3
FAA certificate	650	—	650	Indefinite
Total acquired intangible assets	$ 3,919	$ (1,624)	$ 2,295	

	December 31, 2022			
	Intangible Assets, Gross	Accumulated Amortization	Intangible Assets, Net	Weighted-Average Useful Life (in years)
Software - in service	$ 2,680	$ (898)	$ 1,782	3
FAA certificate	650	—	650	Indefinite
Total acquired intangible assets	$ 3,330	$ (898)	$ 2,432	

Amortization of intangible assets was $835 and $739 for the nine months ended September 30, 2023 and 2022, respectively. The Company did not record any impairment charges related to definite-lived intangible assets for the nine months ended September 30, 2023 and 2022.

The following is a schedule of estimated amortization expense for the following periods:

Fiscal Year	Amount
2023 (remaining)	$ 272
2024	968
2025	310
2026	95
	$ 1,645

11. Leases

The Company's lease arrangements generally pertain to real estate leases and aircraft. The Company leases real estate including hangars and office space under non-cancelable operating leases, ranging from two to thirty years. As of September 30, 2023 and December 31, 2022, the Company operated 42 and 30 aircraft, respectively, under non-cancelable operating leases ranging from two to seven years for charter flight services. For the Company's aircraft leases, in addition to the fixed lease payments for the use of the aircraft, the Company is also obligated to pay into aircraft engine reserve programs and additional variable costs which are expensed as incurred and are not included in the measurement of our leases which amounted to $8,481 and $11,321 for the nine months ended September 30, 2023 and 2022, respectively. During the nine months ended September 30, 2023, the Company negotiated the purchase of two aircraft under existing operating leases. Additionally, the Company entered into sale-leaseback transactions for ten aircraft during the same period. The sale-leaseback transactions qualified as a sale and the associated assets were removed from property and equipment, net and recorded as operating lease right-of-use assets on the Company's condensed consolidated balance sheets.

Vehicle leases typically have month-to-month lease terms and are classified as short-term leases.

(In thousands)

The following table sets forth information about the Company's operating lease costs for the nine months ended September 30, 2023 and 2022:

	Nine Months Ended September 30,	
	2023	2022
Operating lease cost:	$ 12,547	$ 9,748
Short-term lease cost	457	396
Total lease costs	$ 13,004	$ 10,144

The following table sets forth supplemental information about the leases for the nine months ended September 30, 2023 and 2022:

	Nine Months Ended September 30,	
	2023	2022
Cash paid for amounts included in the measurement of operating liabilities	$ 11,063	$ 9,459
ROU assets obtained in exchange for new operating lease liabilities	$ 36,105	$ 18,533
Weighted-average remaining lease term – operating leases	7.85	9.90
Weighted-average discount rate – operating leases	6.23%	5.69%

The Company's future lease payments under non-cancellable operating leases as of September 30, 2023 are as follows:

Fiscal Year	Amount
2023 (remaining)	$ 20,149
2024	18,280
2025	15,852
2026	11,126
2027	7,047
Thereafter	27,775
Total undiscounted cash flows	100,229
Less: Imputed interest	(23,785)
Present value of lease liabilities	$ 76,444

12. Accrued Expenses and Other Current Liabilities

Accrued expenses and other current liabilities consisted of the following:

	September 30, 2023	December 31, 2022
Accrued vendor payments	$ 11,542	$ 4,510
Accrued ERC payments	9,044	8,909
Accrued employee-related expenses	7,406	6,473
Accrued engine expenses	—	1,139
Accrued tax expenses	295	526
Other	522	220
	$ 28,809	$ 21,777

(In thousands)

Employee Retention Credit ("ERC")

The CARES Act, which was enacted on March 27, 2020, provides an ERC that is a refundable tax credit against certain employer taxes. The ERC was subsequently amended by the Taxpayer Certainty and Disaster Tax Relief Act of 2020, the Consolidated Appropriation Act of 2021, and the American Rescue Plan Act of 2021, all of which amended and extended the ERC availability and guidelines under the CARES Act. The goal of the ERC program is to encourage employers to retain and continue paying employees during periods of pandemic-related reduction in business volume even if those employees are not actually working, and therefore, are not providing a service to the employer.

Under the Act, eligible employers could take credits up to 70% of qualified wages with a limit of $7 per employee per quarter for the first three quarters of calendar year 2021. In order to qualify for the ERC in 2021, organizations generally have to experience a more than 20% decrease in gross receipts in the quarter compared to the same quarter in calendar year 2019 or its operations are fully or partially suspended during a calendar quarter due to "orders from an appropriate governmental authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes)" due to COVID-19. The credit is taken against the Company's share of Social Security Tax when the Company's payroll provider files, or subsequently amends the applicable quarterly employer tax filings.

As of September 30, 2023, the Company has received ERC payments totaling $9,044. The Company's legal counsel has issued a legal opinion that the Company, more likely than not, qualified for the ERC. However, it remains uncertain whether the Company meets the eligibility qualifications required for the ERC. Therefore, the balance was included in accrued expenses and other current liabilities in the condensed consolidated balance sheets as of September 30, 2023 and December 31, 2022 since the Company may potentially be required to repay the ERC.

13. Debt

The components of the Company's outstanding short-term loans payable consisted of the following:

	Weighted average interest rates	September 30, 2023	December 31, 2022
Short-term notes payable			
Bank 2	7.5%	14,400	3,756
Less: Unamortized debt issuance costs		(75)	(52)
Total short-term notes payable		$ 14,325	$ 3,704

In October 2022, the Company entered into a short-term loan agreement for a principal amount of $3,756 bearing interest at 6.5% and was initially maturing in April 2023. In April 2023, the Company extended its maturity date to October 2023. The loan is collateralized by the aircraft it financed and requires monthly interest payments. A balloon payment of all unpaid principal and accrued and unpaid interest is due upon maturity. The principal balance of $3,756 was paid off in September 2023.

In June 2023, the Company entered into two new short-term loan agreements in the amounts of $8,000 and $6,400 principal. Both loans bear an interest rate of 7.75%, with a maturity date of six months from the loan date.

As of September 30, 2023 and December 31, 2022, unamortized debt issuance costs were $75 and $52, respectively.

During the nine months ended September 30, 2023 and 2022, the Company recorded $100 and $233, respectively in amortization of debt issuance costs within interest expense in the condensed consolidated statements of operations and comprehensive income (loss). Total interest expense related to short-term debt was $571 and $642 for the nine months ended September 30, 2023 and 2022, respectively.

(In thousands)

The components of the Company's outstanding long-term debt consisted of the following:

	Interest Rates		September 30,	December 31,	Maturity Dates	
	September 30, 2023	December 31, 2022	2023	2022	September 30, 2023	December 31, 2022
Long-term notes payable with banks for the purchase of aircrafts						
Bank 1	4.0% - 5.5%	4.0% - 5.5%	$ 17,305	$ 24,275	Dec 2023 - Sep 2026	Aug 2023 - Sep 2026
Bank 2	4.0% - 6.3%	4.0% - 6.3%	14,211	15,518	Dec 2025 - Jun 2028	Jun 2023 - Nov 2027
Bank 3	3.5% Fixed - 2.3% + SOFR**	3.5% Fixed - 2.3% + LIBOR	7,980	8,721	Oct 2023 - Oct 2026	Apr 2023 - Oct 2026
Bank 4	2.9% + SOFR**	2.8% + LIBOR	4,186	4,440	Sep 2024 - Dec 2024	Sep 2024 - Dec 2024
Bank 5	5.3% - 6.0%*	5.3% - 6.0%*	3,873	4,204	Jul 2030 - Sep 2030	Jul 2030 - Sep 2030
Bank 6	5.4%	5.4%	1,912	2,114	Jan 2024	Jan 2024
Bank 7	4.0%	4.0%	1,127	1,320	Sep 2027	Sep 2027
Long-term notes payable with financial institutions for the purchase of aircrafts						
Financial Institution 1	0.25% + Schwab Loan Rate	5.3%	3,380	3,650	Dec 2027	Dec 2027
Financial Institution 2	3.6% - 7.0%	3.6% - 7.0%	9,905	17,882	Mar 2026 - Jun 2027	Mar 2026 - Jun 2027
Financial Institution 3	9.0%	n/a	22,852	-	Sep 2033	n/a
Credit facility with financial institutions for the purchase of aircrafts	1.3% + SOFR** -	2.3% + LIBOR -				
Financial Institution 4	2.8% + SOFR**	2.8% + SOFR**	86,394	32,153	See disclosure below	See disclosure below
Convertible Notes	10.0%	10.0%	93,384	86,816	See disclosure below	See disclosure below
Other long-term debt payable						
EID loan			118	122	See disclosure below	See disclosure below
Long-term debt from VIEs			42,118	46,403		
Total Long-term notes payable			308,745	247,618		
Less: Unamortized debt issuance costs and debt discount			(1,045)	(1,717)		
Less: current portion			(84,839)	(23,581)		
Long-term notes payable, non-current portion			$ 222,861	$ 222,320		

* The payment terms dictate that the Note shall bear interest at a rate equal to the Prime Rate plus 275 basis points with an initial interest rate set at 6% based on the Prime Rate and Loan Spread at the time of the agreement. The interest rate is to be adjusted every 5 years and be based on the Prime Rate published as of the date plus the Loan Spread.

** SOFR is defined as "Secured Overnight Financing Rate"

The Company (the "borrowers") routinely enters into long-term loan agreements with various lenders for the purpose of financing purchases of aircraft. These loans usually have an initial term between 2 to 15 years and sometimes the borrowers negotiate with the lenders to extend the maturity date at the end of the initial term. The Company will refinance as needed to meet its obligations as they become due within the next 12 months. The Company has maintained a positive relationship with the lenders and has not historically had any difficulty refinancing these debt obligations. Based on historical experience and the fact that the Company has not suffered any decline in creditworthiness, it expects that cash on hand and cash earnings will enable it to secure the necessary refinancing. Amendments are executed at times when interest rates and terms are changed. Under these long-term loan agreements, these borrowers usually pay principal and interest payments each month, followed by a balloon payment of all unpaid principal and accrued and unpaid interest due upon maturity, and when applicable, a loan origination fee upon execution. Additionally, late payments are usually charged a 5% penalty fee (each individual loan agreement varies). Each note payable is collateralized by the specific aircraft financed and is guaranteed by the owners of the borrowers. Debts are usually satisfied when the financed aircraft are sold.

The lender may impose a restriction that the outstanding balance of the note may not exceed a percentage of the retail value of the collateral. In the event the outstanding value of the loan exceeds the percentage threshold of the collateralized aircraft, the borrowers may be required to make a payment in order to reduce the balance of the loan. Pursuant to the loan agreements, the borrowers must maintain certain debt service ratios (such as cash flow to leverage or certain EBITDA to total borrowings) specific to each lender as long as the borrowers hold outstanding loans. There are approximately forty separate loan agreements (each loan agreement includes the initial agreement and amendments if applicable) with note payable balances outstanding included in the condensed consolidated balance sheets as of September 30, 2023 and December 31, 2022, respectively.

(In thousands)

As of September 30, 2023 and December 31, 2022, unamortized debt issuance costs were $165 and $217 for long-term notes payable (excluding convertible note), respectively.

During the nine months ended September 30, 2023 and 2022, the Company recorded $55 and $64, respectively, in amortization of the debt issuance costs within interest expense in the condensed consolidated statements of operations and comprehensive income (loss). Total interest expense related to long-term debt (excluding convertible note) was $5,931 and $2,553 for the nine months ended September 30, 2023 and 2022, respectively.

The table below presents the Company's contractual principal payments (not including debt issuance costs) as of September 30, 2023 under then-outstanding long-term debt agreements in each of the next five calendar years (does not include VIE loans):

Fiscal year	Amount
2023 (remaining)	$ 9,900
2024	79,195
2025	19,437
2026	23,084
2027	23,886
2028 and beyond	111,125
	266,627
Long-term notes payable from VIE	42,118
Total long-term notes payable	$308,745

Credit Facility (term loan)

In August 2018, the Company entered into a term loan agreement with a financial institution (the "Lender") to provide a term loan with a maximum borrowing amount of $12,255, each borrowing considered a loan with a separate promissory note (the "Credit Facility"). Each term loan will be used to finance the purchase of aircraft and shall not exceed certain appraised value of the aircraft that is being financed.

Interest will accrue on the unpaid principal balance at a rate equal to the Overnight LIBOR-Based Rate (a per annum rate of interest which is equal to the greater of: (i) the floor rate 2.25%, and (ii) the sum of Overnight LIBOR plus 2.25% Overnight LIBOR Margin) at the execution date of the promissory note. Interest on each loan will be paid in arrears on the same day of each month, commencing on the one-month anniversary of the promissory note. In addition to the interest payments, a principal payment of each loan will be paid monthly based on an amortization schedule of twelve years. The entire remaining principal balance of the loan, plus all accrued but unpaid interest shall be due and payable on the fifth-year anniversary of the promissory note (the "Maturity Date"). Any installment of principal or interest on the loans which are not paid when due shall bear a default interest rate equal to the lesser of (i) the applicable LIBOR-based rate plus 3% per annum, or (ii) the highest rate then permitted by applicable law. A late charge of 5% of any payment will be imposed on any regularly scheduled payment not received by the Lender on or before 15 days from the date such payment is due.

The Lender has the right to have any financed aircraft appraised during any outstanding obligations, at the Company's sole cost and expense. In the event the loan is revealed to have a value greater than a certain percentage of the aircraft, the Company must make a mandatory repayment of the applicable loan to an amount that will reduce the loan to be less than the required percentage of the applicable appraised value. Pursuant to the term loan agreement, the Company must maintain a certain debt service coverage ratio (the ratio calculated by dividing EBITDA and sum of all loan payments), tested annually. There is also an optional prepayment clause which specifies that the Company may prepay any loans in whole or in part, and all prepayments of principal shall include interest accrued to the date of the prepayment on the principal amount being prepaid.

The Credit Facility contains clauses requiring the Company to maintain their limited liability companies' existence and to not permit any of the subsidiaries to liquidate, dissolve, change their names, or consolidate with other corporations without prior consent of the Lender. The original loan agreement states that the Company may not re-borrow any amounts repaid to the Lender. The term loan is collateralized by substantially all assets of the borrower and initially expires August 2019. The Credit Facility also contains other customary covenants, representations and events of default.

In August 2019, the Company entered into the First Amendment of the original term loan agreement which increased the maximum available borrowings of the Credit Facility to $22,255 and extended the maturity date to November 2020. The First Amendment also amended the covenant to require the Company to maintain a certain Fixed Charge Coverage ratio tested on the date immediately preceding each borrowing and upon receipt of quarterly financial statements.

In November 2020, the Company entered into the Second Amendment of the term loan agreement which increased the maximum available borrowings of the Credit Facility to $27,250 and extended the maturity date to November 2022.

In September 2022, the Company entered into the Third Amendment of the term loan agreement which increased maximum available borrowings of the Credit Facility to $32,250 and extended the maturity date to September 2024. The Third Amendment also states that the Company may repay any outstanding loan at any time and any amounts so repaid may be reborrowed, up to the Maximum Loan Amount at the time of such borrowing. The Third Amendment also amended the interest rate terms and provided the option to elect a rate per year equal to SOFR-Based Rate or the Prime-Based Rate. The Company elected to utilize the SOFR-Based Rate upon execution of the amendment and continued to pay interest based on the SOFR-Based Rate as of September 30, 2023.

As of September 30, 2023 and December 31, 2022, the aggregate outstanding balances on the term loan were $29,854 and $32,153, respectively, maturing from October 2023 to September 2027. As of September 30, 2023 and December 31, 2022, the Company had approximately $2,396 and $97 additional available borrowing capacity under the term loan.

Credit Facility (Revolving Line of Credit)

In March 2023, the Company entered into a revolving uncommitted line of credit loan with the lender (the "LOC Master Note"). The LOC Master Note provides a line of credit of up to $60,000 and the Company may request one or more loans from time to time until the scheduled maturity date of March 9, 2024 ("Maturity Date"). The loan is collateralized by the Company's investment accounts with the financial institution.

At the Company's option, the interest rate on term loans drawn from the LOC Master Note is equal to either the Prime-Based Rate, defined as the greater of 1.25% or the prime rate minus 1.88%, or the Daily Simple SOFR-Based Rate, defined as the greater of 1.25% or the Daily Simple SOFR plus 1.25% ("Interest Rate Option"). The Company agrees to pay accrued interest monthly on the 9th day of each month, beginning with the first of such dates to occur after the date of the first Loan, at maturity of this note, and upon payment in full, whichever is earlier or more frequent. After maturity, whether by acceleration or otherwise, interest shall be payable upon demand. The Company may prepay any principal bearing interest at any Interest Rate Option in whole or in part without breakage fee, penalty or premium; provided, however, that if a Swap Agreement with a Daily Simple SOFR-Based Rate is in effect between Lender and the Company in connection with a Loan made pursuant to this LOC Master Note, any applicable swap breakage fees, penalties, premiums and costs will apply. There is no Swap Agreement in place as of September 30, 2023.

The LOC Master Note contains customary representations and warranties and financial and other affirmative and negative covenants and is subject to acceleration upon certain specified events of default, including failure to make timely payments, breaches of certain representations or covenants, failure to pay other material indebtedness, failure to maintain the market value of the Collateral such that at all times it equals or exceeds the Minimum Liquidity Balance and certain other events of default.

All payments shall be made in immediately available funds and shall be applied first to accrued interest and then to principal; however, if an Event of Default occurs, Lender may in its sole discretion, and in such order as it may choose, apply any payment to interest, principal and/or lawful charges and expenses then accrued.

The Company drew an initial $44,527 principal amount in March 2023, with the selected interest option of SOFR plus 1.25%. In April and September 2023, the Company drew additional $3,300 and $8,713 principal amounts, respectively, under the LOC Master Note with the selected interest option of SOFR plus 1.25%. The principal amount drawn in April was distributed as an equity distribution. As of September 30, 2023, the Company has an outstanding balance on the LOC Master Note of $56,540 with the selected interest option of SOFR plus 1.25%.

Debt Covenants

Financial covenants contained in the debt borrowings mandate that the Company maintains certain financial metrics, including, but not limited to, debt service coverage ratios, fixed charge cover ratios, or cash flow cover ratios. If LGM is unable to maintain the financial metric, it is a breach of the debt covenant and is considered an event of default. An event of default can result in all loans and other obligations becoming immediately due and payable, including the advance of any sums necessary to cure the event of default, allowing the lenders to seize the collateralized assets, aircraft and the debt agreements being terminated. As of the year ended December 31, 2022, the Company was not in compliance with certain financial covenants and obtained waiver request letters from the various lenders. Pursuant to the waiver letters, the lenders agreed to waive the financial covenants for the year ended December 31, 2022. There is only one lender that requires quarterly financial covenants. The Company was not in compliance with this financial covenant and obtained a waiver request letter from the lender. Pursuant to the waiver letter, the lender agreed to waive the financial covenant for the nine months ended September 30, 2023.

Convertible Note

On the Closing Date, LGM entered into an Equity Purchase Agreement ("EPA") with an acquisition corporation to merger through a special purpose acquisition corporation ("SPAC"). In combination with the EPA, LGM entered into a Senior Subordinated Convertible Note agreement with an investor ("Noteholder"). Pursuant to the convertible note agreement, LGM borrowed and agreed to repay the Noteholder a principal amount of $50,000, which can be increased to a maximum borrowing of $85,000. On October 28, 2022, the Company requested and received the additional $35,000 incremental note funding, bringing the total borrowing amount to $85,000 ("Convertible Note").

The Convertible Note accrues interest daily at the applicable rate which is 10% prior to the De-SPAC Termination Event (defined as the occurrence of the termination of EPA) and 15% after the De-SPAC Termination Event. Before the De-SPAC Termination Event, the interest is payable in kind ("PIK", instead of paying cash, accrued interest will be added to the outstanding principal balance and will be deemed paid) annually on the anniversary of the Convertible Note's Closing Date. After the De-SPAC Termination Event, all accrued and unpaid interest becomes due and payable in cash in arrears on the last day of the first calendar month following the De-SPAC Termination and continuing monthly until the Convertible Note is paid. In addition, in the event of a De-SPAC Termination Event, the outstanding principal balance of the Convertible Note including PIK amounts becomes payable in a monthly amount equal to the outstanding obligation divided by 24 months.

The maturity date of the Convertible Note is defined as the first to occur of (a) the De-SPAC Completion Exchange Closing, which will satisfy in full such repayment obligation and (b) the two (2) year anniversary of the first De-SPAC Termination Event occurring after the Closing Date. No amount repaid or prepaid under this Convertible Note may be reborrowed and LGM is not permitted to prepay the Convertible Note without consent of the holders of a majority interest of shares which exceed fifty percent ("Majority Noteholders").

At any time following the De-SPAC Termination Event that any Event of Default has occurred, all outstanding obligations under the Convertible Note will bear interest at the rate of 17%. The events of default constitute typical default events such as failure to pay, breach of representations and warranties, bankruptcy, and breaches of covenants. Affirmative covenants include providing financial information to the Noteholder, maintaining the Company's property, discharging its payment obligations, and complying with applicable laws. Negative covenants state the borrower will not incur any debt constituting senior obligations or other debt, incur additional liens except securing senior obligations, engage in a merger, declare or pay a dividend, dispose of property or sell equity interests except in the normal ordinary course of business transactions.

Upon the De-SPAC closing, the Convertible Note will be automatically converted for the number of shares of the SPAC's Class A common stock, par value $0.0001 per share, equal to the quotient of (a) the aggregate borrowings under the Convertible Note divided by (b) the De-SPAC completion exchange price, satisfying the repayment obligation.

The Company assessed all terms and features of the Convertible Note in order to identify any potential embedded features that would require bifurcation. As part of this analysis, the Company assessed the economic characteristics and risks of the Convertible Note, including the conversion, put and call features. In consideration of this provision, the Company concluded the conversion feature required bifurcation as a derivative. The fair value of the conversion feature derivative was determined based on the difference between the fair value of the Convertible Note with the conversion option and the fair value of the Convertible Note without the conversion option. The Company determined that the fair value of the derivative upon issuance of the Convertible Note was $1,441 and recorded this amount as a derivative liability and the offsetting amount as a debt discount as a reduction to the carrying value of the Convertible Note on the Closing Date. The Company recognized expense of $3,577 related to the change in fair value of derivative liability within other income (expense) for the nine months ended September 30, 2023 in the condensed consolidated statements of operations and comprehensive (loss) income.

As of September 30, 2023 and December 31, 2022, unamortized debt issuance costs related to the Convertible Note were $880 and $1,500, respectively. During the nine months ended September 30, 2023, the Company recorded $610 in amortization of the debt issuance costs and $6,567 related to the PIK interest expense within interest expense in the condensed consolidated statement of operations and comprehensive (loss) income. The effective interest rate used is 13.6% and 14.3% as of September 30, 2023 and December 31, 2022.

Paycheck protection program ("PPP") loans

In response to the coronavirus (COVID-19) outbreak in 2020, the U.S. federal government enacted the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") that, among other economic stimulus measures, established the PPP to provide small business loans.

In January 2021, the Company entered into an additional PPP loan agreement for approximately $339. The PPP loan bears a fixed interest rate of 1% over a five-year term, is guaranteed by the U.S. federal government and does not require collateral. The loans may be forgiven, in part or whole, if the proceeds are used to retain and pay employees and for other qualifying expenditures.

(In thousands)

During 2021, the Company used all of the 2021 PPP loan proceeds to pay for qualified expenses, 100% of which were used to pay for payroll-related expenses. The Company submitted its application and supporting documentation for forgiveness to its bank, which submitted the application and supporting documentation to the Small Business Administration ("SBA").

The balance on the PPP Loan was $339 and is included in the other non-current liability in the condensed consolidated balance sheets as of December 31, 2022. The loan was forgiven in April 2023 including all accrued and unpaid interest. During the nine months ended September 30, 2023, the Company recognized loan forgiveness of $339 as other income.

Economic Injury Disaster Loans ("EID")

In August of 2020, the Company executed the standard loan documents required for securing loans offered by the SBA under its EID loan assistance program and received the loan proceeds of $122. The proceeds from the EID Loan must be used for working capital. The EID Loan has a thirty-year term and bears interest at a rate of 3.75% per annum with monthly principal and interest payments being deferred for 12 months after the date of disbursement. On March 11, 2021, the American Rescue Plan Act of 2021 was enacted, which extended the first due date for repayment of EIDLs made in 2020 from 12 months to 24 months from the date of the note. The EID loan may be prepaid at any time prior to maturity with no prepayment penalties. The Loan Authorization and Agreement and the note executed by the Company in connection with the EID Loan contains events of default and other provisions customary for a loan of this type and the EID loan is secured by a security interest on all of the Company's assets.

14. Other Non-Current Liabilities

Other non-current liabilities consisted of the following:

	September 30, 2023	December 31, 2022
Guaranteed revenue program deposits	$ —	$ 37,500
Fractional ownership deposits	10,872	3,636
PPP loan	—	339
Other	27	28
	$ 10,899	$ 41,503

15. Members' Equity and Noncontrolling Interests

Membership Interest

Pursuant to the LGM Operating Agreement, which was adopted in October 2011, LGM has a single class of membership interests.

Members are not required to make additional capital contributions in excess of their respective initial capital contributions unless the Company is unable to borrow funds on reasonable terms necessary to operate in its normal manner.

Allocations of Net Profits and Net Losses

For financial accounting and tax purposes, the Company's net profits or net losses shall be determined on an annual basis and shall be allocated to the members in proportion to each member's percentage interest. Any elections or other decisions relating to such allocations shall be made by the members in any manner that reasonably reflects the purpose and intention of the Company's amended and restated operating agreement. If any allocation of losses would cause a member to have an adjusted capital account deficit, those losses instead shall be allocated to the other members pro rata. Those losses will be offset first in subsequent years to the extent of income.

Voting Rights

Each member shall be entitled to vote at any and all meetings of the members of the Company, or by written consent in lieu thereof, on all propositions submitted to vote in relative proportion to their percentage interests.

(In thousands)

Liquidation

In the event of liquidation, whether voluntary or involuntary, members are entitled to receive all remaining assets of the Company available for distribution to its members in relative proportion to their percentage interests.

Noncontrolling Interest

The Company held a controlling interest in several entities that are not wholly-owned as described above (see Note 4 VIE) and net income or net loss of such entities is allocated on a straight percentage basis based on the given terms of each entity's operating agreement (see percentage below). Net loss attributable to noncontrolling interests for the nine months ended September 30, 2023 and 2022 was $6,762 and $6,632, respectively.

As of September 30, 2023, the noncontrolling interests in the Company's consolidated entities are comprised of the following (11 entities):

Entities - Major Owner	Noncontrolling Interest	LGME's ownership	Total
Entities 1-3	99%	1%	100%
Entity 4	95%	5%	100%
Entity 5	77%	23%	100%
Entity 6	75%	25%	100%
Entity 7	70%	30%	100%
Entity 8	68%	32%	100%
Entity 9	67%	33%	100%
Entity 10	58%	42%	100%
Entity 11	52%	48%	100%

On July 1, 2023, the Company entered into an agreement with the noncontrolling interests of certain controlled and consolidated aircraft leasing entities to exchange ownership interests involving sixteen aircraft and their related entities. The purpose of the transactions was to give the Company 100% ownership of certain aircraft. These transfers are accounted for as equity transactions and no gain or loss was recognized during the nine months ended September 30, 2023. These transfers are included within exchanges of aircraft ownership interests on the condensed consolidated statements of members' (deficit) equity. The carrying amounts of the assets and liabilities of the consolidated aircraft leasing entities are not changed. The carrying amounts of the noncontrolling interests are adjusted to reflect the change in the ownership interests of each consolidated aircraft leasing entity.

As of December 31, 2022, the noncontrolling interests in the Company's consolidated entities are comprised of the following (22 entities):

Entities - Major Owner	Noncontrolling Interest	LGME's ownership	Total
Entities 1-4	99%	1%	100%
Entity 5	75%	25%	100%
Entity 6	68%	32%	100%
Entity 7	67%	33%	100%
Entities 8-9	58%	42%	100%
Entities 10-22	52%	48%	100%

16. Revenue

Disaggregation of Revenue

The following table disaggregates revenue by service type and the timing of when these services are provided to the member or customer:

	Nine Months Ended September 30,	
	2023	2022
Services transferred at a point in time:		
Flights	$ 230,146	$ 233,812
Services transferred over time:		
Memberships	4,138	2,929
MRO	3,032	810
Fractional ownership purchase price	2,081	78
	$ 239,397	$ 237,629

(In thousands)

Transaction Price

The transaction prices for each of the primary revenue streams are as follows:

- Jet Club and Charter – Membership fees (less credits issued), and flight related charges based on trips flown
- Guaranteed Revenue Program – Fleet minimums with additional charges for flight services over the guarantee
- MRO – Time and materials incurred for services performed
- Fractional Ownership – The portion of fractional interest purchase price allocated to revenue, and flight related charges based on trips flown

The following tables provide a roll forward of deferred revenue:

	Amount
Balance as of December 31, 2022	$ 60,602
Revenue recognized	90,582
Revenue deferred	(66,867)
Balance as of September 30, 2023	$ 84,317

	Amount
Balance as of December 31, 2021	$ 32,795
Revenue recognized	78,862
Revenue deferred	(60,617)
Balance as of September 30, 2022	$ 51,040

The increase in deferred revenue at September 30, 2023 compared to December 31, 2022 is due to increased customer billings for services relating to timing of satisfaction of the Company's performance obligations.

17. Commitments and Contingencies

Legal Proceedings

flyExclusive Litigation

On June 30, 2023, flyExclusive served Wheels Up Partners, LLC ("WUP") a Notice of Termination of the parties' Fleet Guaranteed Revenue Program Agreement, dated November 1, 2021 (the "GRP Agreement") following material breaches of the GRP Agreement by WUP, including WUP's failure to pay outstanding amounts owed to flyExclusive under the GRP Agreement. Subsequently, on July 5, 2023, WUP filed a lawsuit against flyExclusive in the United States District Court for the Southern District of New York, alleging that flyExclusive breached the GRP Agreement and the implied duty of good faith and fair dealing therein by wrongfully terminating the GRP Agreement. WUP contends that flyExclusive did not have a right to terminate the GRP Agreement, that the termination was thus ineffective, and instead constituted a material breach of the GRP Agreement. WUP alleges this gave WUP the right to terminate the GRP Agreement, which WUP alleges it has done. The complaint seeks compensatory damages in an unspecified amount and attorney's fees and costs. flyExclusive plans to defend this unjustified action by WUP vigorously. The Company is in the process of evaluating the impact of this event and an estimate cannot be made at this time. See Note 2 for additional details of the Guaranteed Revenue Program.

(In thousands)

Other Litigation

The Company is subject to certain claims and contingent liabilities that arise in the normal course of business. While we do not expect that the ultimate resolution of any of these pending actions will have a material effect on our consolidated results of operations, financial position or cash flows, litigation is subject to inherent uncertainties. As such, there can be no assurance that any pending legal action, which we currently believe to be immaterial, does not become material in the future.

Repurchase Contingencies

The Company has entered into sale and leaseback transactions in the ordinary course of business (see Note 4 VIE), and the Company has certain repurchase contingencies at the option of the lessors. These transactions typically require the aircraft lessor to provide the Company with formal notice of the exercise of the put option associated with the lease no later than 60 or 90 days in advance of the end of the lease term, with the aircraft repurchase to occur at the end of the lease term. Each lease with an associated put option has a lease term of typically 5 to 10 years from the date the aircraft is added by the FAA to the Company's Charter Certificate Operation Specifications, and occasionally has a lease term beginning on the effective date of the lease agreement or the date the aircraft is delivered to the Company. Additionally, the put option purchase price is typically reduced dollar for dollar by the amount of each monthly payment or flight credit over the course of the lease term, but not reduced below a certain threshold.

The following is a schedule by years of future repurchase contingencies under the leases as of the nine months ended September 30, 2023:

Fiscal Year	Amount
2023 (remaining)	$ —
2024	5,479
2025	9,036
2026	33,965
2027	25,846
Thereafter	6,175
	$80,501

On August 26, 2021, the Company was issued formal notice from a lessor that it had exercised the end of term put option in connection with a leased aircraft. The Company is obligated to repurchase the aircraft in 2026 at the end of the lease term at the price of $3,450 less the dollar-for-dollar amount of each monthly payment made over the course of the lease term, but not reduced below $2,070 by application of such reduction.

18. Related Party Transactions

The Company regularly enters into related party transactions with entities associated with, and under control of, the majority owner of the Company. Management believes some transactions were conducted on terms equivalent to those prevailing in an arm's-length transaction. However, some amounts earned or that were charged under these arrangements were not negotiated at arm's length and may not represent the terms that the Company might have obtained from an unrelated third party. See below for a description of transactions with related parties.

Purchases from Related Parties

LGM Ventures, LLC ("LGMV") is an entity with the same ownership structure as the Company. Carolina Air Center, LLC, Crystal Coast Aviation, LLC, and Kinston Jet Center, LLC are subsidiaries of LGMV and sellers of fuel. During the nine months ended September 30, 2023 and 2022, the Company purchased a total of $1,550 and $1,666 in fuel from subsidiaries of LGMV, respectively. This fuel represents approximately 3% and 2% of the Company's total fuel purchases during the nine months ended September 30, 2023 and 2022, respectively.

Leases from Related Parties

Kinston Jet Center, LLC, Kinston Jet House, LLC, and LGM Auto, LLC are subsidiaries of LGMV and lessors of real property and equipment (such as trucks, trailers and vans). During the nine months ended September 30, 2023 and 2022, the Company incurred rent expense to subsidiaries of LGMV totaling $1,078 and $878, respectively. See Note 11 Leases for further details.

Payables to Related Parties

In relation to the fuel purchase and lease transactions, accounts payable to related parties on the condensed consolidated balance sheets totaled $0 and $72 as of September 30, 2023 and December 31, 2022, respectively. Accounts payable to related parties are recorded as an increase in equity and a decrease in accounts payable to related parties at closing. As of September 30, 2023 and 2022, the Company recognized an increase in equity related to related party payables of $1,801 and $3,919, respectively.

Sales to Related Parties

The Company allows owners of subsidiaries and lessor SAEs without Equity ("lessor VIEs") to charter flights at a reduced rate. During the nine months ended September 30, 2023 and 2022, the Company recorded $18,387 and $17,750 in charter flight revenue from owners of subsidiaries and lessor VIEs, respectively. During the nine months ended September 30, 2023 and 2022, the Company recorded $101 and $15 in revenue from related parties not considered owners of subsidiaries or lessor VIEs, respectively.

Receivables from Related Parties

Short term accounts receivable from related parties are comprised of these customer flight activity charges that exceed the prepaid balances of the respective customer's account and totaled $1,511 and $2,996 as of September 30, 2023 and December 31, 2022, respectively.

In addition, there are long-term accounts receivable from owners of subsidiaries and lessor VIEs on the condensed consolidated balance sheets that totaled $2,683 and $2,629 as of September 30, 2023 and December 31, 2022, respectively. Long-term accounts receivable from related parties are comprised of the receivable balance from aircraft sales offset by aggregate repurchase option prices at the end of the lease terms (the Company books this liability when the other party exercises its option and therefore LGM is obligated to repurchase the leased aircraft). See Note 11 Leases and Note 17 Commitments and Contingencies for further details.

Accounts receivable from related parties are recorded as a decrease in equity and a decrease in accounts receivable from related parties at closing. As of September 30, 2023 and 2022, the Company recognized a reduction of equity related to related party receivables of $977 and $3,912, respectively.

The Company occasionally makes accounts payable payments on behalf of LGMV. Related party receivables from LGMV are immaterial as of September 30, 2023 and December 31, 2022, respectively.

Notes Receivable from Non-controlling Interests

In the normal course of its business, LGM finances upfront third-party buyers of their SAEs and holds notes receivable from these buyers. Notes receivable from non-controlling interests is comprised of $2,468 of a related party's purchase of 99% ownership of a consolidated subsidiary and $2,440 of another related party's purchase of 99% ownership of a consolidated subsidiary as of September 30, 2023.

Notes receivable from non-controlling interests is comprised of $2,572 of a related party's purchase of 99% ownership of a consolidated subsidiary and $2,545 of another related party's purchase of 99% ownership of a consolidated subsidiary as of December 31, 2022.

Other Transactions with Related Parties

The Company is a guarantor to a term note, dated January 29, 2021, between Sea Jay, LLC and a financial institution where the initial principal balance is in the amount of $11,900. Sea Jay, LLC is wholly owned by LGM Ventures, LLC.

On September 14, 2023, the Company exercised its repurchase option on a 50% interest of an aircraftco-owned with a proposed Director, Peter Hopper, which resulted in the termination of an aircraft lease with DH Aviation, LLC and subsequent purchase of 50% of the underlying aircraft. This purchase option was settled with a cashless transaction, in which the Company received the aircraft interest in exchange for settling $825 of trade receivables the seller had with the Company. The nature of this transaction was agreed upon in the early stages of the relationship.

19. Defined Contribution Plan

The Company established the Fly Exclusive 401(k) Plan (the "401k Plan") under Section 401(k) of the Internal Revenue Code. Under the 401k Plan, employees (or "Participants") with greater than two months of service may contribute up to the lesser of $58 or 100% of their compensation per year subject to the elective limits as defined by IRS guidelines. The Company may make discretionary matching contributions in amounts equal to a uniform percentage or dollar amount of employees' elective deferrals each plan year. The Company is matching 50% of the first 8% of base compensation that participants contribute to the Plan. Vesting in the Company's contribution portion of their accounts is based on years of continuous service. A participant is 100% vested after 2 years of credited service.

Investment selections consist of mutual funds. The Company's contributions to the 401k Plan amounted to $1,000 and $598 for the nine months ended September 30, 2023, and 2022, respectively.

20. Subsequent Events

The Company has evaluated all events subsequent to September 30, 2023 and through January 3, 2024, which represents the date these condensed consolidated financial statements were available to be issued. The Company is not aware of any subsequent event that would require recognition or disclosure in the condensed consolidated financial statements other than those described below.

Senior Secured Notes

In December 2023, the Company issued $15,714 in principal amount of senior secured notes due in December 2024 in a private offering. The notes were issued with a stated rate of 14% and interest is payable monthly in arrears. The senior secured notes will mature one year from closing date, in which the full principal amount will be due, along with any accrued unpaid interest. The Company will use the proceeds from the issuance to fund aircraft purchases.

Long-Term Loan Agreement

In connection with the acquisition of a new aircraft in November 2023, the Company entered into a long-term promissory note in the amount of $7,617. The note bears a fixed interest rate of 9.45%, with a maturity date of ten years from the note date. The note was fully repaid in December 2023.

Business Combination

In December 2023, the Company completed a business combination with EG Acquisition Corp. ("EGA"). The business combination was accounted for as a reverse recapitalization in accordance with U.S. GAAP, with EGA treated as the acquired company for financial reporting purposes, and the Company, the accounting acquirer, has issued shares of stock for the net assets of EGA, with no goodwill or other intangible assets recorded.

Equity Transfer

In December 2023, the Company transferred 100% of the equity interests of a wholly owned subsidiary to LGMV. The subsidiary is an SAE whose aircraft has previously been used as flyExclusive's corporate jet. FlyExclusive will continue to lease the aircraft at a rate of $200 per month and will pay for all fixed and variable costs related to the operation of the aircraft.

Conversion of Convertible Note

Upon the closing of the business combination referred to above, the principal balance of the Convertible Note, including accumulated PIK interest, was converted into shares of the SPAC's Class A common stock. The number of shares was equal to the aggregate borrowings under the Convertible Note divided by the De-SPAC completion exchange price.

Exhibit 99.2

UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL INFORMATION

Capitalized terms appearing in this unaudited pro forma condensed combined financial information that are not defined within this Form 8-K are defined within the Equity Purchase Agreement exhibit attached to this Form 8-K.

Introduction

The following unaudited pro forma condensed combined financial information is provided to aid you in your analysis of the financial aspects of the Business Combination and adjustments for other material events. These other material events are referred to herein as "Material Events" and the pro forma adjustments for the Material Events are referred to herein as "Adjustments for Material Events."

The unaudited pro forma condensed combined financial information is based on the historical audited financial statements of EGA and the historical audited consolidated financial statements of LGM, as adjusted to give effect to the Transactions and Material Events. The unaudited pro forma condensed combined balance sheet as of September 30, 2023 gives pro forma effect to the Transactions and Material Events as if they had occurred on September 30, 2023. The unaudited pro forma condensed combined statement of operations for the year ended December 31, 2022 reflects adjustments assuming that any adjustments that were made to the unaudited pro forma condensed combined balance sheet as of September 30, 2023 are assumed to have been made on January 1, 2022 for the purpose of adjusting the unaudited pro forma condensed combined statement of operations. The unaudited pro forma condensed combined statement of operations for the nine months ended September 30, 2023 reflects adjustments assuming that any adjustments that were made to the unaudited pro forma condensed combined balance sheet as of September 30, 2023 are assumed to have been made on January 1, 2022 for the purpose of adjusting the pro forma condensed combined statement of operations.

The unaudited pro forma condensed combined financial information has been derived from and should be read in conjunction with:

- the accompanying notes to the unaudited pro forma condensed combined financial information;
- the historical audited financial statements of EGA for the year ended December 31, 2022, and the historical unaudited financial statements of EGA as of and for the nine months ended September 30, 2023, and the related notes included elsewhere in this proxy statement;
- the historical audited consolidated financial statements of LGM for the year ended December 31, 2022, and the historical unaudited financial statements of LGM as of and for the nine months ended September 30, 2023, and the related notes included elsewhere in this proxy statement;
- the sections entitled *"Management's Discussion and Analysis of Financial Condition and Results of Operations of EGA," "Management's Discussion and Analysis of Financial Condition and Results of Operations of LGM;"* and
- the other financial information relating to EGA and LGM included elsewhere in this proxy statement.

Description of the Business Combination

Pursuant to the Equity Purchase Agreement, following the Closing of the Business Combination, PubCo is organized in an umbrella partnership–C corporation ("Up-C") structure, in which substantially all of the assets of the combined company are held by LGM, and PubCo's only assets are its equity interests in LGM. At the Closing:

- A series of transactions occurred including the following: (a) EGA amended and restated its Amended and Restated Certificate of Incorporation to: (i) changed its name to "flyExclusive, Inc.," (ii) converted all then-outstanding Founder Shares into shares of PubCo Class A Common Stock, and (iii) authorized the issuance to the Existing Equityholders of PubCo Class B Common Stock, which carries one vote per share but no economic rights, and (b) replaced the Existing Bylaws with the PubCo Bylaws;

- The Existing Equityholders, LGM and PubCo, entered into the A&R Operating Agreement to: restructure the capitalization of LGM to (i) authorize the issuance of the number of LGM Common Units equal to the number of outstanding shares of PubCo Class A Common Stock immediately after giving effect to the Business Combination (taking into account any redemption of EGA Class A Common Stock and the conversion of the Bridge Notes to PubCo Class A Common Stock); and (ii) reclassify the existing LGM Common Units held by the Existing Equityholders into LGM Common Units;
- As consideration for issuing LGM Common Units to PubCo, PubCo contributed (or, in the case of the Bridge Note proceeds received by LGM, is deemed to have contributed) the Closing Date Cash Contribution Amount to LGM. Immediately after the contribution of the Closing Date Cash Contribution Amount, LGM paid the Transaction Expenses by wire transfer out of immediately available funds on behalf of LGM and EGA to those persons to whom such amounts are owed;
- Without any action on the part of any holder of an EGA Warrant, each EGA Warrant that was issued and outstanding immediately prior to the Closing was converted into a PubCo Warrant, exercisable for PubCo Class A Common Stock in accordance with its terms.

Agreements Entered into at Closing

At the Closing, LGM, PubCo and the Existing Equityholders entered into the A&R Operating Agreement.

At the Closing, PubCo, LGM, the Existing Equityholders and the TRA Holder Representative entered into the Tax Receivable Agreement. Pursuant to the Tax Receivable Agreement, PubCo is generally required to pay the Existing Equityholders 85% of the amount of savings, if any, in U.S. federal, state, local, and foreign taxes that are based on, or measured with respect to, net income or profits, and any interest related thereto that the tax group realizes, or is deemed to realize, as a result of certain tax attributes, including:

- tax basis adjustments resulting from taxable exchanges of LGM Common Units (including any such adjustments resulting from certain payments made by PubCo under the Tax Receivable Agreement) acquired by PubCo from an Existing Equityholder pursuant to the terms of the A&R Operating Agreement; and
- tax deductions in respect of portions of certain payments made under the Tax Receivable Agreement.

In addition, at the Closing, the Existing Equityholders, Sponsor and PubCo entered into the Stockholders' Agreement, a form of which is attached as Annex H to the definitive proxy statement filed with the SEC on November 13, 2023. Pursuant to the Stockholders' Agreement, among other things, the Existing Equityholders and Sponsor respectively agreed to vote each of their respective securities of PubCo that may be voted in the election of PubCo's directors in accordance with the provisions of the Stockholders' Agreement. At the Closing, the PubCo Board initially consists of seven directors. The equityholders of PubCo nominated directors as follows: the Sponsor, and its permitted transferees, by a majority of shares held by them, nominated, and the PubCo Board and the Existing Equityholders, and their permitted transferees, appointed and voted for, two members of the PubCo Board, initially designated pursuant to the Stockholders' Agreement as Gregg S. Hymowitz and Gary Fegel, and thereafter as designated by the Sponsor, and its permitted transferees, by a majority of shares held by them.

In addition, at the Closing, PubCo, the Existing Holders, and the New Holders entered into an A&R Registration Rights Agreement, pursuant to which PubCo granted the Existing Holders and New Holders certain registration rights with respect to the registrable securities of PubCo. Among other things, the A&R Registration Rights Agreement requires PubCo to register the shares of PubCo Class A Common Stock being issued in connection with the Closing of the Business Combination and any shares of PubCo Class A Common Stock issued upon the redemption of any LGM Common Units. Pursuant to the A&R Registration Rights Agreement, the Existing Holders holding at least a majority interest of the then-outstanding number of registrable securities held by the Existing Holders, or the New Holders holding at least a majority interest of the then-outstanding number of registrable securities held by the New Holders are entitled to, among other things, make a demand registration. Under no circumstances shall PubCo be obligated to effect more than an aggregate of three registrations pursuant to a demand registration by the Existing Holders, or more than an aggregate of five registrations pursuant to a demand registration by the New Holders, with respect to any or all registrable securities held by such holders. In addition, the Existing Holders and the New Holders are entitled to "piggy-back" registration rights to certain registration statements filed following the Business Combination. PubCo bears all of the expenses incurred in connection with the filing of any such registration statements.

Bridge Notes and Conversion of Bridge Notes into Equity in connection with the Closing of the Business Combination

In connection with the execution of the Equity Purchase Agreement, on October 17, 2022, LGM entered into a senior subordinated convertible note with an investor and, for certain limited provisions thereof, EGA, pursuant to which LGM borrowed an aggregate principal amount of $50.0 million at a rate of 10% per annum, payable in kind in additional shares of PubCo upon the Closing of the Business Combination. Interest is paid-in-kind ("PIK") as an addition to the principal balance on each anniversary of October 17, 2022, and upon the termination of the Equity Purchase Agreement in accordance with its terms.

On October 28, 2022, LGM entered into an Incremental Amendment with the Bridge Note Lenders on the same terms for an aggregate principal amount of $35.0 million, bringing the total principal amount of the Bridge Notes to $85.0 million in the aggregate.

Concurrently with the Closing, the Bridge Notes automatically converted into 9,550,274 shares of PubCo Class A Common Stock calculated as the quotient of (a) the total amount owed by LGM under the Bridge Notes (including accrued PIK interest of $10,502,740) of $95,502,740 divided by (b) $10.00 (subject to adjustment in certain instances, as described in the Bridge Notes). Unless otherwise consented to by the Bridge Note Lenders, the proceeds of the Bridge Notes were to be used primarily for the acquisition of additional aircraft and payment of expenses related thereto.

Material Events and Background Relevant to Material Events

On June 30, 2023, LGM served one of its customers, Wheels Up Partners, LLC ("WUP"), with a notice of termination of the parties' Fleet Guaranteed Revenue Program Agreement, dated November 1, 2021 (the "GRP Agreement") following material breaches of the GRP Agreement by WUP, including WUP's failure to pay outstanding amounts owed to flyExclusive under the GRP Agreement.

LGM's historical revenues for the last two fiscal years and subsequent interim period, both with and without revenue from WUP, are reflected in the table below.

(In thousands)	LGM Historical Revenue	Removal of GRP Revenue	Adjusted LGM Historical Revenue
Year Ended December 31, 2021	$ 208,277	$ (20,960)	$ 187,317
Year Ended December 31, 2022	$ 320,042	$ (123,104)	$ 196,938
Nine Months Ended September 30, 2023	$ 239,397	$ (66,916)	$ 172,481

As discussed in Note 2 of LGM's historical condensed consolidated financial statements for the year ended December 31, 2022, LGM manages its business as a single operating segment, charter aviation services, and it does not maintain measures of profitability such as operating loss or net loss at the level of an individual revenue channel or customer. Refer to the section of this proxy titled, "Risks Relating to LGM" as well as Note 17 of LGM's historical condensed consolidated financial statements for the nine months ended September 30, 2023 for additional information regarding the termination of the GRP Agreement with WUP.

On October 2, 2023, October 27, 2023 and November 28, 2023 EGA received $0.2 million, $0.2 million, and $0.4 million, respectively from the Sponsor under promissory notes. The notes did not bear interest and were payable in full on the earlier of (i) December 28, 2023 or (ii) the date on which an initial business combination is consummated. On December 18, 2023, the Sponsor entered into a promissory note with LGM, pursuant to which LGM has promised to pay (i.e., "assumed") the aggregate principal amount of $3.6 million owed initially by EGA to the Sponsor under the Sponsor and EGA promissory notes. The aggregate principal amount of $3.6 million under the promissory note between LGM and the Sponsor bears interest at a rate of 8.0% per annum payable by LGM on the eighteenth day of each month from January 1, 2024 through September 18, 2024.

In accordance with Schedule 4.10 of the Company Disclosure Schedules to the Equity Purchase Agreement, on December 15, 2023, LGM transferred 100% of the equity interests of its wholly-owned subsidiary, JS Longitude, LLC ("JS Longitude"), to LGM Ventures, LLC ("LGM Ventures"), an entity with the same ownership structure as LGM. JS Longitude's sole asset is a 2022 Cessna Longitude aircraft (and the debt related to the purchase of such aircraft) which has previously been used as flyExclusive's corporate jet. The transfer of JS Longitude was effectuated in two separate steps: (i) LGM assignment and transfer of 100% of the equity interests of JS Longitude to the Existing Equityholders and (ii) the Existing Equityholders subsequently assigning and transferring the JS Longitude equity interests to LGM Ventures. Pursuant to the terms of Mr. Segrave's employment agreement (see "Employment Agreement between LGM Enterprises, LLC and Thomas James Segrave, Jr., effective April 1, 2023."), flyExclusive will continue to lease the corporate jet from JS Longitude at a rate of $200,000 per month and will pay for the fixed and variable costs related to the operation of the corporate jet. The corporate jet will continue to be for Mr. Segrave's business and personal use.

During November 2023, LGM purchased an aircraft for total consideration of $9.5 million (the "Aircraft 1"). In connection with the purchase, LGM entered into a secured promissory note with a third-party, pursuant to which LGM borrowed an aggregate principal amount of $7.6 million with an interest rate of 9.45% per annum. The note specifies that monthly payments of principal and interest are due up until the initial maturity date of November 22, 2033. Debt issuance costs associated with the note totaled $15 thousand.

During December 2023, LGM entered into the Senior Note with an affiliate of the Sponsor, pursuant to which LGM borrowed an aggregate principal amount of $15.7 million with an interest rate of 14.0% per annum. The Note has an initial maturity date of December 1, 2024 and is subject to a non-refundable back-end fee of 1.0% of the initial principal balance, or $0.2 million. The outstanding principal, accrued and unpaid interest, and accrued and unpaid fees are due and payable on the maturity date. Debt issuance costs associated with the note totaled $0.7 million.

During December 2023, LGM utilized the proceeds received from the issuance of the Senior Note to repay, in full, the secured promissory note associated with the Aircraft 1 purchase. Additionally, during December 2023, LGM utilized the proceeds received from the issuance of the Senior Note to repay, in full, the secured promissory note associated with the purchase of an aircraft by LGM in September 2023 (the "Aircraft 2").

During December 2023, LGM borrowed $3.0 million under its line of credit for working capital purposes.

Subsequent to September 30, 2023, and through December 27, 2023 (the "Closing Date"), EGA's marketable securities held in trust account earned an additional $0.5 million in interest income.

The unaudited pro forma condensed combined financial information gives effect to the accumulation of PIK interest subsequent to September 30, 2023, through the Closing Date. The accumulation of PIK interest is reflected as an adjustment in the unaudited pro forma condensed combined balance sheet as of September 30, 2023.

On December 26, 2023, LGM, through a broker, purchased 75,000 shares of EGA Class A Common Stock for a total purchase price of $0.8 million. Simultaneously with the Closing of the Business Combination, all 75,000 shares of the then converted Pubco Class A Common Stock were granted to employees of LGM and deemed to be fully vested.

On December 26, 2023 and December 27, 2023, EGA and certain holders (the "Warrant Holders") of the Company's outstanding publicly traded warrants (the "Public Warrants") entered into Warrant Exchange Agreements (the "Warrant Exchange Agreements"), which were privately negotiated with the holders' party thereto. The Public Warrants were previously issued pursuant to the Company's public offering registered under the Securities Act of 1933, as amended (the "Securities Act"), pursuant to a prospectus dated May 25, 2021. Pursuant to the Warrant Exchange Agreements, the Warrant Holders agreed to exchange Public Warrants for shares of PubCo Class A Common Stock. As a result of the warrant exchange under the Warrant Exchange Agreements, a total of 1,694,456 EGA Public Warrants were exchanged for 372,780 shares of PubCo Class A Common Stock.

On December 26, 2023, EGA, LGM, and Mr. Segrave, Jr. entered into an agreement(the "Non-Redemption Agreement") with an unaffiliated third party pursuant to which such third party agreed not to redeem its shares of Class A common stock subject to possible redemption. In exchange for the foregoing commitment not to redeem such common stock, Mr. Segrave agreed to transfer to such investor an aggregate of 70,000 shares of Class A common stock of the Company, which were issued to Mr. Segrave upon the redemption of 70,000 LGM common units in connection with the Closing of the Business Combination. The redemption of 70,000 LGM common units immediately triggered the cancelation of 70,000 shares of voting, non-economic PubCo Class B Common Stock.

On December 27, 2023, the agreement for the fee to be paid to the underwriter in EGA's initial public offering upon the Closing of the Business Combination was amended. Under the original terms of the Underwriting Agreement, the underwriter was due $7.9 million in cash, which equated to 3.5% of the gross proceeds of the initial public offering. The amended terms of the Underwriting Agreement updated the consideration payable to underwriter to $500,000 in cash, which was paid at Closing, and 300,000 shares of Pubco Class A Common Stock, to be delivered in book-entry form no later than five (5) business days following the initial filing with the SEC of a registration statement subject to share registration within 60 days of the business combination. If the registration statement has not been declared effective by the SEC within 60 business days after the Closing of the Business Combination, then the amount of stock to be received by the underwriter shall be increased by 50,000 shares of Pubco Class A Common Stock per month on the first business day of each month until the registration statement is declared effective by the SEC.

Additionally, pursuant to a financial advisory engagement letter, BTIG was owed $1.5 million (the "Success Fee") payable to BTIG at Closing. At Closing, the parties agreed in principle that the Success Fee would be paid within 60 days of Closing (along with other amendments, including the addition of certain rights of first refusal).

UNAUDITED PRO FORMA CONDENSED COMBINED BALANCE SHEET
AS OF SEPTEMBER 30, 2023

(In thousands, except for share data)	EGA (Historical)	LGM (Historical)	Actual Redemptions Transaction Accounting Adjustments: Adjustments for Material Events	Notes	Other Transaction Accounting Adjustments	Notes	PubCo Pro Forma Balance Sheet
ASSETS							
Current assets							
Cash and cash equivalents	$ 455	$ 10,265	$ 345	3(bb)	$ 46,153	3(a)	$ 18,850
	—	—	(1,904)	3(dd)	(282)	3(n)	—
	—	—	15,000	3(ee)	(31,899)	3(e)	—
	—	—	(15,235)	3(ff)	(1,600)	3(g)	—
	—	—	3,000	3(gg)	(4,130)	3(i)	—
	—	—	(818)	3(jj)	—		—
	—	—	(500)	3(ll)	—		—
Accounts receivable, net	—	719	—		—		719
Account receivable related party- short term	—	1,511	—		—		1,511
Other receivables	—	4,075	—		—		4,075
Prepaid engine overhauls, current	—	14,110	—		—		14,110
Notes receivable - noncontrolling interests, current portion	—	296	—		—		296
Inventory	—	6,636	—		—		6,636
Investment in available-for-sale securities	—	71,148	—		—		71,148
Prepaid expenses and other current assets	65	7,298	—		(4,033)	3(g)	5,847
	—	—	—		2,517	3(i)	—
Total current assets	520	116,058	(112)		6,726		123,192
Marketable securities held in Trust Account	45,161	—	480	3(bb)	(46,153)	3(a)	—
	—	—	512	3(hh)	—		—
Forward purchase derivative asset	—	—	—		—		—
Notes receivable - noncontrolling interests, non-current portion	—	27,713	—		—		27,713
Non-current accounts receivable from related parties	—	2,683	—		—		2,683
Property and equipment, net	—	267,628	(22,931)	3(cc)	—		254,204
	—	—	9,507	3(dd)	—		—
Operating lease right-of-use assets	—	75,536	8,246	3(cc)	—		83,782
Intangible assets, net	—	2,295	—		—		2,295
Prepaid engine overhauls, non-current	—	36,881	—		—		36,881
Other long-term assets	—	557	—		—		557
Total assets	$ 45,681	$ 529,351	$ (4,298)		$ (39,427)		$531,307
LIABILITIES, REDEEMABLE EQUITY, AND STOCKHOLDERS'/MEMBERS' EQUITY (DEFICIT)							
Current liabilities:							
Accounts payable	$ 3,123	$ 21,895	$ —		$ 2,092	3(g)	$ 25,471
	—	—	—		(1,639)	3(i)	—
Excise tax payable	1,871	—	—		319	3(d)	2,190
Long-term notes payable, current portion	—	84,839	(1,488)	3(cc)	—		80,932
	—	—	478	3(dd)	—		—
	—	—	(2,897)	3(ff)	—		—
Due to related parties	282	—	—		(282)	3(n)	—
Deferred revenue, current	—	76,641	—		—		76,641
Operating lease liability, current portion	—	16,018	2,320	3(cc)	—		18,338
Accrued expenses and other current liabilities	—	28,809	—		971	3(g)	29,780
Short-term notes payable	—	14,325	15,000	3(ee)	2,517	3(i)	36,342
	—	—	3,000	3(gg)	—		—
	—	—	1,500	3(ll)	—		—
Income taxes payable	576	—	—		(576)	3(b)	—
Promissory note-related party	2,810	—	825	3(bb)	—		3,635
Total current liabilities	8,662	242,527	18,738		3,402		273,329
Long-term notes payable, non-current portion	—	222,861	2,119	3(aa)	(94,483)	3(f)	110,427
	—	—	(14,887)	3(cc)	—		—
	—	—	7,125	3(dd)	—		—
	—	—	(12,308)	3(ff)	—		—
Operating lease liability, non-current portion	—	60,426	5,926	3(cc)	—		66,352
Deferred revenue, non-current	—	7,676	—		—		7,676
Derivative liability	—	4,548	—		(4,548)	3(l)	—
Other non-current liabilities	—	10,899	—		—		10,899
Warrant liabilities	2,021	—	(289)	3(ii)	—		1,732
Deferred underwriting discount	7,875	—	(7,875)	3(ll)	—	3(i)	—
Total liabilities	18,558	548,937	(1,451)		(95,629)		470,415

See accompanying notes to the unaudited pro forma condensed combined financial information.

UNAUDITED PRO FORMA CONDENSED COMBINED BALANCE SHEET
AS OF SEPTEMBER 30, 2023

(In thousands, except for share data)	EGA (Historical)	LGM (Historical)	Actual Redemptions: Transaction Accounting Adjustments: Adjustments for Material Events	Notes	Other Transaction Accounting Adjustments	Notes	PubCo Pro Forma Balance Sheet
Temporary equity-Class A Common Stock subject to possible redemption, 4,231,829 and 22,500,000 shares at approximately $10.53 and $10.10 as of September 30, 2023 and December 31, 2022, respectively	44,561	—	—		(12,662)	3(h)	—
	—	—	—		(31,899)	3(e)	—
Redeemable noncontrolling interest	—	—	—		(15,277)	3(j)	(15,277)
Stockholders'/members' equity (deficit):							
LGM Enterprises, LLC members' equity (deficit)	—	(51,909)	(6,556)	3(cc)	58,465	3(m)	—
Accumulated other comprehensive loss	—	(811)	—		—		(811)
Non-controlling interests	—	33,134	—		—		33,134
Class A Common Stock, $0.0001 par value; 100,000,000 shares authorized; 5,624,000 and 0 shares issued and outstanding (excluding 4,231,829 and 22,500,000 shares subject to possible redemption) as of September 30, 2023 and December 31, 2022, respectively	—	—	—		—	3(c)	—
Class B Common Stock, $0.0001 par value; 10,000,000 shares authorized; 1,000 and 5,625,000 shares issued and outstanding as of September 30, 2023 and December 31, 2022, respectively	—	—	—		—	3(c)	—
PubCo Class A Common Stock, $0.0001 par value	—	—	—	3(ii)	—	3(h)	1
	—	—	—	3(kk)	—	3(c)	—
	—	—	—		1	3(f)	—
PubCo Class B Common Stock, $0.0001 par value	—	—	—	3(kk)	6	3(k)	6
Additional paid-in capital	—	—	322	3(ii)	(5,840)	3(g)	104,183
	—	—	96	3(jj)	12,662	3(h)	—
	—	—	5,875	3(ll)	(1,172)	3(i)	—
	—	—	—		95,502	3(f)	—
	—	—	—		15,277	3(j)	—
	—	—	—		(18,539)	3(k)	—
Accumulated deficit	(17,438)	—	(2,119)	3(aa)	(319)	3(d)	(60,344)
	—	—	—	3(ee)	(58,465)	3(m)	—
	—	—	(30)	3(ff)	(1,319)	3(i)	—
	—	—	512	3(hh)	(1,020)	3(f)	—
	—	—	(33)	3(ii)	4,548	3(l)	—
	—	—	(914)	3(jj)	576	3(b)	—
	—	—	—		18,533	3(k)	—
	—	—	—		(2,856)	3(g)	—
Total stockholders'/members' equity (deficit)	(17,438)	(19,586)	(2,847)		116,040		76,169
Total liabilities, redeemable equity (deficit), and stockholders'/members' equity (deficit)	$ 45,681	$ 529,351	$ (4,298)		$ (39,427)		$531,307

See accompanying notes to the unaudited pro forma condensed combined financial information.

UNAUDITED PRO FORMA CONDENSED COMBINED STATEMENT OF OPERATIONS
FOR THE YEAR ENDED DECEMBER 31, 2022
(In thousands, except share and per share data)

			Actual Redemptions				
	Year Ended December 31, 2022	Year Ended December 31, 2022	Transaction Accounting Adjustments				
(In thousands, except per share and weighted-average share data)	EGA (Historical)	LGM (Historical)	Adjustments for Material Events	Notes	Other Transaction Accounting Adjustments	Notes	PubCo Pro Forma Statement of Operations
Revenues*	$ —	$ 320,042	$ —		$ —		$ 320,042
Operating costs and expenses:							
Formation and operating costs	4,078	—	—		—		4,078
Cost of revenue	—	255,441	—		—		255,441
Selling, general and administrative	—	53,794	700	4(aa)	2,856	4(f)	62,100
	—	—	914	4(ff)	3,836	4(f)	—
Depreciation and amortization	—	23,114	102	4(aa)	—		23,759
	—	—	543	4(bb)	—		—
Total costs and expenses	4,078	332,349	2,259		6,692		345,378
Operating loss	(4,078)	(12,307)	(2,259)		(6,692)		(25,336)
Other income (expense):							
Interest income (expense)	—	(8,291)	260	4(aa)	1,816	4(c)	(9,597)
	—	—	(3,102)	4(cc)	(62)	4(f)	—
	—	—	(218)	4(ee)	—		—
Gain on sale of aircraft held for sale	—	15,333	—		—		15,333
Gain on leased right-of-use assets	—	143	—		—		143
Change in fair value of derivative liability	—	470	—		(470)	4(e)	—
Change in fair value of warrants	5,100	—	(33)	4(gg)	—		5,067
Trust interest income (loss)	3,245	—	—		(3,245)	4(a)	—
Gain (loss) on extinguishment of debt	—	—	(30)	4(dd)	(1,020)	4(d)	3,498
	—	—	—		4,548	4(h)	—
Other income	—	500	—		—		500
Total other income (expense)	8,345	8,155	(3,123)		1,567		14,944
Income (loss) before income taxes	4,267	(4,152)	(5,382)		(5,125)		(10,392)
Income tax benefit (expense)	(601)	—	—		2,160	4(g)	2,160
	—	—	—		601	4(i)	—
Net income (loss)	3,666	(4,152)	(5,382)		(2,364)		(8,232)
Net income attributable to redeemable noncontrolling interest	—	—	—		1,535	4(b)	1,535
Net loss attributable to noncontrolling interest	—	(10,200)	—		—		(10,200)
Net income (loss) attributable to EGA/LGM/PubCo	$ 3,666	$ 6,048	$ (5,382)		$ (3,899)		$ 433
Basic and diluted earnings per share, PubCo Class A Common Stock							$ 0.03
Basic and diluted weighted-average shares outstanding, PubCo Class A Common Stock							16,925,000 4(j)

* The pro forma adjustments below do not incorporate the impact related to the discontinuation of GRP from LGM's historical results. If we were to exclude the revenue associated with GRP, from LGM's historical results, it would have led to a decrease in pro forma revenue from $239.4 million to $172.5 million for the nine months ended September 30, 2023, from $320.0 million to $196.9 million, and from $208.3 million to $187.3 million for the years ended December 31, 2022 and December 31, 2021, respectively. As discussed in Note 2 of LGM's historical condensed consolidated financial statements for the year ended December 31, 2022, LGM manages its business as a single operating segment and it does not maintain measures of profitability such as operating loss or net loss at the level of an individual revenue channel or customer. Therefore, the proforma impact on operating loss and net loss cannot be quantified.

See accompanying notes to the unaudited pro forma condensed combined financial information

UNAUDITED PRO FORMA CONDENSED COMBINED STATEMENT OF OPERATIONS
FOR THE NINE-MONTHS ENDED SEPTEMBER 30, 2023
(In thousands, except share and per share data)

(In thousands, except per share and weighted-average share data)	Nine Months Ended September 30, 2023 EGA (Historical)	Nine Months Ended September 30, 2023 LGM (Historical)	Actual Redemptions: Transaction Accounting Adjustments: Adjustments for Material Events	Notes	Other Transaction Accounting Adjustments	Notes	PubCo Pro Forma Statement of Operations	
Revenues*	$ —	$ 239,397	$ —		$ —		$ 239,397	
Operating costs and expenses:								
Formation and operating costs	2,213	—	—		—		2,213	
Cost of revenue	—	193,564	—		—		193,564	
Selling, general and administrative	—	51,957	1,800	4(aa)	—		53,757	
Depreciation and amortization	—	20,176	241	4(aa)	—		20,824	
	—	—	407	4(bb)	—		—	
Total costs and expenses	2,213	265,697	2,448		—		270,358	
Operating income (loss)	(2,213)	(26,300)	(2,448)		—		(30,961)	
Other income (expense):								
Interest income	—	2,989	—		—		2,989	
Gain on forgiveness of CARES Act Loan	—	339	—		—		339	
Interest expense	—	(15,601)	915	4(aa)	6,567	4(c)	(8,119)	
Gain on aircraft sold	—	12,435	—		—		12,435	
Change in fair value of warrants	263	—	—		—		263	
Trust interest income (loss)	4,962	—	—		(4,962)	4(a)	—	
Change in fair value of derivative liability	—	(3,577)	—		3,577	4(e)	—	
Other expense	—	(736)	—		—		(736)	
Total other income (expense)	5,225	(4,151)	915		5,182		7,171	
Income (loss) before income taxes	3,012	(30,451)	(1,533)		5,182		(23,790)	
Income tax benefit (expense)	(1,011)	—	—		1,011	4(i)	591	
	—	—	—		591	4(g)	—	
Net income (loss)	2,001	(30,451)	(1,533)		6,784		(23,199)	
Net loss attributable to redeemable noncontrolling interest	—	—	—		(12,821)	4(b)	(12,821)	
Net loss attributable to non-controlling interests	—	(6,762)	—		—		(6,762)	
Net income (loss) attributable to EGA/LGM/PubCo	$ 2,001	$ (23,689)	$ (1,533)		$ 19,605		$ (3,616)	
Basic and diluted net loss per share, PubCo Class A Common Stock							$ (0.21)	
Basic and diluted weighted-average shares outstanding, PubCo Class A Common Stock							16,925,000	4(j)

* The pro forma adjustments below do not incorporate the impact related to the discontinuation of GRP from LGM's historical results. If we were to exclude the revenue associated with GRP, from LGM's historical results, it would have led to a decrease in pro forma revenue from $239.4 million to $172.5 million for the nine months ended September 30, 2023, from $320.0 million to $196.9 million, and from $208.3 million to $187.3 million for the years ended December 31, 2022 and December 31, 2021, respectively. As discussed in Note 2 of LGM's historical condensed consolidated financial statements for the year ended December 31, 2022, LGM manages its business as a single operating segment and it does not maintain measures of profitability such as operating loss or net loss at the level of an individual revenue channel or customer. Therefore, the proforma impact on operating loss and net loss cannot be quantified.

See accompanying notes to the unaudited pro forma condensed combined financial information

NOTES TO UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL STATEMENTS

1. Basis of Pro Forma Presentation

The unaudited pro forma condensed combined financial information was prepared in accordance with Article 11 of SEC Regulation S-X. The adjustments presented in the unaudited pro forma condensed combined financial information have been identified and presented to provide relevant information necessary for an understanding of the combined company reflecting the transactions (the "Transactions").

Management has made significant estimates and assumptions in its determination of the pro forma adjustments. The pro forma adjustments reflecting the Transactions and Material Events are based on certain currently available information and certain assumptions and methodologies that management believes are reasonable under the circumstances. The pro forma adjustments, which are described in the accompanying notes, may be revised as additional information becomes available and is evaluated. Therefore, it is likely that the actual adjustments will differ from the pro forma adjustments, the difference may be material. Management believes that its assumptions and methodologies provide a reasonable basis for presenting all of the significant effects of the Transactions and Material Events based on information available to management at this time and that the pro forma adjustments give appropriate effect to those assumptions and are properly applied in the unaudited pro forma condensed combined financial information.

The unaudited pro forma condensed combined financial information does not give effect to any anticipated synergies, operating efficiencies, tax savings, or cost savings that may be associated with the Closing of the Business Combination. EGA and LGM have not had any historical financial relationship prior to the Closing of the Business Combination. Accordingly, no pro forma adjustments were required to eliminate activities between the companies.

The unaudited pro forma condensed combined financial information is for illustrative purposes only and is not necessarily indicative of what the actual results of operations or financial position would have been had the Transactions taken place on the dates indicated, nor are they indicative of the future consolidated results of operations or financial position of PubCo. The unaudited pro forma adjustments are based on information currently available, and assumptions and estimates underlying the unaudited pro forma adjustments are described in the accompanying notes to the unaudited pro forma condensed combined financial information. If the actual facts are different than these assumptions, then the amounts and shares outstanding in the unaudited pro forma condensed combined financial information that follows will be different, and those changes could be material.

The unaudited pro forma condensed combined financial information has been prepared based on actual net redemptions of 2,924,907 shares of EGA common stock for an aggregate redemption price of $31.9 million out of the EGA trust account (the "Trust Account"). The aggregate redemption price paid equates to a redemption price of $10.91 per share.

Upon the Closing, shares outstanding as presented in the unaudited pro forma condensed combined financial statements include the following:

(Shares in thousands)	Number of Shares Owned	Ownership%
LGM Equity Holders holding LGM Common Units / Class B Common Stock	59,930	78.0%
Public stockholders holding Class A Common Stock	1,306	1.7%
EGA Sponsor holding Class A Common Stock	5,625	7.3%
Affiliates of EGA Sponsor holding Class A Common Stock in connection with conversion of Bridge Notes upon Closing	8,327	10.8%
Non-affiliates holding Class A Common Stock in connection with conversion of Bridge Notes upon Closing	1,224	1.6%
Unaffiliated third party to Non-Redemption Agreement holding Class A Common Stock	70	0.1%
Unaffiliated third parties to Warrant Exchange Agreement holding Class A Common Stock	373	0.5%
Total	**76,855**	**100.0%**

2. Accounting for the Business Combination

Notwithstanding the legal form, the Business Combination is accounted for as a reverse recapitalization in accordance with U.S. GAAP. Under this method of accounting, EGA is treated as the acquired company for accounting purposes, whereas LGM is treated as the accounting acquirer. In accordance with this method of accounting, the Business Combination is treated as the equivalent of LGM issuing shares for the net assets of EGA, accompanied by a recapitalization. The net assets of LGM are stated at historical cost, with no goodwill or other intangible assets recorded, and operations prior to the Business Combination are those of LGM. LGM has been determined to be the accounting acquirer for purposes of the Business Combination based on the following:

- The Existing Equityholders of LGM have a majority of the voting interest in PubCo.
- The single stockholder with the largest voting share in PubCo is an Existing Equityholder of LGM.
- The Chief Executive Officer of LGM serves as the chairman of PubCo's governing body and appointed a majority of the members of the governing body.
- The senior management of LGM has been designated to serve as the senior management of PubCo.
- LGM's operations will comprise the ongoing operations of PubCo.

3. Adjustments to Unaudited Pro Forma Condensed Combined Balance Sheet as of September 30, 2023

The pro forma notes and adjustments, based on preliminary estimates that could change materially as additional information is obtained, are as follows:

Pro forma Adjustments for Material Events:

aa) Reflects an increase of $2.1 million of long-term notes payable, non-current portion and accumulated deficit as a result of the accumulation of PIK interest on the Bridge Notes subsequent to September 30, 2023 through December 27, 2023.

bb) Reflects the receipts of $0.2 million, $0.2 million, and $0.4 million on October 2, 2023, October 27, 2023 and November 28, 2023, respectively, from the Sponsor under promissory notes. Of these receipts, approximately $0.5 million went into the Trust Account and approximately $0.3 million went into cash and cash equivalents.

cc) Reflects the removal of the net book value of the corporate jet of $22.9 million and the related debt of $16.4 million. The net book value of the jet and related debt are removed because 100% of the equity interests in the entity holding the jet and debt, JS Longitude, LLC, are distributed to the Existing Equityholders and then contributed to LGM Ventures, LLC, which is an entity outside of the LGM consolidated group. As the entity holding the jet and debt is distributed to the Existing Equityholders, the difference between the net book value

of the jet and the value of the debt is recorded as a distribution of $6.5 million. This entry also reflects the recognition of an operating lease right-of-use asset of $8.2 million, a short-term lease liability of $2.3 million, and a long-term lease liability of $5.9 million for the lease of the corporate jet between JS Longitude, LLC and Exclusive Jets, LLC. Exclusive Jets, LLC is in the LGM consolidated group both before and after the Material Events described in Schedule 4.10 (see section above titled, "Material Events and Background Relevant to Material Events") The lease assets and liabilities must be recognized in the transaction accounting adjustment because JS Longitude, LLC is no longer in the LGM consolidated group after the distribution of its equity interests to the Existing Equityholders and contribution of these interests to LGM Ventures, LLC, which is outside of the consolidated group. Prior to the distribution and contribution, the lease between JS Longitude, LLC and Exclusive Jets, LLC was an intercompany transaction between two members of the LGM consolidated group (JS Longitude, LLC and Exclusive Jets, LLC) and was thus not recorded in LGM's historical consolidated financial statements.

dd) Reflects the purchase of Aircraft 1 in November 2023 for total consideration of $9.5 million, $7.6 million of which was borrowed through a secured promissory note entered into in November 2023 and the remaining $1.9 million was paid in cash.

ee) Reflects the issuance of the Senior Note in December 2023. This adjustment reflects an increase of $15.0 million in the carrying value of short-term notes payable and a corresponding increase in cash. The $15.0 million carrying value of the debt is comprised of a $15.7 million principal balance, net of $0.7 million of debt issuance costs.

ff) Reflects the December 2023 repayment of the $7.6 million debt associated with Aircraft 1 purchased in November 2023 and the repayment of the $7.6 million debt associated with Aircraft 2 purchased in September 2023.

gg) Reflects a $3.0 million increase in short-term notes payable and a corresponding increase in cash due to additional borrowings under the LGM line of credit during December 2023.

hh) Reflects an increase of $0.5 million in the EGA Trust Account from the accrued interest income earned on the investments held in the EGA Trust Account from October 1, 2023 through the Closing of the Business Combination.

ii) Reflects the exchange of 1,694,456 EGA Public Warrants for 372,780 shares of PubCo Class A Common Stock in connection with the Warrant Exchange Agreements. This adjustment increases accumulated deficit by $33 thousand as the EGA Public Warrants are remeasured based on their publicly quoted market price at the Closing. In addition, this adjustment increases additional paid-in capital by $0.3 million. The adjustment to additional paid-in capital is calculated as the fair value of the shares issued of $4.5 million, net of $4.2 million, which is the difference of the fair value of shares issued of $4.5 million less the fair value of the EGA Public Warrants of $0.3 million. The $4.2 million is recorded as a reduction to additional paid-in capital because the exchange of EGA Public Warrants for shares is considered a specific incremental cost directly attributable to the offering of securities issued in connection with the Closing of the Business Combination in accordance with SEC Staff Accounting Bulletin Topic 5(A).

jj) Reflects the purchase of 75,000 shares of Pubco Class A Common Stock and grant of these shares to employees of LGM upon Closing of the Business Combination. The shares were fully vested on the grant date, with the net impact of the share purchase and subsequent grant resulting in a decrease of cash of $0.8 million, an increase to selling, general and administrative expense of $0.9 million, and a decrease to additional paid-in capital of $0.1 million related to the difference between the purchase price of the shares and the grant date fair value. The adjustment does not reflect any impact to treasury stock as the purchase of the shares increases treasury stock and the immediate subsequent grant of shares to employees reduces treasury stock by the same amount. The 75,000 shares of Pubco Class A Common Stock are presented within the Public Stockholders holding Class A Common Stock line of the ownership table presented above.

kk) Reflects Mr. Segrave, Jr.'s redemption of 70,000 LGM common units for 70,000 shares of PubCo Class A Common Stock. The redemption triggers the cancelation of 70,000 shares of PubCo Class B Common Stock. In connection with the redemption, Mr. Segrave, Jr. immediately transferred the 70,000 shares of PubCo Class A Common Stock to an unaffiliated third party in accordance with the Non-Redemption Agreement (see section above titled, "Material Events and Background Relevant to Material Events").

The adjustment decreases PubCo Class B Common Stock for an immaterial amount based on its par value and increases PubCo Class A Common Stock for an immaterial amount based on its par value. The 70,000 shares of PubCo Class A Common Stock are recorded at their fair value upon issuance on the Closing Date as an increase to additional paid-in capital. However, the cost of issuing these shares is considered a specific incremental cost directly attributable to the offering of securities in connection with the Closing of the Business Combination in accordance with SEC Staff Accounting Bulletin Topic 5(A) and as such results in an offsetting decrease to additional paid-in capital for the fair value of the shares issued. Therefore, the issuance of these shares has no net impact on additional paid-in capital.

ll) Reflects the removal of the $7.9 million non-current liability for the deferred underwriting discount in accordance with the amended fee agreement with the underwriter. The adjustment also reflects a cash payment of $0.5 million to the underwriter, an increase of $1.5 million in short-term notes payable (payable to the underwriter), and an increase to additional paid-in capital of $5.9 million. The 300,000 shares of PubCo Class A Common Stock contingently issuable to the underwriter within 5 days of the SEC declaring effectiveness of a registration statement were evaluated under Accounting Standards Codification ("ASC") 815-40 to determine whether they met the derivative scope exception of being considered indexed to the entity's own stock as well as the additional criteria required for classification within stockholders' equity.[1] Management is still in the process of finalizing its accounting analysis for the shares to be issued under the amended fee agreement. With respect to the shares to be issued, management preliminarily determined that the contingent commitment to issue the 300,000 shares of PubCo Class A Common Stock was considered indexed to the entity's own stock and met the additional criteria required for classification within stockholders' equity. Therefore, the fair value of 300,000 shares of PubCo Class A Common Stock as of the date and time (Closing) of the agreement on the amended fee were recorded as an increase to additional paid-in capital. In addition, as the terms of payment of the deferred underwriting fee were required to be settled via the amended fee agreement prior to Closing, this fee is considered to be a specific incremental cost directly attributable to the offering of securities issued in connection with the Closing of the Business Combination in accordance with SEC Staff Accounting Bulletin Topic 5(A) and as such results in an offsetting decrease to additional paid-in capital for the fair value as of the Closing of 300,000 shares of PubCo Class A Common Stock. Therefore, the issuance of these shares has no net impact on additional paid-in capital. The $7.9 million reduction of the non-current liability (described above) *less* the $0.5 million reduction of cash (described above) and *less* $1.5 million increase in short-term notes payable (described above) is recorded as a $5.9 million increase to additional paid-in capital because the settlement of the deferred underwriting fee is considered to be a specific incremental cost directly attributable to the offering of securities issued in connection with the Closing of the Business Combination in accordance with SEC Staff Accounting Bulletin Topic 5(A) (as described above).

Pro forma Transaction Accounting Adjustments:

a) Reflects the release of the Trust Account to cash and cash equivalents.

b) Reflects the removal of EGA's income taxes payable as this liability is incurred due to the trust interest income, which is eliminated (see Note 4(a)).

[1] Management preliminarily determined that the probability of not having a registration statement declared effective by the SEC within 60 business days of Closing was remote. As such, it was preliminarily determined that it was not necessary to consider any scenario whereby more than 300,000 shares would be issued (see discussion above regarding increasing the 300,000 shares by 50,000 shares per month on the first business day of the month until the registration statement is declared effective).

c) Reflects the conversion of 1,000 shares of EGA Class B Common Stock held by the EGA Sponsor into PubCo Class A Common Stock and the conversion of 5,624,000 shares of nonredeemable EGA Class A Common Stock into PubCo Class A Common Stock in connection with the Closing of the Business Combination.

d) Reflects the excise tax liability resulting from the actual redemptions of EGA Class A common stock. The excise tax liability is calculated as 1) the fair value of the 2,924,907 shares redeemed (see Note 3(e)) 2) multiplied by the excise tax rate of 1.0%.

e) Reflects the redemption of 2,924,907 shares of EGA Class A Common Stock subject to possible redemption prior to the Closing of the Business Combination at a redemption price per share of $10.91 for an aggregate redemption price of $31.9 million.

f) Reflects the automatic conversion of the entire principal balance of the Bridge Notes into shares of PubCo Class A Common Stock upon the Closing of the Business Combination. The principal converted into shares is inclusive of additions to the principal as a result of the accumulation of PIK interest (see Note 3(aa)). The adjustment decreases notes payable, non-current by $94.5 million and increases additional paid-in capital, accumulated deficit, and PubCo Class A common stock by $95.5 million, $1.0 million, and $1 thousand, respectively. The increase to accumulated deficit of $1.0 million is a result of the write-off of unamortized debt issuance costs associated with the Bridge Notes.

g) Reflects a payment of $1.6 million for LGM transaction costs. Additionally, the adjustment reflects advisory, legal, and other professional fees of $5.8 million that are specific incremental costs directly attributable to the offering of securities associated with the Closing of the Business Combination, as well as transaction costs of $2.9 million that were incurred in connection with the Business Combination but that are not directly attributable to the offering of securities. The $5.8 million in costs that are specific incremental costs directly attributable to the offering of securities is recorded as a reduction to additional paid-in capital and the $2.9 million in costs that are not directly attributable to the offering of securities is recorded as an addition to the accumulated deficit. The adjustment reduces prepaid expenses by $4.0 million, increases accounts payable by $2.1 million, and increases accrued expenses and other current liabilities by $1.0 million.

h) Reflects the reclassification of 1,306,922 shares of EGA Class A Common Stock subject to possible redemption into PubCo Class A Common Stock. PubCo's common stock issued as part of the reclassification of EGA Class A Common Stock was recorded at the par value of $0.0001 to PubCo Class A Common Stock in the amount of less than $1 thousand and additional paid-in capital in the amount of $12.7 million.

i) Reflects a total payment of $4.1 million for EGA transaction costs. Additionally, the adjustment reflects advisory, legal, and other professional fees of $1.2 million that are specific incremental costs directly attributable to the offering of securities associated with the Closing of the Business Combination, as well as transaction costs of $1.3 million that were incurred in connection with the Business Combination but that are not directly attributable to the offering of securities and are non-recurring items. The $1.2 million in costs that are specific incremental costs directly attributable to the offering of securities is recorded as a reduction to additional paid-in capital and the $1.3 million that are not directly attributable to the offering of securities is recorded as an addition to the accumulated deficit. The adjustment decreases accounts payable by $1.6 million, increases prepaid expenses and other current assets by $2.5 million, and increases short-term notes payable by $2.5 million.

j) Reflects the allocation of LGM's net assets to the redeemable noncontrolling interest due to retained interests held by LGM's Existing Equityholders. The noncontrolling interest represents approximately 78.0% of the ownership interests retained by the Existing Equityholders after actual redemptions of $31.9 million.

Upon the first anniversary of the Closing of the Business Combination, the LGM Common Units comprising the noncontrolling interest can be redeemed for shares of PubCo Class A Common Stock or cash. While PubCo determines whether redemption settlement is for cash or shares, settlement is not considered within the sole control of PubCo as the holders of PubCo Class B Common Stock will designate a majority of the members of the PubCo Board. Since redemption for cash is not considered within the sole control of PubCo, the noncontrolling interest is classified as temporary equity in accordance with ASC 480-10-S99-3(A)(2).

For periods when the noncontrolling interest is probable of becoming redeemable (but is not currently redeemable), management will accrete changes in its redemption value from the date it becomes probable that it will become redeemable (Closing of Business Combination) to its earliest redemption date (first anniversary of Closing of Business Combination). This measurement method is in accordance with ASC 480-10-S99-3(A)15a. As the noncontrolling interest only becomes probable of becoming redeemable upon the Closing of the Business Combination, no pro forma adjustment to redemption value is necessary because none of the one-year accretion period has lapsed as of the Closing of the Business Combination.

k) Reflects the recapitalization of LGM in connection with the Closing of the Business Combination and the issuance of 60,000,000 shares of PubCo Class B Common Stock.

l) Reflects the removal of the derivative liability associated with the Bridge Notes as the Bridge Notes are converted upon the Closing of the Business Combination and the derivative liability is extinguished in connection with the conversion of the notes.

m) Reflects the reclassification of LGM Enterprises, LLC members' deficit to accumulated deficit.

n) Reflects payment to the Sponsor for office space, utilities, and administrative support.

4. Adjustments to Unaudited Pro Forma Condensed Combined Statement of Operations for the nine months ended September 30, 2023 and the Year Ended December 31, 2022

The pro forma adjustments below do not incorporate the impact related to the discontinuation of GRP from LGM's historical results. If we were to exclude the revenue associated with GRP, from LGM's historical results, it would have led to a decrease in pro forma revenue from $239.4 million to $172.5 million for the nine months ended September 30, 2023, from $320.0 million to $196.9 million, and from $208.3 million to $187.3 million for the years ended December 31, 2022 and December 31, 2021, respectively. As discussed in Note 2 of LGM's historical condensed consolidated financial statements for the year ended December 31, 2022, LGM manages its business as a single operating segment and it does not maintain measures of profitability such as operating loss or net loss at the level of an individual revenue channel or customer. Therefore, the pro forma impact on operating loss and net loss cannot be quantified.

The pro forma notes and adjustments, based on preliminary estimates that could change materially as additional information is obtained, are as follows:

Pro forma Adjustments for Material Events:

aa) Reflects the removal of all amounts on the statements of operations related to JS Longitude, LLC's operation of the corporate jet as JS Longitude, LLC is no longer in the LGM consolidated group after the transactions described in Schedule 4.10 (see section above titled, "Material Events and Background Relevant to Material Events" for additional information).

In addition, this adjustment also reflects lease expense and amortization of the operating leaseright-of-use asset for the lease between JS Longitude, LLC and Exclusive Jets, LLC. These lease-related amounts must be recognized in the transaction accounting adjustment because JS Longitude, LLC is no longer in the LGM consolidated group after the distribution of its equity interests to the Existing Equityholders and contribution of these interests to LGM Ventures, LLC, which is outside of the consolidated group. Prior to the distribution and contribution, the lease between JS Longitude, LLC and Exclusive Jets, LLC was an intercompany transaction between two members of the LGM consolidated group (JS Longitude, LLC and Exclusive Jets, LLC) and was thus not recorded in LGM's historical consolidated financial statements.

bb) Reflects depreciation expense on Aircraft 1 as if it had been acquired on January 1, 2022.

cc) Reflects the interest expense and amortization of debt issuance costs (to interest expense) on the Secured Note as if it had been issued on January 1, 2022.

dd) Reflects a loss on extinguishment of debt for Aircraft 1 and Aircraft 2 as it is assumed that these debts were repaid on January 1, 2022 for purposes of the unaudited pro forma condensed combined statement of operations.

ee) Reflects the interest expense on the promissory note between LGM and an affiliate of the Sponsor as if it had been issued on January 1, 2022.

ff) Reflects the stock-based compensation expense related to the 75,000 shares of Pubco Class A Common Stock issued to employees upon the Closing of the Business Combination.

gg) Reflects the remeasurement of the warrant liability for the 1,694,456 EGA Public Warrants exchanged for 372,780 shares of Pubco Class A Common Stock.

Pro forma Transaction Accounting Adjustments:

a) Reflects the elimination of interest income earned on investments held in the EGA Trust Account.

b) Reflects the allocation of net income/(loss) to the noncontrolling interests due to the interests retained in LGM by the Existing Equityholders as reflected in the table below:

(In thousands, except for percentages)	Actual Redemptions
Year Ended December 31, 2022	
Pro forma Net loss	$ (8,232)
Less: Net loss attributable to noncontrolling interest of LGM (Historical)	(10,200)
Pro forma Net income adjusted	1,968
Redeemable noncontrolling interest percentage	78.0%
Net income attributable to redeemable noncontrolling interest	1,535
Total net loss attributable to noncontrolling interest and redeemable noncontrolling interest	(8,665)
Net income attributable to PubCo	$ 433

(In thousands, except for percentages)	Actual Redemptions
Nine Months Ended September 30, 2023	
Pro forma Net loss	$ (23,199)
Less: Net loss attributable to noncontrolling interest of LGM (Historical)	(6,762)
Pro forma Net loss adjusted	(16,437)
Redeemable noncontrolling interest percentage	78.0%
Net loss attributable to redeemable noncontrolling interest	(12,821)
Total net loss attributable to noncontrolling interest and redeemable noncontrolling interest	(19,583)
Net loss attributable to PubCo	$ (3,616)

c) Reflects the elimination of PIK interest expense on LGM's Bridge Notes as these notes automatically convert into PubCo Class A Common Stock upon the Closing of the Business Combination.

d) Reflects the write-off of the unamortized debt issuance costs associated with the Bridge Notes as these notes automatically convert into PubCo Class A Common Stock upon the Closing of the Business Combination.

e) Reflects the elimination of the change in fair value of the derivative liability embedded in the Bridge Notes, as these notes automatically convert into PubCo Class A Common Stock upon the Closing of the Business Combination.

f) Reflects transaction costs for LGM and EGA for accounting, auditing, and other professional fees incurred in connection with the Business Combination that are not deemed to be specific incremental costs directly attributable to the offering of securities associated with the Closing of the Business Combination. The adjustment includes amortization of a deferred charge for directors and officers insurance recorded in Prepaid expenses and other current assets (see Note 3(i)) as well as interest expense related to the financing of the insurance premiums.

g) Reflects an adjustment to income taxes as a result of the tax impact of the pro forma adjustments at the estimated combined statutory tax rate of 24.1%.

h) Reflects the write-off of the derivative liability embedded in the Bridge Notes, as these notes automatically convert into PubCo Class A Common Stock upon the Closing of the Business Combination.

i) Reflects the removal of EGA's income tax expense as this expense is due to the trust interest income, which is eliminated (see Note 4(a)).

j) The pro forma basic and diluted earnings per share amounts presented in the unaudited pro forma condensed combined statements of operations are based upon the number of PubCo shares outstanding at the Closing of the Business Combination, assuming that any adjustments that were made to the unaudited pro forma condensed combined balance sheet as of September 30, 2023 were made on January 1, 2022.

Pro Forma weighted average common shares outstanding—basic and diluted is calculated as follows:

Weighted-average shares calculation - basic and diluted (In thousands, except per share data)	Year Ended December 31, 2022 Actual Redemptions
Numerator:	
Pro forma net loss	$ (8,232)
Less: pro forma net income attributable to redeemable noncontrolling interest	1,535
Less: pro forma net loss attributable to noncontrolling interest	(10,200)
Pro forma net income attributable to holders of Class A Common Stock	$ 433
Denominator:	
Public stockholders holding Class A Common Stock	1,306
EGA Sponsor holding Class A Common Stock	5,625
Affiliates of EGA Sponsor holding Class A Common Stock in connection with conversion of Bridge Notes upon Closing	8,327
Non-affiliates holding Class A Common Stock in connection with conversion of Bridge Notes upon Closing	1,224
Unaffiliated third party to Non-Redemption Agreement holding Class A Common Stock	70
Unaffiliated third parties to Warrant Exchange Agreement holding Class A Common Stock	373
Pro forma weighted-average shares outstanding—basic and diluted	16,925
Pro forma basic and diluted earnings per share[1][2]	$ 0.03

Weighted-average shares calculation - basic and diluted (In thousands, except per share data)	Nine Months Ended September 30, 2023 Actual Redemptions
Numerator:	
Pro forma net loss	$ (23,199)
Less: pro forma net loss attributable to redeemable noncontrolling interest	(12,821)
Less: pro forma net loss attributable to noncontrolling interest	(6,762)
Pro forma net loss attributable to holders of Class A Common Stock	$ (3,616)
Denominator:	
Public stockholders holding Class A Common Stock	1,306
EGA Sponsor holding Class A Common Stock	5,625
Affiliates of EGA Sponsor holding Class A Common Stock in connection with conversion of Bridge Notes upon Closing	8,327
Non-affiliates holding Class A Common Stock in connection with conversion of Bridge Notes upon Closing	1,224
Unaffiliated third party to Non-Redemption Agreement holding Class A Common Stock	70
Unaffiliated third parties to Warrant Exchange Agreement holding Class A Common Stock	373
Pro forma weighted-average shares outstanding—basic and diluted	16,925
Pro forma basic and diluted net loss per share[1][2]	$ (0.21)

1) Shares of PubCo Class B Common Stock do not participate in the earnings or losses of PubCo and, therefore, are not participating securities. As such, a separate presentation of basic and diluted earnings per share of PubCo Class B Common Stock under the two-class method has not been presented.

2) As the exercise price of $11.50 for the public warrants and the private placement warrants to purchase EGA Class A Common Stock is above the average EGA Class A Common Stock price of approximately $9.76 for the year ended December 31, 2022, and approximately $10.26 for the nine months ended September 30, 2023, these warrants are excluded from the calculation of pro forma diluted earnings per share because it is assumed that they would not be exercised since the exercise price exceeds the price of the underlying stock.