

Clerk's Stamp

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COURT

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, as amended

AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF LYNX AIR HOLDINGS CORPORATION
and 1263343 ALBERTA INC. dba LYNX AIR

DOCUMENT

AFFIDAVIT OF MICHAEL WOODWARD

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

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File Number: 1246361

AFFIDAVIT OF MICHAEL WOODWARD

SWORN FEBRUARY 22, 2024

I, Michael Woodward, of the City of Calgary, in the Province of Alberta, **MAKE OATH
AND SAY THAT:**

1. I am the Chief Executive Officer and Director of my personal company that has been contracted to provide the services of Interim Chief Financial Officer (“**Interim Contractor CFO**”) to Lynx Air (as that term is defined below). I have been the Interim Contractor CFO of Lynx Air since March of 2023, and since that time I have been responsible for all financial-related

aspects of Lynx Air's business. Prior to this role, I served as Chief Financial Officer of Campus Energy Partners, an energy infrastructure and supply company, and as a Vice President of BMO Capital Markets. I hold a Bachelor of Commerce in Accounting from the University of British Columbia and have obtained Chartered Accountant and Chartered Financial Analyst designations.

2. As such, I have personal knowledge of the matters to which I depose in this Affidavit, except where stated to be based on information and belief, in which case I have stated the source of my information and, in all such cases, I believe such information to be true. In preparing this Affidavit, I consulted with the Applicants' (as that term is defined below) management teams and advisors and reviewed relevant documents and information concerning the Applicants' operations and business and financial affairs.

3. I swear this Affidavit in support of an application by the Applicants for an Order (the "**Initial Order**"):

- (a) declaring that the Applicants are companies to which the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("**CCAA**") applies;
- (b) authorizing the Applicants to remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**") and continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property;
- (c) entitling the Applicants to make payment of all obligations owing in respect of employee wages and benefits;

- (d) entitling the Applicants to pay reasonable expenses incurred by them in operating the Business in the ordinary course, including making payment of obligations owing in respect of goods and services supplied to the Applicants prior to the date of the Initial Order, subject to the consent of the Monitor (as defined herein);
- (e) staying, for an initial period of not more than ten (10) days (the “**Stay Period**”), all proceedings and remedies taken or that might be taken in respect of the Applicants, the Business, or the Property, except as otherwise set forth in the Initial Order or otherwise permitted by law;
- (f) preventing any Person (as defined in the Initial Order) from accelerating performance of any rights in respect of the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Honourable Court;
- (g) restraining any Person from interfering with the supply of goods or services to the Applicants;
- (h) staying all proceedings and remedies taken or that might be taken in respect of claims against the directors or officers of the Applicants that relate to liability of such Persons in their capacity as directors or officers of the Applicants, except as otherwise set forth in the Initial Order or otherwise permitted by law;
- (i) appointing FTI Consulting Canada Inc. (“**FTI**”) as Monitor of the Applicants in these proceedings;
- (j) authorizing the Applicants to pay all reasonable fees and disbursements of its counsel, the Monitor and the Monitor’s counsel;

- (k) granting a first ranking Administration Charge (as defined below) in the amount of CAD\$500,000;
- (l) authorizing and empowering the Applicants to obtain and borrow under a credit facility (the “**Interim Lending Facility**”) from Indigo Northern Ventures LP (the “**Interim Lender**” or “**Indigo**”) in order to finance the Applicants’ working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under the Interim Lending Facility:
 - (i) shall not exceed CAD\$1,000,000 during the initial Stay Period unless permitted by further order of this Court; and
 - (ii) shall not exceed an amount to be negotiated and approved by the Court during any subsequent stay period as may be ordered by the Court unless permitted by further order of this Court;
- (m) directing that such Interim Lending Facility shall be on the terms and subject to the conditions set forth in the term sheet between the Applicants and the Interim Lender dated as of February 21, 2024 (the “**Interim Lending Term Sheet**”) and any definitive documents subsequently negotiated between the Applicants and the Interim Lender;
- (n) granting to the Interim Lender a second ranking charge (the “**Interim Lender’s Charge**”) on the Property to secure all obligations under the Interim Lending Term Sheet incurred on or after the date of this Initial Order which charge shall not exceed the aggregate amount advanced on or after the date of this Initial Order under the Interim Lending Term Sheet;

- (o) granting a third ranking charge to the Applicants' directors and officers as security for any obligations and liabilities they may incur as directors and officers of the Applicants after February 22, 2024, up to the maximum amount of CAD\$500,000 (the "**D&O Charge**");
- (p) declaring that the Administration Charge is a priority charge that ranks ahead of any and all charges, security interests, liens, trusts, deemed trusts and encumbrances against the Property, including liens and trusts created by federal and provincial legislation, and that the Administration Charge, Interim Lender's Charge and D&O Charge rank, as between themselves, in the following order of priority:
 - (i) First, the Administration Charge;
 - (ii) Second, the Interim Lender's Charge; and
 - (iii) Third, the D&O Charge;
- (q) scheduling a comeback application for hearing at 10:00 a.m. on February 28, 2024; and
- (r) such further and other relief as counsel may request and this Honourable Court may grant.

PART I - OVERVIEW

4. The Applicants operate a Canadian ultra-low-cost carrier ("**ULCC**") under the trade name "Lynx Air", having operated its business out of Calgary, Alberta and offered flights since April 2022. Lynx Air operates a uniform fleet of nine Boeing Model 737-8 aircraft ("**Boeing 737 MAX 8 aircraft**") at high utilization rates, in order to provide fares at significant discounts to prevailing market fares. The Applicants also use low operating costs and an unbundled service to further

lower their base fares below those being offered by legacy carriers. This in turn stimulates more demand and increases growth in a virtuous circle of benefits for Lynx Air.

5. However, as a true ULCC, the Applicants' revenue performance is highly sensitive to market fluctuations in jet fuel pricing and passenger demand, as well as evolving factors within Canada's competitive aviation landscape.

6. As has been well publicized, the price of jet fuel has significantly increased since 2019 and continues to increase in a sustained and upward spiral, and is projected to continue to increase through the first quarter of 2024. According to Statistics Canada, jet fuel costs increased by 62% in December 2022 as compared with December 2019.¹ At the same time, passenger demand fell below 2019 averages (largely due to COVID-19 travel restrictions and the lingering effects thereof): the number of passenger-kilometres flown by major Canadian airlines in December 2022 remained 12% below the December 2019 level.² For a ULCC like Lynx Air, these fuel price increases and reduced passenger demand, combined with a competitive aviation landscape have proved disastrous to the Applicants' ability to generate sufficient revenue to sustain a business in what is effectively a duopoly market in Canada.

7. In large part due to COVID-19 related travel restrictions imposed in March of 2020 and the grounding of the Boeing 737 MAX 8 aircraft in March of 2019, Lynx Air's first inaugural flight was delayed from the first quarter of 2019 until April of 2022. As such, the Applicants had to sustain administrative and operating costs without any significant revenue for three years beyond what had originally been planned.

¹ Statistics Canada, Jet fuel production and prices have taken off in tandem with air travel (June 2023), online: Statistics Canada <<https://www.statcan.gc.ca/o1/en/plus/3944-jet-fuel-production-and-prices-have-taken-tandem-air-travel>>.

² *Ibid.*

8. For these reasons, while the Applicants have a valuable and viable business, Lynx Air has been met with significant unforeseeable challenges to its business since its inception. As a result, Lynx Air is currently insolvent and has insufficient cash reserves to allow it to continue to fund its current ongoing operations. In addition, certain critical service suppliers have recently elected to take enforcement actions, which, if pursued, would jeopardize the Applicants' ongoing operations, and would likely result in the Applicants' operations being shut down in a chaotic and haphazard manner.

9. For these reasons, Lynx Air has decided that the only option available to it to preserve value in its assets is to urgently obtain protection under the CCAA to give it reasonable time to wind down its business operations in an orderly fashion, and to provide time for the Applicants to apply for and conduct a sales and investment solicitation process (if necessary), identify and assess potential transactions, and review other strategic alternatives that may be available to maximize the value of the Applicants' business for all their stakeholders.

PART II – THE APPLICANTS' BUSINESS

A. Corporate Structure

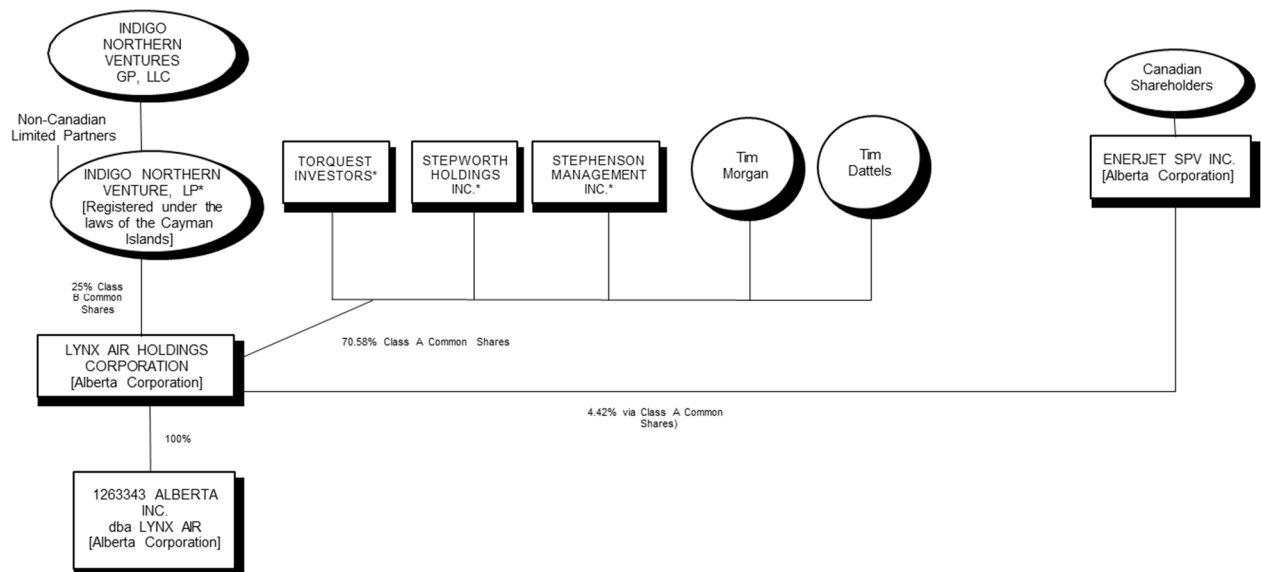
10. The Applicant Lynx Air Holdings Corporation (formerly named "Enerjet Holdco Inc.") ("**Lynx Holdco**") is a corporation incorporated under the laws of the Province of Alberta. Lynx Holdco was incorporated under the Alberta *Business Corporations Act* on December 17, 2018, and changed its name to Lynx Air Holdings Corporation on November 16, 2021.

11. Lynx Holdco is the 100% parent of the Applicant 1263343 Alberta Inc. ("**Lynx Opco**" and together with Lynx Holdco, the "**Applicants**" or "**Lynx Air**"), a corporation incorporated under the laws of the Province of Alberta. Both Lynx Holdco and Lynx Opco have registered offices at

1400, 350 – 7 Avenue SW, Calgary, Alberta, as well as the same two directors: Greg Melchin and Thomas Morgan. Additionally, the Applicants have the same three officers (or persons operating in the role of officers): myself, Vijay Bathija, acting as Chief Commercial Officer, and James Sullivan, acting as Chief Operating Officer and Interim Chief Executive Officer. Lynx Opco is the operating entity of Lynx Air, and is the Declarant of and operates under the registered trade name “Lynx Air”.

12. Lynx Holdco is in turn owned by seven entities, none of which are applicants in these CCAA proceedings: (a) Indigo, by its general partner Indigo Northern Ventures GP, LLC, (b) Torquest Investors, Stepworth Holdings Inc., Stephenson Management Inc., Tim Morgan, and Tim Dattels (collectively, the “**Canadian Investors**”); and (c) Enerjet SPV Inc. (“**EnerJet**”). The Canadian Investors hold 25,140,621 (70.58%) of the Class A Common Shares of Lynx Air, EnerJet holds 1,575,190 (4.42%) Class A Common Shares of Lynx Air, and Indigo holds 8,905,252 (25%) Class B Common Shares of Lynx Air.

13. A corporate chart detailing the structure of the Applicants as of February 2024 is reproduced below:



14. Copies of Alberta corporate searches for each of the Applicants are attached hereto as **Exhibit “1”**. A copy of the Alberta trade name search for “Lynx Air” is attached hereto as **Exhibit “2”**.

B. Financial Position

15. The Applicants’ financial reporting is completed on a consolidated basis in accordance with IFRS Accounting Standards. A copy of the Applicants’ unaudited consolidated financial statement for the years ended 2021 and 2022, and a draft, unaudited consolidated financial statement for the twelve months ended December 31, 2023 (the “**2023 Financial Statement**”), are attached hereto as **Exhibits “3”** and “**4**”, respectively. The 2023 Financial Statement is summarized below.

(a) Assets

16. As at December 31, 2023, the Applicants had total assets having a book value of approximately CAD\$429,091,000, broken down as follows:

Current Assets: \$53,331,000	
<i>(\$CAD 000’s)</i>	
Cash and Cash Equivalents	\$2,519
Restricted Cash	\$7,945
Accounts Receivables	\$37,655
Prepaid Expenses	\$4,092
Inventory	\$1,120
Non-Current Assets: \$375,760,000	
<i>(\$CAD 000’s)</i>	
Pre-delivery Payments and Lease Deposits	\$19,469
Property and equipment (net)	\$345,145
Deferred Purchase Incentive Credit	(\$22,711)
Intangible Assets	\$2,807
Goodwill	\$4,114
Long-term Receivables	\$9,427
Maintenance Reserves	\$17,462
Due from Enerjet SPV Inc.	\$47

(b) Liabilities

17. As at December 31, 2023, the Applicants had total liabilities of approximately CAD\$599,857,000, broken down as follows:

Current Liabilities: \$126,921,000	
<i>(\$CAD 000's)</i>	
Accounts Payable and Accrued Liabilities	\$62,383
Deferred Revenue	\$20,635
Convertible Notes Payable	\$22,819
Current Portion Lease Liability	\$21,084
Non-Current Liabilities: \$472,936,000	
<i>(\$CAD 000's)</i>	
Convertible Notes	\$93,521
Deferred Tax Liability	\$24,491
Long-Term Lease Liability	\$354,924

(c) Shareholder Equity

18. As at December 31, 2023, the shareholders' equity in the Applicants was recorded at negative CAD\$170,766,000.

C. Employees/Consultants

(a) Employees

19. As at December 31, 2023, Lynx Air employed approximately 500 employees. The geographic distribution of Lynx Air's employees is as follows:

Province	Number of Employees
Alberta	390
Ontario	110
Total (Canada)	500

20. Some of the Applicants' employees have recently elected to unionize: the pilots under the Air Line Pilots Association, International ("ALPA"), and the cabin crew employees under the Canadian Union of Public Employees ("CUPE"). On June 3, 2023, the Canada Industrial Relations Board ("CIRB") certified ALPA as the bargaining representative for all pilots of Lynx Air. Lynx Air and ALPA are currently in the process of negotiating their first collective bargaining agreement. On February 7, 2024, the CIRB certified CUPE as the bargaining representative for all cabin crew of Lynx Air. As this certification just occurred, neither party has served a notice to commence collective bargaining. As such, no collective bargaining agreements for the Applicants' employees currently exist.

21. Lynx Air maintains benefit plans for their employees providing medical, dental, prescription, and vision benefits, and life insurance policies. Lynx Air also sponsors a pension plan for all employees, and a stock option plan covering various Directors, Officers, and former Officers. As at the date of this Affidavit, Lynx Air has no outstanding payroll deductions, Canadian Pension Plan payments or Employment Insurance premiums owing to the Crown.

22. The Applicants also maintain Directors' and Officers' liability insurance coverage which is provided as part of the executive liability coverage programme maintained by Zurich Insurance Company Ltd. (the "**D&O Insurance Policy**"). The D&O Insurance Policy provides for Loss (as that term is defined in the D&O Insurance Policy) of up to USD\$10,000,000 and expires on October 14, 2024. The Applicants also maintain Excess Private Company Directors and Officers Liability with Markel Canada Limited in an aggregate amount of USD\$5,000,000, and with Arthur J. Gallagher Canada Limited in an aggregate amount of USD\$5,000,000 (collectively, the "**Excess Insurance Policies**"). The Excess Insurance Policies expire on October 14, 2024. Attached hereto as **Exhibit "5"** and **"6"** are copies of the D&O Insurance Policy and the Excess Insurance Policies.

23. In addition, on September 20, 2023, Lynx Holdco established a CAD\$2,000,000 irrevocable trust (the “**Lynx Air D&O Trust**”) with TSX Trust Company as trustee, and Lynx Air’s Directors and Officers as beneficiaries. A copy of the Trust Indenture (the “**D&O Trust Indenture**”) for the Lynx Air D&O Trust is attached hereto as **Exhibit “7”**. The Lynx Air D&O Trust was established to provide financial support for the defence of Lynx Air’s Directors and Officers against Liability Claims (as that term is defined in the D&O Trust Indenture) and for the payment of Liability Claims, to the extent that the D&O Insurance Policy, for any reason, does not do so and to maintain Directors’ and Officers’ insurance through the payment of premiums or other payments, if Lynx Air fails to do so.

(b) Consultants

24. As at February 1, 2024, Lynx Air has 19 independent contractors, retained through a number of holding corporations or agencies:

- (a) Amy Wheatley, Program and Policy Specialist;
- (b) Bob Alder, SIM Instructor;
- (c) Bradely Thomann, Consultant, Operations Advisor;
- (d) C. Ben Atkins, SIM Instructor;
- (e) George Acs, SIM Instructor;
- (f) Gerald Murphy, SIM Instructor;
- (g) Greg Mardon, IT Contractor;
- (h) Heather McKinnon, Interim Controller;

- (i) Jay Simacio, Senior Accountant;
- (j) Juan Carlos Flores Cortez, Technical Operations Specialist;
- (k) Kerwin Calder, Accounts Payable Analyst;
- (l) Larissa Ha, Payroll Analyst;
- (m) Michael Ritchie, SIM Instructor;
- (n) Myself;
- (o) Oluwatosin Harrison, Revenue Analyst;
- (p) Paul Lung Ip, SIM Instructor;
- (q) Rajarshi Ray, Director of Revenue Management;
- (r) Roger McIntosh, Technical Operations Consultant; and
- (s) Zeeshan Joseph, Financial Analyst.

D. Operations

25. As noted above, Lynx Air operates on a ULCC model, pursuant to which the Applicants maintain low operating costs to deliver fares at a significant discount to prevailing market fares. This in turn creates new demand from the price sensitive consumer segment and stimulates market growth.

26. As a ULCC, the Applicants follow significant operational and strategic diligence. Specifically, the Applicants: (i) focus on efficient use of their assets (aircraft, facilities, gates and employees); (ii) schedule aircraft to operate at least 25% more than legacy airlines, (iii) utilize

rapid turnarounds and minimize facilities overhead to create a structural cost advantage; (iv) selectively outsource services that can be most efficiently performed by third parties; and (v) maximize direct distribution channels and avoid third-party distribution agreements.

27. Due to multi-year delays caused by the COVID-19 pandemic and the Boeing 737 MAX 8 aircraft grounding (discussed more fully below), Lynx Air did not have its inaugural flight until April 7, 2022 (roughly 3 years after the originally planned inaugural flight date). However, Lynx Air now flies nine Boeing 737 MAX 8 aircraft to 18 destinations, namely:

- (a) 11 destinations in Canada:
 - (i) Calgary, Alberta;
 - (ii) Edmonton, Alberta;
 - (iii) Fredericton, New Brunswick;
 - (iv) Halifax, Nova Scotia;
 - (v) Hamilton, Ontario;
 - (vi) Montreal, Quebec;
 - (vii) St. Johns, Newfoundland and Labrador;
 - (viii) Toronto, Ontario;
 - (ix) Vancouver, British Columbia;
 - (x) Victoria, British Columbia; and
 - (xi) Winnipeg, Manitoba;

- (b) 6 destinations in the United States of America:
 - (i) Las Vegas, Nevada;
 - (ii) Fort Myers, Florida;
 - (iii) Los Angeles, California;
 - (iv) Orlando, Florida;
 - (v) Phoenix, Arizona; and
 - (vi) Tampa, Florida;

- (c) 1 destination in Mexico:
 - (i) Cancun, Mexico.

28. The Applicants' operations are primarily concentrated in Toronto and Calgary. However, the Applicants have airline partnership agreements with each respective destination's airport. These agreements contractually stipulate the obligations of both parties and require Lynx Air to make certain payments to each airport, such as aeronautical fees and charges, airport improvement fees, and other terms and conditions integral to the aeronautical activity at each airport. Lynx Air also has a variety of agreements for services in each location to which it flies, including for ground handling, de-icing, and other on-ground services. Two such agreements include: (i) a Comprehensive Fleet Support Agreement with Delta Airlines, Inc. ("**Delta**") dated September 20, 2022 (the "**CFS Agreement**") pursuant to which Delta provides all of Lynx Air's technical engineering and airworthiness support, line maintenance services, consumables and expendables supply, logistics and management services, warehousing and warranty management services, and

component maintenance, repair, pooling, modification and logistics services; and (ii) an agreement with the Calgary Glycol Facilities Corporation (“CGFC” and the “CGFC Agreement”) providing for de-icing services at the Calgary International Airport.

29. On February 2, 2024, Lynx Air received a notice of default from the Aeroports de Montreal (“ADM”) in the amount of CAD\$1,634,479.86 relating to outstanding airport improvement fees. However, on February 8, 2024, a payment schedule was agreed to between Lynx Air and ADM, such that the outstanding amounts are now payable by Lynx Air in four installments ending on April 1, 2024 (the “ADM Payment Agreement”). Attached as **Exhibit “8”** is a copy of ADM Payment Agreement.

30. On February 16, 2024, Lynx Air received a notice of default from the Greater Toronto Airports Authority (“GTAA”) in the amount of CAD\$2,441,284.71 relating to outstanding aeronautical fees and charges and airport improvement fees in respect of its aeronautical activity at Toronto Pearson (the “GTAA Notice of Default”). Pursuant to the GTAA Notice of Default, Lynx Air must cure the outstanding amount by February 21, 2024. Attached as **Exhibit “9”** is a copy of the GTAA Notice of Default.

31. On February 17, 2024, Lynx Air received a notice of default from Delta in the amount of USD\$3,331,730.57 (of which USD\$2,195,478.52 is overdue) with respect to payments due under the CFS Agreement (the “Delta Notice of Default”). Pursuant to the Delta Notice of Default, Lynx Air must cure the outstanding payment within 5 business days of issuance of the Delta Notice of Default, failing which Delta would have the right to suspend services under the CFS Agreement. Attached as **Exhibit “10”** is a copy of the Delta Notice of Default.

32. On February 1, 2024, Lynx Air received a notice of default from the CGFC in the amount of CAD\$351,688.44, relating to outstanding amounts under the CGFC Agreement (the “CGFC

Notice of Default”). Pursuant to the CGFC Notice of Default, Lynx Air had to cure the outstanding payment by February 12, 2024. As at the date of this Affidavit, Lynx Air has paid CAD\$175,844.20 to CGFC.

33. Lynx Air does not have sufficient cash to allow it to cure the defaults under the CFS Agreement, the GTAA airline partnership agreement or the CGFC Agreement. In lieu of payment, the cure counterparties to these agreements will have the ability stop providing services under the agreements. Specifically, Delta will stop performing under the CFS Agreement, with the result that Lynx Air’s aircraft will be stranded due to outstanding maintenance issues, including maintenance which is necessary for the daily operation of aircraft. Similarly, the GTAA will obtain the ability to seize Lynx Air’s aircraft to enforce its security, and to prevent the airline from operating out of Toronto, which is the hub for approximately 30% of Lynx Air’s business. The withdrawal of services under these two agreements alone would effectively shut down Lynx Air’s business.

(a) Cash Management System

34. The Applicants maintain accounts at Canadian financial institutions, as follows:

- (a) *Depository Accounts:* The Applicants maintain two (2) US and three (3) Canadian depository accounts at ATB Financial (“**ATB**”), which is the central account for the Applicants and operates as the primary receipt and disbursement point for funds in connection with all of the Applicants’ operations.
- (b) *Cash Collateral – Letter of Credit Accounts:* As of December 31, 2023, Lynx Air has 13 letters of credit totalling CAD\$5,876,000 issued by ATB for the benefit of various creditors and vendors. These letters of credit are fully secured by cash

deposits held as cash collateral in eight (8) USD and seven (7) CAD Guaranteed Investment Certificates at ATB.

- (c) *Cash Collateral – E-Transfer Account*: The Applicants maintain one (1) bank account at the Bank of Nova Scotia (“**Scotiabank**”) used to send electronic transfers for passenger compensation when such compensation is required to be paid pursuant to the *Air Passenger Protection Regulations* (SOR/2019-150).
- (d) *Cash Collateral – Mexican Account*: The Applicants maintain one (1) Mexican peso depository account at Scotiabank. This is used to pay Mexican tax.

(b) Canadian Foreign Ownership Restrictions on Airlines

35. Canadian foreign ownership restrictions on airlines are governed by the *Canada Transportation Act*, S.C. 1996, c. 10 (the “CTA”), and overseen by the Canadian Transportation Agency. The CTA limits foreign ownership and control of Canadian air services to ensure that the industry remains predominantly Canadian and to protect national security interests.

36. To obtain and maintain a license to operate a Canadian domestic air service, the air license holder must meet the definition of “Canadian” as set out in section 55(1) of the CTA:

(a) be a Canadian citizen or a permanent resident as defined in subsection 2(1) of the Immigration and Refugee Protection Act,

(b) be a government in Canada or an agent or mandatary of such a government, or

(c) be a corporation or entity that is incorporated or formed under the laws of Canada or a province, that is controlled in fact (within the meaning of the CTA) by Canadians and of which at least 51% of the voting interests are owned and controlled by Canadians and where

(i) no more than 25% of the voting interests are owned directly or indirectly by any single non-Canadian, either individually or in affiliation with another person, and

(ii) no more than 25% of the voting interests are owned directly or indirectly by one or more non-Canadians authorized to provide an air service in any

jurisdiction, either individually or in affiliation with another person;
(Canadien).

37. As such, Lynx Air must: (i) be incorporated under the laws of Canada, (ii) have 51% of its voting interest owned and controlled by Canadians; and (iii) be controlled in fact by Canadians.

PART III – CAPITAL STRUCTURE AND INDEBTEDNESS

A. Assets

38. As at December 31, 2023, the Applicants had total assets with a book value of approximately CAD\$429,091,000, including:

- (a) property and equipment of CAD\$345,145,000 comprised primarily of capitalized leases of which there are nine leases of Boeing 737 MAX 8 aircraft and three leases of CFM Leap 1-B25 spare engines (collectively, the “**Aircraft Leases**”);
- (b) security deposits of CAD\$14,019,000 consisting of two- or three-months’ rent owed to each of the engine and aircraft lessors (reflected on the balance sheet as Pre-Delivery Payments and Lease Deposits and Property and Equipment); and
- (c) long-term deposits of CAD\$2,732,000 consisting of amounts held as cash security by vendors, lessors (reflected on the balance sheet as Pre-Delivery Payments and Lease Deposits).

39. Each of these categories of assets will be discussed more fully below.

Property and Equipment

40. On October 18, 2015, Lynx Opco entered into a purchase agreement with an aircraft manufacturer (the “**Aircraft Purchase Agreement**”). Although the Aircraft Purchase Agreement

is not reflected in the 2023 Financial Statement, the Aircraft Purchase Agreement has considerable value in the global aviation market.

41. Pursuant to the Boeing Purchase Agreement, Lynx Opco had the right to purchase forty aircraft and lease six aircraft, to be delivered and paid for over six years (in addition to certain advance payments), such advance payments to be delivered at: (a) signing of the Aircraft Purchase Agreement, (b) 24 months prior to delivery, and (c) 18, 12, and 10 months prior to delivery.

42. Nine supplemental agreements relating to the Aircraft Purchase Agreement were subsequently entered into between the aircraft manufacturer and Lynx Opco, dated February 6, 2017, August 31, 2018, April 22, 2021, August 31, 2021, November 10, 2021, December 8, 2021, February 11, 2022, March 2, 2022, and August 17, 2023 (collectively, the “**Aircraft Supplemental Agreements**”).

43. Due to regulatory grounding of the Boeing 737 MAX 8 aircraft by Transport Canada Civil Aviation (“**TCCA**”) beginning on March 13, 2019 (discussed more fully below at paragraph 90), Lynx Opco was unable to take delivery of any aircraft which Lynx Air intended to purchase under the Aircraft Purchase Agreement. As such, the Aircraft Purchase Agreement’s delivery and payment schedule was revised to accommodate the Applicants’ re-entry into airspace, once the TCCA order released the Boeing 737 MAX 8 aircraft.

44. As of the date of this Affidavit, the Applicants have leased nine Boeing 737 MAX 8 aircraft; thirty-one Boeing 737 MAX 8 aircraft remain to be delivered under the Aircraft Purchase Agreement. The Applicants’ property and equipment is therefore comprised primarily of the Aircraft Leases.

45. The Aircraft Purchase Agreement and the Aircraft Supplemental Agreements contain confidential and commercially sensitive business information, the public disclosure of which would adversely affect and be prejudicial to the legitimate business interests of the Applicants and the counterparty to those agreements. For this reason, the Applicants are subject to non-disclosure obligations found within the Aircraft Purchase Agreement, prohibiting public disclosure of these agreements. As a result, copies of those agreements, along with a detailed discussion of the delivery schedule and purchase order dynamics, are attached to my Confidential Supplemental Affidavit which is sworn concurrent with this Affidavit, and the Applicants will be seeking a Restricted Court Access Order with respect to my Confidential Supplemental Affidavit.

Security Deposits

46. The security deposits are composed of pre-payments of rent to Lynx Air's lessors (as discussed in further detail below).

Long-Term Deposits

47. The long-term deposits consist of amounts provided to counterparties to reduce or eliminate credit while concurrently doing business with Lynx Air. This includes amounts provided to fuel providers, airports, real estate lessors, and others.

B. Liabilities

48. As at December 31, 2023, the Applicants had total liabilities of approximately CAD\$599,857,000, including:

- (a) secured obligations in an aggregate principal amount of CAD\$93,521,000 represented by promissory notes issued to Indigo pursuant to:

- (i) a Note Purchase Agreement dated December 20, 2018, as amended by Amending Agreement No. 1 dated June 30, 2023, between Lynx Holdco, as issuer, Lynx Opco as guarantor, and Indigo, as noteholder (the “**Note Purchase Agreement**”), a copy of which is attached hereto as **Exhibit “11”**;
- (ii) a Bridge Note Purchase Agreement dated February 24, 2023 as amended by Amending Agreement No. 1 dated January 12, 2024, between Lynx Holdco, as issuer, Lynx Opco as guarantor, and Indigo, as noteholder (the “**Bridge Note Purchase Agreement**”), a copy of which is attached hereto as **Exhibit “12”**;
- (iii) a Second Bridge Note Purchase Agreement dated October 26, 2023 as amended by Amending Agreement No. 1 dated January 12, 2024, between Lynx Holdco, as issuer, Lynx Opco as guarantor, and Indigo, as noteholder (the “**Second Bridge Note Purchase Agreement**”), a copy of which attached hereto as **Exhibit “13”**;
- (iv) a Third Bridge Note Purchase Agreement dated January 12, 2024 between Lynx Holdco, as issuer, Lynx Opco as guarantor, and Indigo, as noteholder (the “**Third Bridge Note Purchase Agreement**”), a copy of which attached hereto as **Exhibit “14”**;
- (v) a Fourth Bridge Note Purchase Agreement dated February 2, 2024 between Lynx Holdco, as issuer, Lynx Opco as guarantor, and Indigo, as noteholder (the “**Fourth Bridge Note Purchase Agreement**”), a copy of which attached hereto as **Exhibit “15”**;

- (vi) a Fifth Bridge Note Purchase Agreement dated February 7, 2024 between Lynx Holdco, as issuer, Lynx Opco as guarantor, and Indigo, as noteholder (the “**Fifth Bridge Note Purchase Agreement**”), a copy of which attached hereto as **Exhibit “16”**;

- (b) secured obligations of approximately CAD\$344,828,000 comprised of the Aircraft Leases;

- (c) secured obligations of CAD\$5,995,000 pursuant to a series of Assignment of Deposit Certificates (the “**Assignment Certificates**”) between ATB and Lynx Opco dated between May 2020 and November 2023 to stand as security for Letters of Credit and the credit card issued by ATB, copies of which Assignment Certificates are attached hereto as **Exhibit “17”**;

- (d) unsecured obligations in an aggregate amount of CAD\$72,375,279.00, comprised of:
 - (i) a tax payment arrangement with the Canada Revenue Agency (“**CRA**”) regarding account arrears (the “**CRA Arrears**”); and
 - (ii) obligations to trade creditors.

Indigo Promissory Notes

49. On start-up of Lynx Air, Indigo provided debt financing (represented by the Initial Notes, as that term is defined below) issued by Lynx Air to Indigo in the amount of CAD\$71,242,031. As discussed further below, the Applicants’ encountered various unforeseen events which resulted in a shortfall in projected revenue, such that revenues being generated from operations were

insufficient to sustain operations. Consequently, in 2023 and 2024 Indigo provided additional debt financing to the Applicants, in the amounts of CAD\$22,279,375 (provided in February, March, and October 2023) and CAD\$20,147,000 (provided in January and February 2024). These advances were also documented through convertible promissory notes issued by the Applicants to Indigo pursuant to the Note Purchase Agreement, the Bridge Note Purchase Agreement, the Second Bridge Note Purchase Agreement, the Third Bridge Note Purchase Agreement, the Fourth Bridge Note Purchase Agreement, and the Fifth Bridge Note Purchase Agreement.

(i) The Note Purchase Agreement

50. Pursuant to the Note Purchase Agreement, Indigo purchased convertible promissory notes (the “**Initial Notes**”) in the amount of USD\$54,100,000 (which, converted to CAD, is the \$71,242.031 referenced in the preceding paragraph). The Initial Notes bear non-convertible interest at an annual rate of 10%, payable annually in arrears in each year. The Initial Notes have a conversion price of \$1.00.

51. A \$1,000,000 fee related to the issuance of the Initial Notes was capitalized at inception and deducted from the purchase price prior to the transfer of the net proceeds to Lynx Holdco.

52. On June 30, 2023, Indigo accepted the Applicants request to defer the Initial Notes’ interest, as stipulated in the Note Purchase Agreement (the “**Deferral Agreement**”), pursuant to which Indigo granted the Applicants a deferral of all interest payments under the Initial Notes until the Fifth Anniversary (as that term is defined in the Note Purchase Agreement). A copy of the Deferral Agreement is attached hereto as **Exhibit “18”**.

53. Pursuant to the Note Purchase Agreement, the Applicants issued the Initial Notes on: (i) December 20, 2018 in the amount of CAD\$12,179,529; (ii) May 24, 2019 in the amount of

CAD\$7,295,806; (iii) January 27, 2022 in the amount of CAD\$10,149,603; (iv) April 14, 2022 in the amount of CAD\$13,532,804; (v) August 8, 2022 in the amount of CAD\$6,766,402; (vi) October 14, 2022 in the amount of CAD\$3,383,200; (vii) November 15, 2022 in the amount of CAD\$8,119,682; and (viii) December 13, 2022 in the amount of CAD\$9,815,005. Copies of the Initial Notes are attached hereto as **Exhibit “19”**.

54. All obligations of Lynx Holdco under the Note Purchase Agreement are guaranteed by Lynx Opco, pursuant to a Guarantee between Indigo and Lynx Opco dated October 28, 2021 (the “**Note Guarantee**”) and are also secured against all present and after-acquired personal property of the Applicants pursuant to a General Security Agreement dated October 28, 2021 (the “**Note General Security Agreement**”). Copies of the Note Guarantee and the Note General Security Agreement are attached hereto as **Exhibit “20”** and “**21**”.

55. As at December 31, 2023, the Initial Notes have a principal and accrued and outstanding interest amount of CAD\$91,489,000. The Initial Notes matured on December 20, 2023. The Applicants do not have sufficient resources to redeem the Initial Notes.

(ii) The Bridge Note Purchase Agreement

56. Pursuant to the Bridge Note Purchase Agreement, Indigo purchased convertible promissory notes (the “**Bridge Notes**”) up to an equivalent amount in Canadian Dollars of USD\$5,250,000 and was granted the ability to purchase subsequent promissory notes up to an equivalent amount of USD\$9,000,000. The Bridge Notes bear interest at an annual rate of 20%, convertible and payable semi-annually in arrears on August 23 and February 23 in each year. The Bridge Notes have a conversion price of \$0.25.

57. The Applicants issued two Bridge Notes pursuant to the Bridge Note Purchase Agreement: one on February 24, 2023, and the second on March 10, 2023, in the principal amounts of CAD\$7,110,000 CAD and CAD\$5,169,375, respectively. Interest accrued on these notes at 20%, and each of these notes mature on the earlier of the consummation of a transaction that Lynx Air is in the process of negotiating and June 30, 2024. As at December 31, 2023, the total amount outstanding under the Bridge Notes are (respectively) approximately CAD\$8,415,000 and CAD\$6,072,000. Copies of the Bridge Notes are attached hereto as **Exhibit “22”**.

58. All obligations of Lynx Holdco under the Bridge Note Purchase Agreement are guaranteed by Lynx Opco pursuant to a Guarantee between Indigo and Lynx Opco dated February 24, 2023 (the “**First Bridge Note Guarantee**”) and are also secured against all present and after-acquired personal property of the Applicants pursuant to a General Security Agreement dated February 24, 2023 (the “**First Bridge Note General Security Agreement**”). Copies of the First Bridge Note Guarantee and the First Bridge Note General Security Agreement are attached hereto as **Exhibit “23”** and **“24”**.

(iii) The Second Bridge Note Purchase Agreement

59. Pursuant to the Second Bridge Note Purchase Agreement, Indigo purchased a convertible promissory note (the “**Second Bridge Note**”) in the amount of CAD\$10,000,000. The Second Bridge Note was issued on October 26, 2023, and bears interest at a rate of 20% per annum, convertible and payable semi-annually in arrears. As at December 31, 2023, the total amount outstanding under the Second Bridge Note is approximately CAD\$10,365,000. The Second Bridge Note matures on the earlier of the consummation of a transaction that Lynx Air is in the process of negotiating and June 30, 2024. A copy of the Second Bridge Note is attached hereto as **Exhibit “25”**.

60. All obligations of Lynx Holdco under the Second Bridge Note Purchase Agreement are guaranteed by Lynx Opco, pursuant to a Guarantee between Indigo and Lynx Opco dated October 26, 2023 (the “**Second Bridge Note Guarantee**”) and are also secured against all present and after-acquired personal property of the Applicants pursuant to a General Security Agreement dated October 26, 2023 (the “**Second Bridge Note General Security Agreement**”). Copies of the Second Bridge Note Guarantee and the Second Bridge Note General Security Agreement are attached hereto as **Exhibit “26”** and “**27”**.

(iii) The Third Bridge Note Purchase Agreement

61. Pursuant to the Third Bridge Note Purchase Agreement, Indigo purchased a convertible promissory note (the “**Third Bridge Note**”) up to an equivalent amount in Canadian Dollars of USD\$5,000,000. The Third Bridge Note was issued on January 12, 2024 in the amount of CAD\$6,695,500, and bears interest at a rate of 20% per annum, payable semi-annually in arrears. The Third Bridge Note matures on the earlier of the consummation of a transaction that Lynx Air is in the process of negotiating and June 30, 2024. A copy of the Third Bridge Note is attached hereto as **Exhibit “28”**.

62. All obligations of Lynx Holdco under the Third Bridge Note Purchase Agreement are guaranteed by Lynx Opco, pursuant to a Guarantee between Indigo and Lynx Opco dated January 12, 2024 (the “**Third Bridge Note Guarantee**”) and are also secured against all present and after-acquired personal property of the Applicants pursuant to a General Security Agreement dated January 12, 2024 (the “**Third Bridge Note General Security Agreement**”). Copies of the Third Bridge Note Guarantee and the Third Bridge Note General Security Agreement are attached hereto as **Exhibit “29”** and “**30”**.

(iii) The Fourth Bridge Note Purchase Agreement

63. Pursuant to the Fourth Bridge Note Purchase Agreement, Indigo purchased a convertible promissory note (the “**Fourth Bridge Note**”) up to an equivalent amount in Canadian Dollars of USD\$5,000,000. The Fourth Bridge Note was issued on February 2, 2024 in the amount of CAD\$6,698,500, and bears interest at a rate of 20% per annum, convertible and payable semi-annually in arrears. The Fourth Bridge Note matures on the earlier of the consummation of a transaction that Lynx Air is in the process of negotiating and June 30, 2024. A copy of the Fourth Bridge Note is attached hereto as **Exhibit “31”**.

64. All obligations of Lynx Holdco under the Fourth Bridge Note Purchase Agreement are guaranteed by Lynx Opco, pursuant to a Guarantee between Indigo and Lynx Opco dated February 2, 2024 (the “**Fourth Bridge Note Guarantee**”) and are also secured against all present and after-acquired personal property of the Applicants pursuant to a General Security Agreement dated February 2, 2024 (the “**Fourth Bridge Note General Security Agreement**”). Copies of the Fourth Bridge Note Guarantee and the Fourth Bridge Note General Security Agreement are attached hereto as **Exhibit “32”** and “**33**”.

(iii) The Fifth Bridge Note Purchase Agreement

65. Pursuant to the Fifth Bridge Note Purchase Agreement, Indigo purchased a convertible promissory note (the “**Fifth Bridge Note**”) up to an equivalent amount in Canadian Dollars of USD\$6,753,000. The Fifth Bridge Note was issued on February 7, 2024, and bears interest at a rate of 20% per annum, payable semi-annually in arrears. The Fifth Bridge Note matures on the earlier of the consummation of a transaction that Lynx Air is in the process of negotiating and June 30, 2024. A copy of the Fifth Bridge Note is attached hereto as **Exhibit “34”**.

66. All obligations of Lynx Holdco under the Fifth Bridge Note Purchase Agreement are guaranteed by Lynx Opco, pursuant to a Guarantee between Indigo and Lynx Opco dated February

7, 2024 (the “**Fifth Bridge Note Guarantee**”) and are also secured against all present and after-acquired personal property of the Applicants pursuant to a General Security Agreement dated February 7, 2024 (the “**Fifth Bridge Note General Security Agreement**”). Copies of the Fifth Bridge Note Guarantee and the Fifth Bridge Note General Security Agreement are attached hereto as **Exhibit “35”** and “**36**”.

67. As at January 31, 2024, the total amount owing under all of the aforementioned promissory notes issued to Indigo is: CAD\$100,216,906 in principal, and CAD\$24,084,241 in interest.

(iv) The Noteholders’ and Shareholders’ Agreement

68. In connection with the Note Purchase Agreement, Lynx Holdco, Lynx Opco, the Canadian Investors and Indigo entered into a Noteholders’ and Shareholders’ Agreement dated December 20, 2018, as amended by amendment no. 1 to the Noteholders’ and Shareholders’ Agreement effective as of June 7, 2021, as further amended by amendment no. 2 to the Noteholders’ and Shareholders’ Agreement dated as of December 5, 2022, as further amended by amendment no. 3 to the Noteholders’ and Shareholders’ Agreement dated as of February 24, 2023, as further amended by amendment no. 4 of the Noteholders’ and Shareholders’ Agreement dated October 26, 2023, as further amended by amendment no. 5 to the Noteholders’ and Shareholders’ Agreement dated as of January 12, 2024, as further amended by amendment no. 6 to the Noteholders’ and Shareholders’ Agreement dated as of February 2, 2024, and as further amended by amendment no. 7 to the Noteholders’ and Shareholders’ Agreement dated as of February 7, 2024 (collectively, the “**Noteholders’ and Shareholders’ Agreement**”).

69. A copy of the Noteholders’ and Shareholders’ Agreement is attached hereto as **Exhibit “37”**.

The Aircraft Leases

70. The Applicants are party to nine 12-year leases for nine aircraft:
- (a) an aircraft lease novation and amendment agreement between Lynx Opco as lessee, Wellington Leasing No. 40 Limited as existing lessor, and Bank of Utah, not in its individual capacity but solely as owner trustee (“**Bank of Utah**”), as new lessor, dated June 24, 2023 (the “**Utah Lease Novation and Amendment Agreement**”) and effective March 16, 2022;³
 - (b) an aircraft lease novation and amendment agreement between Lynx Opco as lessee, Wellington Leasing No. 39 Limited as existing lessor, and High Ridge Aviation Trading 2 Limited (“**High Ridge**”) as new lessor, dated June 26, 2023 (the “**High Ridge Lease Novation and Amendment Agreement**”) and effective February 14, 2022;⁴
 - (c) an aircraft lease novation and amendment agreement between Lynx Opco as lessee, Wellington Leasing No. 41 Limited as existing lessor, AERDragon MSN44306 Leasing Limited (“**AERDragon**”) as new lessor, and Société Générale as security trustee dated June 27, 2023 (the “**AERDragon Lease Novation and Amendment Agreement**”) and effective April 5, 2022;⁵

³ The original lease agreement between Lynx Opco and Wellington Leasing No. 40 Limited (“**Wellington 40**”) is dated April 23, 2021, and was amended on November 4, 2021. A Certificate of Acceptance and Estoppel dated March 16, 2022 was given by Lynx Opco and delivered to Wellington 40, as well as a Short Form Lease Agreement 44314 dated March 16, 2022 between Wellington 40 and Lynx Opco.

⁴ The original lease agreement between Lynx Opco and Wellington Leasing No. 39 (“**Wellington 39**”) is dated April 23, 2021, and was amended on November 4, 2021 and February 11, 2022. A Certificate of Acceptance and Estoppel dated February 14, 2022 was given by Lynx Opco and delivered to Wellington 39, as well as a Short Form Lease Agreement 44312 dated February 14, 2022 between Wellington 39 and Lynx Opco.

⁵ The original lease agreement between Lynx Opco and Wellington Leasing No. 41 Limited (“**Wellington 41**”) is dated April 23, 2021, and was amended on November 4, 2021 and March 29, 2022. A Certificate of Acceptance and

- (d) three aircraft lease agreements with BOC Aviation Limited (“**BOCA**”), each dated February 23, 2022 (collectively, the “**BOCA Lease Agreements**”) and effective May 1, 2023, July 31, 2023, and August 18, 2023; and
- (e) three aircraft lease agreements with Wilmington Trust SP Services (Dublin) Limited (“**Wilmington Trust**”) each dated November 4, 2021 (collectively, the “**Wilmington Trust Lease Agreements**”), effective July 13, 2022, July 27, 2022, and August 26, 2022, respectively.

71. Additionally, the Applicants are party to three 12-year leases for three engines with Engine Lease Finance Corporation, each dated April 26, 2023 (collectively, the “**Engine Lease Agreements**”), effective April 27, 2023, May 11, 2023, and August 23, 2023.

72. Each of the above leases is associated with obligations to pay monthly lease rentals and monthly amounts in anticipation of an eventual maintenance spend; the aggregate payment under the twelve 12-year leases is CAD\$4,600,000. Additionally, all obligations of the Applicants under the Aircraft Leases are (i) guaranteed by the terms of various guarantees and (ii) secured by the corresponding security interests and international interests being registered pursuant to the *Alberta Personal Property Security Registry* and the International Registry (as such term is defined in *An Act to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment*, S.C. 2005, c. 3).

ATB Cash Collateral

Estoppel dated April 5, 2022 was given by Lynx Opco and delivered to Wellington 41, as well as a Short Form Lease Agreement 44306 dated April 5, 2022 between Wellington 41 and Lynx Opco.

73. Lynx Air has 13 letters of credit totalling CAD\$5,876,000 issued by ATB for the benefit of Western Surety Company, Greater Toronto Airports Authority, Vancouver Airport Authority, City of Kelowna – City Hall, Aeroports de Montreal, City of Los Angeles, Department of Airports, City of Phoenix Aviation Department, Greater Orlando Aviation Authority, Clark County Department of Aviation Harry Reid International Airport, Tom Bradley International Terminal Equipment Company, Hillsborough County Aviation Authority, Lee County Port Authority, and His Majesty the King in right of the Province of British Columbia. As discussed above in paragraph 34(b), these letters of credit are fully secured by cash deposits which are held by ATB as security for the letters of credit which have been issued.

74. On November 6, 2023, ATB registered a security interest in the cash deposits in the amount of CAD\$1,027,613.62, and on February 14, 2024, ATB registered an additional security interest in the amount of CAD\$4,469,645.96.

Tax Payment Arrangement

75. Lynx Opco is in arrears with the CRA in the amount of CAD\$25,578,279 (the “**Outstanding Balance**”) for debt owing to the Canada Border Services Agency in respect of GST incurred on importation of aircraft into Canada. As such, the CRA and Lynx Opco have entered into a payment arrangement dated November 17, 2023 (the “**CRA Arrangement Agreement**”). Pursuant to the CRA Arrangement Agreement, as of October 2023, Lynx Opco is required pay a total of CAD\$500,000 towards the Outstanding Balance according to the following schedule: CAD\$100,000 on December 1, 2023, CAD\$100,000 on January 2, 2024, CAD\$100,000 on February 1, 2024, and CAD\$200,000 on March 1, 2024. Commencing April 1, 2024, Lynx Opco must make monthly payments on the first of each month, in a minimum amount of CAD\$700,000 towards the Outstanding Balance, until the arrears are retired.

76. A copy of the CRA Arrangement Agreement is attached hereto as **Exhibit “38”**.

Trade Creditors

77. The Applicants have ongoing supply and/or service arrangements with numerous vendors and services providers, including for operation and maintenance of the aircraft.

78. As at December 31, 2023, the Applicants owed accrued and outstanding amounts to trade creditors in the aggregate amount of CAD\$46,797,000, before taking into account any disputed amounts or claims to set-off which the Applicants may have or assert.

Office Lease Obligations

79. Lynx Opco is party to a lease agreement with Deerfoot Junction Holdings Inc., as landlord, dated December 30, 2021, as amended on May 1, 2023, pursuant to which it leases head office space in Calgary, Alberta, at 3215 – 12th Street N.E. (the “**Commercial Lease**”). All obligations of Lynx Holdco under the Commercial Lease are current.

Litigation Claims

80. The Applicants are involved in certain claims and litigation arising in the course of its business, including two ongoing claims in the Alberta Court of King’s Bench by one former Officer and one former employee against Lynx Air, each related to wrongful dismissal.

PPR Registrations

81. I am advised by Julie Treleaven of Osler, Hoskin & Harcourt LLP, counsel to the Applicants, that as of February 16, 2024, there are 16 registrations against the Applicants in the Alberta *Personal Property Security Registry*, being:

- (a) Two registrations against Lynx Holdco and Lynx Opco by Indigo of its security interest in all present and after-acquired personal property of the Applicants secured by the Note General Security Agreement, the First Bridge Note General Security Agreement, the Second Bridge Note General Security Agreement, the Third Bridge Note General Security Agreement, the Fourth Bridge Note General Security Agreement, and the Fifth Bridge Note General Security Agreement;
- (b) One registration against Lynx Opco by ATB of a security interest in the amount of USD\$1,027,613.62 and CAD\$4,469,645.96 for amounts on deposit with ATB;
- (c) One registration against Lynx Opco by High Ridge of security interests on certain Boeing airframes and engines supplied to the Applicants pursuant to the High Ridge Lease Novation and Amendment Agreement;
- (d) One registration against Lynx Opco by Bank of Utah of security interests on certain Boeing airframes and engines supplied to the Applicants pursuant to Bank of Utah Lease Novation and Amendment Agreement;
- (e) One registration against Lynx Opco by AERDragon of security interests on certain Boeing 737 MAX 8 aircraft and engines supplied to the Applicants pursuant to the AERDragon Lease Novation and Amendment Agreement;
- (f) One registration against Lynx Opco by Société Générale of security interests on certain Boeing 737 MAX 8 aircraft and engines supplied to the Applicants pursuant to the AERDragon Lease Novation and Amendment Agreement;

- (g) Three registrations against Lynx Opco by Wilmington Trust of security interests on certain Boeing 737 MAX 8 aircraft and engines supplied to the Applicants pursuant to the Wilmington Trust Lease Agreements;
- (h) Three registrations against Lynx Opco by BOCA of security interests on certain Boeing 737 MAX 8 aircraft and engines supplied to the Applicants pursuant to the BOCA Lease Agreements; and
- (i) Three registrations against Lynx Opco by Engine Lease Finance Corporation of security interests on certain engines supplied to the Applicants pursuant to the Engine Lease Agreements.

82. A copy of the Alberta *Personal Property Security Registry* search for Lynx Holdco and Lynx Opco is attached hereto as **Exhibit “39”** and **“40”**.

C. Equity

83. The Applicants’ authorized share capital consists of an unlimited number of Common Voting Shares, an unlimited number of Variable Voting Shares, an unlimited number of Non-Voting Shares, and an unlimited number of Preferred Shares. As at February 6, 2024, there were 35,621,063 Common Shares and 421,829,531 Convertible Shares issued and outstanding.

84. The Applicants also have a stock option plan pursuant to which options are granted to directors, officers, employees, consultants or other service providers as a form of compensation. As at February 6, 2024, there were approximately 2,183,829 outstanding stock options, all of which are out-of-the-money.

PART IV – RECENT EVENTS LEADING TO CCAA FILING

85. The Applicants' need to restructure is primarily driven by drastically reduced revenues over the past two years because of significant and sustained external factors, and a capital structure that can no longer be sustained in the face of these challenges. After Lynx Air started business (but before it flew its inaugural flight) it was met with a number of serious unforeseeable challenges to its business, as described below.

Competitive Landscape

86. The Canadian airline industry can be characterized as a duopoly dominated by two major airlines: Air Canada and WestJet. These airlines, in part through their well-established operations and market affluence, can decrease their base fares to prices comparable to ULCCs such as Lynx Air. This in turn saturates the market for ULCCs by reducing its consumer base, resulting in a reduction in passenger demand that ultimately correlates to decreases in revenue. This reduced passenger demand is further amplified by Lynx Air's direct ULCC competitors, Flair Airlines and Canada Jetlines, who operate on similar strategic and operational structures. As such, Lynx Air's entry into the Canadian market was a difficult and competitive venture.

87. However, the already competitive and constrained passenger market in Canada was significantly impacted by the COVID-19 pandemic. Government-imposed travel restrictions, health concerns, and the economic disruptions caused by the pandemic led to a substantial decrease in passenger demand which continues to be observed in the airline market today. As a result of this decreased demand, Lynx Air's competition among Canada's airlines intensified as they vied for a limited number of passengers. These market conditions ultimately resulted in unanticipated consequences to Lynx Air's capital structure.

Drastic Increase in Jet Fuel Prices

88. As outlined in paragraph 6 above, the dramatic and sustained increase in jet fuel prices since 2019 has had a direct and major impact on the Applicants' business. In 2023 alone, fuel was between 50-100% higher than projected in the Applicants' original business plan. This resulted in fuel expenses approximately CAD\$30,000,000 over the original business plan.

89. Unlike legacy airlines, these unprecedented price increases more dramatically affect ULCC airlines like Lynx Air. While legacy airlines or a low-cost-carriers can recoup increased fuel prices by increasing base fares, an ULCC cannot deviate from the established base fare without abandoning the ULCC model altogether.

The Boeing 737 MAX 8 Groundings

90. On October 29, 2018, and again on March 10, 2019, the Boeing 737 MAX 8 aircraft (which was the only model that Lynx Air was planning on using in its fleet) was involved in two mass-fatality incidents. Consequently, in March of 2019 most civil aviation authorities, including the TCCA, grounded the Boeing 737 MAX 8 aircraft over safety concerns. This grounding lasted until December of 2020, and coincided exactly with Lynx Air's intended first flight (the first quarter of 2019).

91. As the Boeing 737 MAX 8 aircraft was the only type of aircraft purchased for Lynx Air's fleet, the Applicants were unable to (a) begin operations, and (b) take delivery of additional aircraft purchased under the Boeing Purchase Agreement. This resulted in administrative and operating costs being incurred without any significant return of revenue until Lynx Air's inaugural flight in April of 2022 – 3 years after the intended inaugural flight in the first quarter of 2019.

PART V – THE APPLICANTS' URGENT NEED FOR PROTECTION

92. The Applicants are in urgent need of protection under the CCAA to preserve value for all stakeholders. The financial strains placed on the Applicants' business as a result of the foregoing events has been disastrous to the Applicants' business.

93. Accordingly, while the Applicants have significant business operations and assets, the reduced revenues required to conduct its ongoing operations, together with a combination of factors outside of its control, have placed the Applicants in a liquidity crisis.

94. While the Applicants have in the past received debt financing from Indigo to fund its operating costs, it has never been able to achieve profitability in order to become self-sustaining. More recently, the Applicants have been unsuccessful in efforts to secure additional capital in order to try to achieve profitability. As a result, the Applicants find themselves in a situation where not only can they not repay the Initial Notes, but they are unable to fund day to day operations without additional debt financing from Indigo.

95. In response to the liquidity crisis caused by the multiple outside factors described above, the Applicants have attempted to implement further cost mitigation measures to protect the minimum capital required to continue basic care and maintenance operations of its aircraft. Since September of 2023, the Applicants have, among other things, taken the following steps:

- (a) limited itself to essential hiring only;
- (b) implemented revenue-management technology;
- (c) optimized costs by re-routing flights to have "out and back flying" versus overnight stays; and
- (d) modified its flight network to avoid overlap in Canada's aviation market.

96. Notwithstanding these cost mitigation efforts, the Applicants' current revenue amounts have resulted in a significant amount of ageing trade payables and declining liquidity to support operations, and the Applicants are currently over-leveraged and unable to sustain operations at current revenue levels and at current expense levels – even with cost-cutting measures implemented. Accordingly, the Applicants currently find themselves in a situation where expenses are outstripping revenue, putting a strain on the Applicants' cash reserves which are being quickly depleted. As noted in the Applicants' cash flow forecast, the Applicants will soon have its cash reserves entirely exhausted and will be unable to pay its suppliers or staff.

97. Additionally, as discussed above in paragraphs 29 to 33, Lynx Air has received notices of default from various parties, such as the GTAA and Delta with cure periods expiring on February 21, 2024 and February 26, 2024, respectively. If unpaid, the GTAA and Delta may commence enforcement proceedings which could include measures which would significantly and negatively affect the Applicants' operations, including withdrawing services and seizure of aircraft.

98. As a result, for the past several months the Applicants have been exploring options both to raise additional capital which would permit the Applicants to continue to carry on business, or to enter into a transaction which would permit the Applicants to wind down operations in an orderly fashion to maximize value for the Applicants' affected stakeholders. As of February 21, 2024, the Applicants have entered into a Letter of Intent for a transaction that will allow an orderly wind down of operations while simultaneously maximizing the value of the Applicants' remaining assets. The Applicants therefore urgently require the protection of the CCAA in order to conclude this transaction for the benefit of all stakeholders. In absence of a CCAA filing, the Applicants will be in imminent danger of a disorderly operational shut-down that will result in aircraft and

passengers being haphazardly stranded across Lynx Air's network, and a myriad of individual creditors and service providers exercising enforcement measures against Lynx Air's assets.

PART VI – STATUTORY REQUIREMENTS UNDER THE CCAA

A. The Applicability of the CCAA

99. The Applicants are companies to which the CCAA applies. The Board of Directors of the Applicants have resolved to authorize the within CCAA proceedings.

100. The Applicants have claims against it in excess of CAD\$5,000,000. As at January 31, 2024, the Applicants are indebted to Indigo in the amount of CAD\$100,216,906 in principal, and CAD\$24,084,241 in interest. All obligations of the Applicants to Indigo are secured by security interests in all of the Applicants' present and after acquired property. As at December 31, 2023, the Applicants also owe outstanding amounts to certain trade creditors in the aggregate amount of CAD\$46,797,000. The Applicants are unable to pay these amounts.

101. The Applicants are insolvent and are, or soon will be, unable to meet their obligations generally as they become due by virtue of revenues falling below operating costs, as a result of the matters described above.

B. Cash-Flow Projections

102. The Applicants, with the assistance of FTI, have prepared cash flow statements, on a go forward basis up to and including March 2, 2024 (the "**Cash-Flow Projections**"). The Cash-Flow Projections are attached as **Exhibit "41"** hereto.

103. As set out in the Cash-Flow Projections, from the date hereof until March 2, 2024, the Applicants' principal use of cash will consist of funding operations. The Cash-Flow Projections

evidence that, subject to obtaining the limited relief sought as part of the Originating Application, the Applicants will have sufficient liquidity to fund its ongoing operations without the need for additional funding during the initial ten (10) day stay period.

C. Consent to Act by FTI

104. The Applicants seek appointment of FTI as Monitor in these proceedings (in such capacity, the “**Monitor**”). FTI has consented to act as Monitor of the Applicants, subject to Court approval. Attached as **Exhibit “42”** is FTI’s Consent to Act as Monitor.

D. Administration Charge

105. As noted above, FTI has consented to act as Monitor in these proceedings to provide supervision, monitoring and to generally assist the Applicants with its restructuring efforts, including the potential preparation of a CCAA plan to be put to the Applicants’ creditors pursuant to the terms of the proposed Initial Order and the statutory provisions of the CCAA.

106. The Monitor, counsel for the Monitor, and the Applicants’ counsel (being the Applicants’ restructuring counsel Osler, Hoskin & Harcourt LLP and the Applicants’ corporate counsel Linmac LLP) will be essential to the Applicants’ restructuring efforts. They are prepared to provide or continue to provide professional services to the Applicants, and require the protection of a first-ranking priority charge (the “**Administration Charge**”) over the Applicants’ assets. However, the Administration Charge shall not rank in priority to the interests of any aircraft lessor or financier as described in paragraphs 70 and 71 above.

107. The Applicants believe that an Administration Charge in the amount of CAD\$500,000 is fair and reasonable given the size and complexity of the Applicants’ business and will provide the level of appropriate protection for the payment of the Applicants’ essential professional services

during the initial ten (10) day stay period. The Applicants intend to apply for an increase of the Administration Charge to CAD\$750,000 at the comeback application.

E. Interim Lending and the Interim Lender's Charge

108. As demonstrated in the Cash-flow Projections, the Applicants require interim financing to pursue their restructuring efforts in the context of these CCAA proceedings and to allow payment of future financial obligations, including obligations to trade creditors, as well as to allow the Applicants to properly retain both the proposed monitor and legal counsel to assist and advise the Applicants in relation to restructuring options.

109. As at the date of this Affidavit, the Applicants and the Interim Lender have agreed upon interim financing in an amount of CAD\$1,000,000 during the initial Stay Period, pursuant to the terms of the Interim Lending Term Sheet that is subject to final approval by Indigo. It is the Applicants' intention, subject to receiving the necessary approval of this Honourable Court, to draw down on the Interim Financing to fulfil mandatory statutory payments and immediately make the necessary arrangements with its employees, contractors, vendors, and other stakeholders to wind-down its business operations in an orderly fashion. A copy of the draft Interim Lending Term Sheet (which I believe to be either final or near final) is attached hereto as **Exhibit "43"**.

110. The Interim financing is proposed to be secured by a second ranking Interim Lender's Charge on all of the Property of the Applicants. However, the Interim Lenders' Charge shall not rank in priority to the interests of any aircraft lessor or financier as described in paragraphs 70 and 71 above.

F. D&O Charge


111. The requested relief also contains a third ranking charge against the Applicants' Property as security for any obligations and liabilities the Applicants' directors and officers may incur in their roles as directors and officers after February 22, 2024, up to the maximum amount of CAD\$500,000. However, the D&O Charge shall not rank in priority to the interests of any aircraft lessor or financier as described in paragraphs 70 and 71 above.

112. The Applicants require the services of their directors and officers to develop a viable proposal. The Applicants' directors and officers have the technical and institutional knowledge, experience, and relationships necessary to preserve the value of Lynx Air's operations and business for the benefit of all stakeholders. The Applicants' chances to implement a successful restructuring are maximized by the continued involvement of their directors and officers.

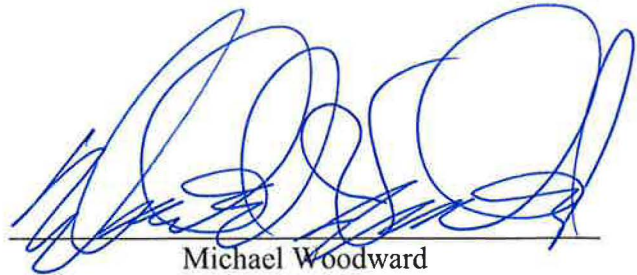
PART VII – RELIEF SOUGHT

113. I make this Affidavit in support of the Initial Order pursuant to the CCAA, including a stay of proceedings, for the purposes of allowing Lynx Air an opportunity to restructure its affairs and develop a plan of arrangement for the benefit of its creditors.

SWORN BEFORE ME at Calgary, Alberta,
this 22nd day of February, 2024.



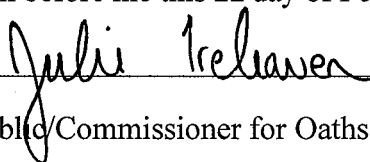
Notary Public and Commissioner for Oaths in
and for the Province of Alberta



Michael Woodward

Julie Laura Treleaven
Barrister & Solicitor

This is **Exhibit "1"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

Government of Alberta ■ Corporation/Non-Profit Search

Corporate Registration System

Date of Search: 2024/02/16
Time of Search: 11:39 AM
Search provided by: OSLER, HOSKIN & HARCOURT LLP
Service Request Number: 41498348
Customer Reference Number: 3168/1246361

Corporate Access Number: 2012633430
Business Number: 840541767
Legal Entity Name: 1263343 ALBERTA INC.

Legal Entity Status: Active
Alberta Corporation Type: Numbered Alberta Corporation
Registration Date: 2006/08/23 YYYY/MM/DD

Registered Office:

Street: 1400, 350 - 7 AVENUE SW
City: CALGARY
Province: ALBERTA
Postal Code: T2P3N9

Records Address:

Street: 1400, 350 - 7 AVENUE SW
City: CALGARY
Province: ALBERTA
Postal Code: T2P3N9

Email Address: CALCORP@LINMAC.COM

Primary Agent for Service:

Last Name	First Name	Middle Name	Firm Name	Street	City	Province	Postal Code	Email
ZIOLKOWSKI	JENINE		LINMAC LLP	1400, 350 - 7 AVENUE SW	CALGARY	ALBERTA	T2P3N9	CALCORP@LINMAC.COM

Directors:

Last Name: MELCHIN
First Name: GREG
Street/Box Number: 47 ROYAL RIDGE TERRACE NW
City: CALGARY

Province: ALBERTA
Postal Code: T3G5Y9

Last Name: MORGAN
First Name: THOMAS
Middle Name: W.
Street/Box Number: 3215, 12 STREET NE
City: CALGARY
Province: ALBERTA
Postal Code: T2E7S9

Voting Shareholders:

Legal Entity Name: LYNX AIR HOLDINGS CORPORATION
Corporate Access Number: 2021617945
Street: 1400, 350 - 7 AVENUE SW
City: CALGARY
Province: ALBERTA
Postal Code: T2P3N9
Percent Of Voting Shares: 100

Details From Current Articles:

The information in this legal entity table supersedes equivalent electronic attachments

Share Structure: AS SET OUT IN SCHEDULE "A" ATTACHED HERETO.
Share Transfers Restrictions: NONE
Min Number Of Directors: 1
Max Number Of Directors: 11
Business Restricted To: NONE.
Business Restricted From: NONE.
Other Provisions: AS SET OUT IN SCHEDULES "B" AND "C" ATTACHED HERETO.

Associated Registrations under the Partnership Act:

Trade Partner Name	Registration Number
ENERJET	TN14441364
LYNX AIR	TN23884497

Other Information:

Last Annual Return Filed:

File Year	Date Filed (YYYY/MM/DD)
-----------	-------------------------

2023	2023/11/09
------	------------

Filing History:

List Date (YYYY/MM/DD)	Type of Filing
2006/08/23	Incorporate Alberta Corporation
2016/05/19	Change Address
2018/12/19	Name/Structure Change Alberta Corporation
2020/02/19	Update BN
2023/11/09	Enter Annual Returns for Alberta and Extra-Provincial Corp.
2023/12/04	Change Director / Shareholder

Attachments:

Attachment Type	Microfilm Bar Code	Date Recorded (YYYY/MM/DD)
<u>Share Structure</u>	ELECTRONIC	2006/08/23
<u>Restrictions on Share Transfers</u>	ELECTRONIC	2006/08/23
<u>Other Rules or Provisions</u>	ELECTRONIC	2006/08/23
<u>Restrictions on Share Transfers</u>	ELECTRONIC	2007/09/12
<u>Share Structure</u>	ELECTRONIC	2007/09/12
<u>Other Rules or Provisions</u>	ELECTRONIC	2007/09/12
<u>Other Rules or Provisions</u>	ELECTRONIC	2008/03/28
<u>Consolidation, Split, Exchange</u>	ELECTRONIC	2011/10/04
<u>Share Structure</u>	ELECTRONIC	2011/10/04
<u>Consolidation, Split, Exchange</u>	ELECTRONIC	2011/10/04
<u>Consolidation, Split, Exchange</u>	ELECTRONIC	2018/12/19
<u>Share Structure</u>	ELECTRONIC	2018/12/19
<u>Amendment to a Series of Shares</u>	ELECTRONIC	2019/02/13
<u>Memo to File</u>	ELECTRONIC	2019/02/13
Letter - For Legal Name Change	10000907135471094	2022/11/24

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.



Government Corporation/Non-Profit Search of Alberta ■ Corporate Registration System

Date of Search: 2024/02/16
Time of Search: 11:40 AM
Search provided by: OSLER, HOSKIN & HARCOURT LLP
Service Request Number: 41498366
Customer Reference Number: 3168/1246361

Corporate Access Number: 2021617945
Business Number: 753717933
Legal Entity Name: LYNX AIR HOLDINGS CORPORATION

Name History:

Previous Legal Entity Name	Date of Name Change (YYYY/MM/DD)
ENERJET HOLDCO INC.	2021/11/16

Legal Entity Status: Active
Alberta Corporation Type: Named Alberta Corporation
Registration Date: 2018/12/17 YYYY/MM/DD

Registered Office:

Street: 1400, 350 - 7 AVENUE SW
City: CALGARY
Province: ALBERTA
Postal Code: T2P3N9

Records Address:

Street: 1400, 350 - 7 AVENUE SW
City: CALGARY
Province: ALBERTA
Postal Code: T2P3N9

Email Address: CALCORP@LINMAC.COM

Primary Agent for Service:

Last Name	First Name	Middle Name	Firm Name	Street	City	Province	Postal Code	Email
ZIOLKOWSKI	JENINE		LINDSEY MACCARTHY LLP	1400, 350 - 7 AVENUE SW	CALGARY	ALBERTA	T2P3N9	CALCORP@LINMAC.COM

Directors:

Last Name: MELCHIN
First Name: GREG

Street/Box Number: 47 ROYAL RIDGE TERRACE NW

City: CALGARY

Province: ALBERTA

Postal Code: T3G5Y9

Last Name: MORGAN

First Name: THOMAS

Middle Name: W.

Street/Box Number: 3215, 12 STREET NE

City: CALGARY

Province: ALBERTA

Postal Code: T2E7S9

Voting Shareholders:

Last Name: INDIGO NORTHERN VENTURES LP

Street: 2525 EAST CAMELBACK ROAD, SUITE 900

City: PHOENIX

Province: ARIZONA

Postal Code: 85016

Percent Of Voting Shares: 25

Last Name: STEPWORTH HOLDINGS INC.

Street: 800, 1170 PEEL STREET

City: MONTREAL

Province: QUEBEC

Postal Code: H3B4P2

Percent Of Voting Shares: 11.49

Last Name: TORQUEST PARTNERS FUND (U.S.) IV, L.P.

Street: 161 BAY STREET, SUITE 4240

City: TORONTO

Province: ONTARIO

Postal Code: M5J2S1

Percent Of Voting Shares: 19.29

Last Name: TORQUEST PARTNERS FUND IV, L.P.

Street: 161 BAY STREET, SUITE 4240

City: TORONTO

Province: ONTARIO

Postal Code: M5J2S1

Percent Of Voting Shares: 15.74

Details From Current Articles:

The information in this legal entity table supersedes equivalent electronic attachments

Share Structure: SEE SCHEDULE A ATTACHED

Share Transfers Restrictions: SEE SCHEDULES C AND D ATTACHED

Min Number Of Directors: 1

Max Number Of Directors: 11

Business Restricted To: NONE

Business Restricted From: NONE

Other Provisions: SEE SCHEDULE B ATTACHED

Holding Shares In:

Legal Entity Name
1263343 ALBERTA INC.

Other Information:

Last Annual Return Filed:

File Year	Date Filed (YYYY/MM/DD)
2022	2023/01/23

Outstanding Returns:

Annual returns are outstanding for the 2023 file year(s).

Filing History:

List Date (YYYY/MM/DD)	Type of Filing
2018/12/17	Incorporate Alberta Corporation
2018/12/19	Name/Structure Change Alberta Corporation
2020/02/23	Update BN
2021/11/16	Name Change Alberta Corporation
2023/01/23	Enter Annual Returns for Alberta and Extra-Provincial Corp.
2023/12/04	Change Director / Shareholder

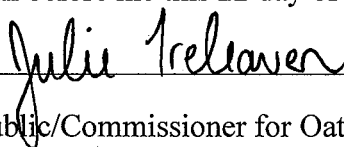
Attachments:

Attachment Type	Microfilm Bar Code	Date Recorded (YYYY/MM/DD)
Share Structure	ELECTRONIC	2018/12/17
Other Rules or Provisions	ELECTRONIC	2018/12/17
Restrictions on Share Transfers	ELECTRONIC	2018/12/17
Amendment to a Series of Shares	ELECTRONIC	2018/12/19

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.



This is **Exhibit "2"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

Government of Alberta ■ Trade Name / Partnership Search Corporate Registration System

Date of Search: 2024/02/16
Time of Search: 01:59 PM
Search provided by: OSLER, HOSKIN & HARCOURT LLP
Service Request No: 41500525
Customer Reference No: 1246361-2381

Registration No: TN23884497
Business Number: 840541767
Current Business Name: LYNX AIR
Status of Business Name: Active
Trade Name / Partnership Type: Trade Name
Commencement Date: 2021/11/16 YYYY/MM/DD
Date of Registration: 2021/11/16 YYYY/MM/DD
Type of Business: COMMERCIAL AIR TRANSPORTATION

Current Declarant:

Last/Legal Entity Name: 1263343 ALBERTA INC.
Street: 1400, 350 - 7 AVENUE SW
City: CALGARY
Province: ALBERTA
Postal Code: T2P3N9
Email Address: CALCORP@LINMAC.COM

Other Information:

Filing History:

List Date	Type of Filing
2021/11/16	Register Trade Name

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.



This is **Exhibit "3"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

Lynx Air Holdings Corporation

Consolidated statement of financial position

As at

Unaudited (Canadian dollars in thousands)	December 31, 2022	December 31, 2021
	\$	\$
Assets		
Current		
Cash and cash equivalents	12,420	4,524
Restricted cash	3,772	274
Accounts receivable	14,365	55
Prepaid expenses	5,895	1,953
Inventory	587	123
	<u>37,039</u>	<u>6,928</u>
Pre-delivery payments and lease deposits	19,909	29,764
Property and equipment (net)	6,650	2,008
Intangible assets	2,799	2,795
Goodwill	4,114	4,114
Prepaid expenses	13	44
Maintenance reserves	5,673	-
Due from Enerjet SPV Inc.	34	28
Total assets	<u>76,231</u>	<u>45,679</u>
Liabilities		
Current		
Accounts payable and accrued liabilities	22,855	5,385
Pre-delivery payment loan	-	22,060
Deferred revenue	6,297	-
Convertible notes payable	11,076	6,137
	<u>40,228</u>	<u>33,582</u>
Deferred purchase incentive credit	2,691	2,691
Convertible notes	69,364	18,243
Deferred tax liability	280	132
Total liabilities	<u>112,562</u>	<u>54,647</u>
Shareholders' equity (deficiency)		
Common shares	35,621	9,738
Contributed surpluses	3,453	3,011
Deficit	(75,406)	(21,717)
Total shareholders' deficiency	<u>(36,331)</u>	<u>(8,968)</u>
Total liabilities and shareholders' equity	<u>76,231</u>	<u>45,679</u>

Consolidated statement of loss and comprehensive loss

Unaudited (Canadian dollars in thousands)	Twelve Months Ended December 31, 2022 \$	Twelve Months Ended December 31, 2021 \$
Revenue		
Passenger	40,479	-
Non-ticket	13,614	-
Other passenger revenue	15,521	-
Interest income	161	3
	69,776	3
Expenses		
Aircraft, maintenance and operations	89,274	756
Salaries, wages and benefits	18,260	3,849
General and administrative	10,275	4,224
Depreciation	79	29
Finance costs	6,353	2,881
	124,240	11,739
Loss from operations	(54,465)	(11,736)
Other income (expense)		
Compensation for grounding disruption	2	7,500
Management fees	(750)	(750)
Foreign exchange gain	1,199	3
	450	6,753
Net loss before income taxes	(54,014)	(4,983)
Deferred income tax recovery	(325)	72
Net loss and comprehensive loss	(53,689)	(4,911)

Lynx Air Holdings Corporation

Consolidated statement of changes in equity (deficiency)

Unaudited (Canadian dollars in thousands)	Twelve Months Ended December 31, 2022 \$	Twelve Months Ended December 31, 2021 \$
Share capital		
Balance, beginning of year	9,738	9,738
Shares issued for cash	16,520	-
Shares issued on exercise of warrants	748	-
	27,006	9,738
Contributed surplus		
Balance, beginning of year	3,011	3,011
Warrants, exercised by Enerjet SPV Inc.	(748)	-
Fair value of embedded equity component - notes payable	1,571	-
Deferred taxes on embedded equity component - notes payable	(361)	-
	3,473	3,011
Deficit		
Balance, beginning of year	(21,717)	(16,806)
Net loss and comprehensive loss	(53,689)	(4,911)
Balance, end of year	(75,406)	(21,717)

Lynx Air Holdings Corporation

Consolidated statement of cash flows

Unaudited (Canadian dollars in thousands)	Twelve Months Ended December 31, 2022 \$	Twelve Months Ended December 31, 2021 \$
Operating activities		
Net income (loss)	(53,689)	(4,911)
Depreciation	79	29
Accrued interest payable on convertible notes	4,939	2,328
Accretion of interest	1,414	553
Unrealized foreign exchange gain (loss)	(632)	48
Realized foreign exchange gain (loss)	(368)	-
Deferred income tax recovery	149	(72)
	<u>(48,108)</u>	<u>(2,025)</u>
Changes in working capital accounts		
Restricted cash	(3,498)	(10)
Accounts receivable	(14,310)	7
Prepaid expenses and deposits	(3,912)	(1,156)
Inventory	(464)	(27)
Due from Enerjet SPV Inc.	(6)	(6)
Accounts payable and accrued liabilities	17,470	3,046
Deferred revenue	6,297	-
Cash used in operating activities	<u>(46,531)</u>	<u>(171)</u>
Investing activities		
Pre-delivery payments and lease deposits	(11,669)	(1,795)
Purchase of property and equipment	(4,721)	(178)
Purchase of intangible assets	4	(73)
Maintenance reserves	(5,673)	-
Cash used in investing activities	<u>(22,060)</u>	<u>(2,045)</u>
Financing activities		
Residual equity - fair value of new debt	-	-
Proceeds on issuance of common shares	24,739	-
Proceeds from the issuance of convertible promissory notes payable	51,767	-
Cash provided by financing activities	<u>76,505</u>	<u>-</u>
Increase (decrease) in cash	7,914	(2,216)
Net foreign exchange difference	(18)	(47)
Cash, beginning of year	4,524	6,788
Cash, end of year	<u>12,420</u>	<u>4,524</u>
Supplementary cash flow information		
Interest paid	-	-

This is **Exhibit "4"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleven
Barrister & Solicitor

Lynx Air Holdings Corporation

Consolidated statement of financial position

As at

Unaudited (Canadian dollars in thousands)	December 31, 2023	December 31,
	\$	2022
	\$	\$
Assets		
Current		
Cash and cash equivalents	2,519	12,420
Restricted cash	7,945	3,772
Accounts receivable	37,655	14,262
Prepaid expenses	4,092	3,037
Inventory	1,120	587
	53,331	34,078
Pre-delivery payments and lease deposits	19,469	18,647
Property and equipment (net)	345,145	200,590
Deferred purchase incentive credit	(22,711)	(26,022)
Intangible assets	2,807	2,799
Goodwill	4,114	4,114
Long-term receivables	9,427	22,384
Prepaid expenses	-	13
Maintenance reserves	17,462	5,822
Due from Enerjet SPV Inc.	47	34
Total assets	429,091	262,458
Liabilities		
Current		
Accounts payable and accrued liabilities	62,383	20,172
Deferred revenue	20,635	6,466
Convertible notes payable	22,819	11,076
Current portion - Lease Liability - Aircraft	21,084	11,441
	126,921	49,155
Convertible notes	93,521	69,363
Deferred tax liability	24,491	280
Long-term - Lease Liability - Aircraft	354,924	202,331
Total liabilities	599,857	321,130
Shareholders' equity (deficiency)		
Common shares	35,621	35,621
Contributed surpluses	3,453	3,453
Deficit	(209,840)	(97,746)
Total shareholders' deficiency	(170,766)	(58,672)
Total liabilities and shareholders' equity	429,091	262,458

Lynx Air Holdings Corporation

Consolidated statement of loss and comprehensive loss

Unaudited (Canadian dollars in thousands)	Twelve Months Ended December 31, 2023 \$	Twelve Months Ended December 31, 2022 \$
Revenue		
Passenger	100,482	40,380
Non-ticket	48,270	13,741
Other passenger revenue	6,362	1,571
Interest income	10,754	2,149
	165,868	57,841
Expenses		
Aircraft, maintenance and operations	172,934	73,119
Salaries, wages and benefits	39,694	18,048
General and administrative	19,515	9,388
Depreciation	24,391	11,366
Finance costs	43,347	17,864
	299,881	129,785
Loss from operations	(134,013)	(71,945)
Other income (expense)		
Compensation for grounding disruption	14,248	7,677
Management fees	(750)	(750)
Foreign exchange gain	7,988	(11,336)
	21,486	(4,410)
Net loss before income taxes	(112,526)	(76,354)
Deferred income tax recovery	(432)	(325)
Net loss and comprehensive loss	(112,094)	(76,029)

Lynx Air Holdings Corporation

Consolidated statement of changes in equity (deficiency)

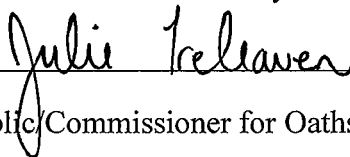
Unaudited (Canadian dollars in thousands)	Twelve Months Ended December 31, 2023 \$	Twelve Months Ended December 31, 2022 \$
Share capital		
Balance, beginning of year	35,621	9,738
Shares issued for cash	-	24,739
Shares issued on exercise of warrants	-	1,144
	35,621	35,621
Contributed surplus		
Balance, beginning of year	3,453	3,011
Warrants, exercised by Enerjet SPV Inc.	-	(1,144)
Fair value of embedded equity component - notes payable	-	2,060
Deferred taxes on embedded equity component - notes payable	-	(474)
	3,453	3,453
Deficit		
Balance, beginning of year	(97,746)	(21,717)
Net loss and comprehensive loss	(112,094)	(76,029)
Balance, end of year	(209,841)	(97,746)

Lynx Air Holdings Corporation

Consolidated statement of cash flows

Unaudited (Canadian dollars in thousands)	Twelve Months Ended December 31, 2023 \$	Twelve Months Ended December 31, 2022 \$
Operating activities		
Net income (loss)	(112,094)	(76,029)
Depreciation	24,391	11,366
Accrued interest payable on convertible notes	11,717	4,939
Accretion of interest	1,879	1,377
Unrealized foreign exchange gain (loss)	7,358	(11,547)
Realized foreign exchange gain (loss)	656	187
Deferred income tax recovery	24,211	149
	(41,885)	(69,558)
Changes in working capital accounts		
Restricted cash	(4,174)	(3,498)
Accounts receivable	(23,393)	(14,207)
Long-term receivable	12,958	(22,384)
Prepaid expenses and deposits	(3,638)	(5,769)
Inventory	(533)	(464)
Due from Enerjet SPV Inc.	(12)	(6)
Accounts payable and accrued liabilities	43,984	14,832
Deferred revenue	14,169	6,466
Deferred purchase incentive credit	(3,311)	23,331
Cash used in operating activities	(5,834)	(71,257)
Investing activities		
Pre-delivery payments and lease deposits	-	(6,694)
Purchase of property and equipment	8,478	10,498
Purchase of intangible assets	(8)	4
Maintenance reserves	(11,641)	(5,822)
Cash used in investing activities	(3,170)	(2,014)
Financing activities		
Residual equity - fair value of new debt	-	-
Proceeds on issuance of common shares	-	24,738.80
Proceeds from the issuance of convertible promissory notes payable	22,279	51,766.70
Lease liability	(15,188)	(6,674.00)
Cash provided by financing activities	7,092	69,831
Increase (decrease) in cash	(1,912)	(3,440)
Net foreign exchange difference	(7,988)	11,336
Cash, beginning of year	12,420	4,524
Cash, end of year	2,520	12,420
Supplementary cash flow information		
Interest paid	-	-

This is **Exhibit "5"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.

A handwritten signature in cursive script that reads "Julie Treleaven". The signature is written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

Lynx Air Holdings Corporation

3215 12 Street NE , Calgary , AB , T2E 8T3

Policy No.: 8622083

Policy Period:

From: 12:01 A.M. on October 14, 2023

To: 12:01 A.M. on October 14, 2024

Local time at the Policyholder address

Contact to report a claim:

Zurich, Claims Department

Attn: New Claims

100 King Street West, Suite 5500

P.O. Box 290,

Toronto, ON M5X 1C9

Email: claims@zurich.com

Telephone: (866) 345-3454

Fax: (877) 977-8077



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- Employment Practices Liability (EPL)
- Fiduciary Liability
- Crime
- Cyber, Security & Privacy Liability
- Professional Liability

Contact us to learn more:

Zurich Canada
416-586-3000
www.zurichcanada.com

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Zurich Canada is your trusted risk partner with world-class capabilities, providing a wide range of comprehensive solutions through monoline, multiline and package insurance programs. Zurich's dedicated regional teams offer a forward-thinking approach to mitigate your risks and to help you better protect your business.



Breadth of Coverage

Zurich offers broad coverage for pre-claim events and a broad definition of financial loss which now includes corporate taxes owned by the company and corporate employees' wages.



Financial Strength and Stability

Zurich's financial strength ratings are among the strongest in the industry, with an A+/stable rating from A.M. Best and AA/stable from Standard & Poor's.



Broad Appetite

Broad appetite for primary and excess, including Side-A, on publicly traded, private, not-for-profit and financial institutions.



Vast Array of Specialized Solutions

Zurich's solution-oriented approach includes innovative, industry-leading products that recognize each business's unique risk profile.



Unmatched International Capabilities

Zurich's global network allows customers to access locally admitted policies in more than 210 countries and territories, giving you a consistent standard of insurance protection and service worldwide.



Exceptional Claims Management

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Ask about our additional capabilities & services

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By submitting the requested information, which may include, but is not limited to, name, address, date of birth, driver's licence number, medical information, financial information, driving record, automobile insurance policy history, and automobile insurance claims history, you are providing consent to Zurich Insurance Company Ltd and its subsidiaries and affiliates located in your country of residency or abroad (collectively, "Zurich"), for the collection, storage, use, disclosure, and processing of your personal information as may be necessary for the purposes of securing and administering the requested insurance coverage(s), including but not limited to, risk evaluation, policy execution, premium setting, premium collection, claims adjusting, administration, investigation and settlement, fraud prevention, detection and suppression, or statistical evaluation. You are also providing consent to Zurich for the disclosure of your personal information to third parties, as required for and in relation to the above-stated purposes, including reinsurers, third party administrators, brokers, agents, claims adjusters, regulators or other governmental or public bodies, taxing authorities, industry associations, other insurers, and other third parties involved in providing insurance services ("Third Parties"). If your policy is being arranged by a broker or an agent, you authorize Zurich to collect, store, use, disclose, and process personal information received from such broker or agent in relation to the above-stated purposes. Additionally, by providing information about a third party, including but not limited to, a family member, director, officer, employee, or any party that has an interest in or derives a benefit from the policy, you hereby covenant and warrant that you have obtained the appropriate consent from such third party to disclose their personal information to Zurich and for Zurich to use and disclose such information for any of the above-stated purposes.

Zurich is committed to protecting the privacy and confidentiality of information provided. Your personal information may be processed by and is securely stored within the offices of Zurich and authorized Third Parties, both in domestic and foreign jurisdictions outside Canada and is subject to applicable laws.

Zurich may retain your personal information as needed for any of the above-stated purposes or as necessary to comply with Zurich's legal and regulatory obligations, resolve disputes, and enforce Zurich's agreements. You may request to review the personal information Zurich maintains about you and make corrections by writing to: Privacy Officer, Zurich Insurance Company Ltd (Canadian Branch), 100 King Street West, Suite 5500, P.O. Box 290, Toronto, ON M5X 1C9 or by emailing privacy.zurich.canada@zurich.com.

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Please contact the Zurich Privacy Officer if you require further information regarding the collection, use, disclosure, processing and storage of your personal information or if you have any complaints via email at privacy.zurich.canada@zurich.com. You can also review our Privacy Policy at <https://www.zurichcanada.com/en-ca/about-zurich/privacy-statement>.

For the purpose of *the Insurance Companies Act* (Canada), this document was issued in the course of the Company's insurance business in Canada.

Directors and Officers Liability Insurance Policy – Zurich D&O Select™



Zurich Insurance Company Ltd, hereinafter called the Underwriter – Head Office for Canada – Toronto

This policy is written on a claims made and reported basis and covers only **Claims** first made against the **Insureds** during the **Policy Period**, the **Extended Reporting Period**, or the **Run-Off Coverage Period**, if exercised, and reported to the Underwriter pursuant to Subsection V.H. The Limits of Liability and any Retention shall be reduced by amounts incurred as **Defence Costs**. The Underwriter does not assume any duty to defend. Please read carefully.

This Policy contains a clause(s) that may limit the amount payable

Policy No.: 8622083

Declarations

Item 1. Policyholder and Mailing Address:

Lynx Air Holdings Corporation

3215 12 Street NE , Calgary , AB , T2E 8T3

Item 2 Limits of Liability

- | | |
|--|------------------|
| A. Aggregate Limit of Liability for all Loss under Insuring Clauses A, B, C, and E: | \$10,000,000 USD |
| B. Aggregate Sub-limit of Liability for all Securityholder Derivative Demands under Insuring Clause E: | N/A |
| C. Separate Limit of Liability for Each Retired Independent Director under Insuring Clause D: | \$100,000 USD |
| D. Separate Aggregate Limit of Liability for all Retired Independent Directors under Insuring Clause D: | \$500,000 USD |

Item 3. Policy Period:

From: 12:01 A.M. on October 14, 2023

To: 12:01 A.M. on October 14, 2024

Local time at the address shown in Item 1.

Item 4. Retention:

- | | |
|--|-----|
| A. Each Securities Claim under Insuring Clauses B and C: | N/A |
| B. Each Claim , other than a Securities Claim , under Insuring Clause B: | N/A |

Item 5. Extended Reporting Period:

- | | |
|------------------------|----------|
| A. Additional Premium: | 150% |
| B. Additional Period: | 365 days |

Item 6. Pending or Prior Date:

October 14, 2020

Item 7. Premium:

\$223,000 USD

Item 8. Endorsement(s) Effective at Inception

#	Form Number	Edition Date	Coverage
-	ZC 11501 U	(01/12)	Dec - D&O Public
-	ZC 11500 U	(01/12)	Directors & Officers Liability Insurance Policy - Zurich D&O Select™
-	ZC 6300 U	(01/22)	Statutory Conditions, General Conditions and Other Conditions
-	ZC 13001 U	(06/15)	Trade and Economic Sanctions Limitation
1	ZC 11756 U	(08/10)	Amended Definition of Insured Person Endorsement
2	ZC-PUBLIC DO MANU	(01/24)	Conversion of Policy to Side A Only Endorsement

In witness whereof, the Underwriter has caused this policy to be signed by its Head of Underwriting, Canada.



Head of Underwriting, Canada
Authorized representative

Directors & Officers Liability Insurance Policy – Zurich D&O Select®



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In consideration of payment of the premium and in reliance upon the statements made in the **Application**, which is made a part hereof, and subject to the Declarations and the limitations, conditions, provisions and other terms of this policy (including any endorsements hereto), the insurance company shown in the Declarations (herein called the Underwriter) and the **Insureds** agree as follows:

I. Insuring Clauses

A. Directors and Officers Liability Coverage

The Underwriter shall pay on behalf of the **Insured Persons** all **Loss** for which the **Insured Persons** are not indemnified by the **Company** and which the **Insured Persons** become legally obligated to pay on account of any **Claim** first made against them, individually or otherwise, during the **Policy Period** or the **Extended Reporting Period** or **Run-Off Coverage Period**, if exercised, for a **Wrongful Act** taking place before or during the **Policy Period**, subject to the Limit of Liability set forth in Item 2.A of the Declarations.

B. Company Reimbursement Coverage

The Underwriter shall pay on behalf of the **Company** all **Loss** for which the **Company** grants indemnification to the **Insured Persons**, as permitted or required by law, and which the **Insured Persons** have become legally obligated to pay on account of any **Claim** first made against them, individually or otherwise, during the **Policy Period** or the **Extended Reporting Period** or **Run-Off Coverage Period**, if exercised, for a **Wrongful Act** taking place before or during the **Policy Period**, subject to the Limit of Liability set forth in Item 2.A of the Declarations.

C. Company Securities Liability Coverage

The Underwriter shall pay on behalf of the **Company** all **Loss** for which the **Company** becomes legally obligated to pay on account of a **Securities Claim** first made against the **Company** during the **Policy Period** or the **Extended Reporting Period** or **Run-Off Coverage Period**, if exercised, for a **Wrongful Act** taking place before or during the **Policy Period**, subject to the Limit of Liability set forth in Item 2.A of the Declarations.

D. Retired Independent Directors Liability Coverage

The Underwriter shall pay on behalf of the **Retired Independent Directors** all **Loss** for which the **Retired Independent Directors** are not indemnified by the **Company** and which the **Retired Independent Directors** become legally obligated to pay on account of any **Claim** first made against them, individually or otherwise, during the **Policy Period** or the **Extended Reporting Period** or **Run-Off Coverage Period**, if exercised, for a **Wrongful Act** taking place before or during the **Policy Period**, subject to the respective Limits of Liability set forth in Item 2.C and 2.D of the Declarations. Coverage under this Insuring Clause D shall apply only if (i) the **Retired Independent Director** is a **Retired Independent Director** when the **Claim** is first made, and (ii) the Limit of Liability in Item 2.A of the Declarations is exhausted by reason of payment by the Underwriter of **Loss**. Such coverage shall then be excess of all other insurance specifically excess of this policy as well as all other insurance described in Subsection V.I.

E. Derivative Demand Investigation Costs Coverage

The Underwriter shall pay on behalf of the **Company** all **Investigative Costs** resulting from a **Securityholder Derivative Demand** first received by the **Company** during the **Policy Period** or the **Extended Reporting Period** or **Run-Off Coverage Period**, if exercised, for a **Wrongful Act** taking place before or during the **Policy Period**, subject to the Sub-limit set forth in Item 2.B of the Declarations.

II. Extensions

A. Estates, Legal Representatives, Spouses and Domestic Partners

The estates, heirs, legal representatives, assigns, spouses and **Domestic Partners** of **Insured Persons** shall be considered **Insured Persons** under this policy but only for a **Claim** arising solely out of their status as such and, in the case of a spouse or **Domestic Partner**, where such **Claim** seeks damages from marital community property, jointly held property or property transferred from the **Insured Person** to the spouse or **Domestic Partner**. No coverage is provided for any wrongful act or omission of an estate, heir, legal representative, assign, spouse or **Domestic Partner**. All terms and conditions of this policy applicable to **Loss** incurred by the **Insured Person** shall also apply to loss incurred by such estates, heirs, legal representatives, assigns, spouses and **Domestic Partners**.

B. Extended Reporting Period

If the Underwriter or **Policyholder** terminates or refuses to renew this policy other than for non-payment of premium, the **Insureds** shall have the right, upon payment of the additional premium set forth in Item 5.A of the Declarations, to an extension of the coverage granted by this policy for the **Extended Reporting Period** set forth in Item 5.B of the Declarations following the effective date of termination or nonrenewal, but only with respect to any **Wrongful Act** taking place prior to the effective date of such termination or nonrenewal. This right of extension shall lapse unless written notice of such election, together with payment of the additional premium due, is given by the **Insureds** to the Underwriter within thirty (30) days following the effective date of termination or nonrenewal.

The offer by the Underwriter of renewal terms and conditions or premiums different from those in effect prior to renewal shall not constitute refusal to renew.

The entire additional premium for the **Extended Reporting Period** shall be deemed fully earned at the inception of the **Extended Reporting Period**. The **Extended Reporting Period** is non-cancellable.

The **Insureds** shall not be entitled to elect the **Extended Reporting Period** if a **Run-Off Coverage Period** is purchased.

C. Individual Insured Person Extended Coverage

If the **Policyholder** is entitled to but does not exercise the **Extended Reporting Period** or the **Run-Off Coverage Period**, any **Insured Person** shall have the right to elect an **Extended Reporting Period** or **Run-Off Coverage Period** for only such **Insured Person**. The extension of coverage pursuant to any such individual **Extended Reporting Period** or **Run-Off Coverage Period** shall apply only with respect to coverage under Insuring Clause A and, with respect to a **Retired Independent Director**, under Insuring Clause D, for **Claims** against the **Insured Person** who elected such extension of coverage, and shall not apply to any other Insuring Clause or to any coverage afforded to any other **Insured** under this policy.

This right of extension shall lapse unless written notice of such election is given by the **Insured Person** to the Underwriter within thirty (30) days after the **Policyholder's** right to exercise the **Extended Reporting Period** has expired, or, with respect to the **Run-Off Coverage Period**, within thirty (30) days after the end of the **Policy Period**. Upon receipt of such written notice, the Underwriter shall promptly notify the **Insured Person** of the additional premium for such extension, and the extension of coverage for the **Insured Person** is conditioned upon the **Insured Person** paying such additional premium within fifteen (15) days after being notified of the amount of the additional premium.

D. Outside Position Coverage

Subject to this policy's other terms and conditions, Insuring Clause A and Insuring Clause B include coverage for **Insured Persons** while serving in an **Outside Position**. Such coverage shall be specifically

excess of any indemnification and insurance available from or provided by or to the **Outside Entity** in which the **Insured Person** serves in the **Outside Position**. Payment by the Underwriter or any affiliate of the Underwriter under another policy as a result of a **Claim** against an **Insured Person** in an **Outside Position** shall reduce, by the amount of such payment, the Underwriter's Limit of Liability under this policy with respect to such **Claim**.

E. Environmental Mismanagement Coverage

Subject to this policy's other terms and conditions, coverage under Insuring Clauses A, B and D for **Claims** against **Insured Persons** and coverage under Insuring Clause C for **Securities Claims** against the **Company** include coverage for any **Environmental Mismanagement Claim**.

III. Definitions

When used in this policy, the terms below (whether in the singular or plural) are defined as follows:

A. **Application** means:

1. all materials and information, including all signed applications and any materials attached thereto or incorporated therein, submitted by or on behalf of the **Insureds** to the Underwriter in connection with the Underwriter underwriting this policy or any policy issued by the Underwriter of which this policy is a direct or indirect renewal or replacement, and
2. all publicly available documents filed by the **Company** with the Ontario Securities Commission, The System for Electronic Document Analysis and Retrieval (SEDAR), the United States Securities and Exchange Commission, or any similar Canadian or foreign authority, agency or regulatory body during the twelve (12) months preceding inception of this policy.

The **Application** is deemed attached to and incorporated into this policy.

B. **Claim** means:

1. a written demand against any **Insured** for monetary damages or non-monetary or injunctive relief;
2. a written demand that the **Insured** toll or waive a statute of limitations;
3. a civil proceeding against any **Insured** commenced by the service of a writ of summons, statement of claim, complaint or similar document or pleading;
4. a criminal proceeding against any **Insured** commenced by a summons, return of an indictment, laying of an information or similar document;
5. an administrative or regulatory proceeding against any **Insured** commenced by the filing of a statement of allegations, notice of charges or similar document;
6. a civil, administrative or regulatory investigation of any **Insured Person** commenced by the service upon or other receipt by the **Insured Person** of a formal investigative order, Wells Notice, target letter, or other written notice from the investigating authority, identifying by name the **Insured Person** as an individual against whom a proceeding may be commenced;
7. an official request for the **Extradition** of any **Insured Person** or the execution of a warrant for the arrest of any **Insured Person** where such execution is an element of **Extradition**; or
8. an arbitration or mediation proceeding against any **Insured**;

alleging a **Wrongful Act**, including any appeal therefrom; or

9. solely with respect to Insuring Clause A and Insuring Clause D, any request, demand or subpoena by a regulatory, administrative, governmental or similar authority to interview or depose an **Insured Person**, or for the production of documents by an **Insured Person**, in his or her capacity as such;
 10. solely with respect to Insuring Clause E, a **Securityholder Derivative Demand**; or
 11. in Canada only, any claim against any **Insured Person** solely by reason of their serving in such capacity arising out of, based upon or attributable to the failure to deduct, withhold or remit taxes, commenced by Canada Revenue Agency or similar federal, provincial or territorial tax authority, pursuant to the Canadian Income Tax Act or any comparable Canadian provincial or territorial income tax statute, or the Canadian Excise Tax Act or any comparable Canadian provincial or territorial retail sales tax statute.
- C. **Company** means, collectively, the **Policyholder** and its **Subsidiaries**, including any such organization as a debtor in possession under United States bankruptcy law or an equivalent status under the law of Canada or of any other country.
- D. **Defence Costs** means that part of **Loss** consisting of reasonable costs, charges, fees (including but not limited to counsel fees, attorney's fees and expert's fees) and expenses (other than regular or overtime wages, salaries or fees of the directors, officers or employees of the **Company**) incurred by the **Insureds** (i) in defending or investigating **Claims**, including costs assessed against the **Insureds** in a **Claim**, or the premium for appeal, attachment or similar bonds, provided that the Underwriter shall have no obligation to apply for or furnish such bonds, or (ii) at the Underwriter's request, to assist the Underwriter in investigating a **Claim**.
- E. **Domestic Partner** means any natural person qualifying as a domestic partner under the provisions of any applicable federal, provincial, territorial, state, local or foreign law or under the provisions of any formal program established by the **Company**.
- F. **Environmental Event** means:
1. the actual, alleged or threatened discharge, release, escape, seepage, migration or disposal of **Pollutants** or **Greenhouse Gases** into or on real or personal property, water or the atmosphere; or
 2. any direction or request that the **Company** or the **Insured Persons** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants** or **Greenhouse Gases**, or any voluntary decision to do so,
- whether or not such **Greenhouse Gases** are **Pollutants**.
- G. **Environmental Mismanagement Claim** means any **Claim** based upon, arising out of or attributable to an **Environmental Event** if and to the extent such **Claim**: (i) is a **Securities Claim**, (ii) is an employment-related **Claim** against an **Insured Person**, including without limitation any such **Claim** for retaliatory treatment, (iii) is against an **Insured Person** for **Wrongful Acts** in connection with misrepresenting or failing to disclose information related to **Greenhouse Gases** or actual or alleged global warming or climate changes, or (iv) results in **Loss** incurred by **Insured Persons** for which the **Company** does not indemnify the **Insured Persons** either because the **Company** is neither permitted nor required to grant such indemnification or because of **Financial Impairment**.
- H. **Executive Officers** means with respect to any **Company** its president, chief executive officer, chief financial officer and in-house general counsel, or functionally equivalent position in any jurisdiction outside of Canada or the United States.
- I. **Extended Reporting Period** means the period of extended coverage set forth in Item 5.B of the Declarations.

- J. **Extradition** means any formal process by which an **Insured Person** located in any country is or is sought to be surrendered to any other country for trial, or otherwise to answer any criminal accusation, for a **Wrongful Act**.
- K. **Financial Impairment** means the status of the **Company** resulting from the appointment by any federal, provincial, territorial, state or foreign official, agency or court of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to take control of, supervise, manage or liquidate the **Company**, or the **Company** becoming a debtor in possession under insolvency legislation.
- L. **Greenhouse Gases** means carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulphur hexafluoride (SF₆), or any other emission or substance defined by applicable law as a **Greenhouse Gas**.
- M. **Insured Person** means:
1. one or more natural persons who were, now are or shall become: (i) a duly elected or appointed director, **Manager**, officer, in-house counsel, in-house general counsel or controller of the **Company**; (ii) a director of investor relations, director of human resources, risk manager or their functional equivalent of the **Company**; or (iii) with respect to a **Company** incorporated outside of Canada or the United States, the functional equivalent of any of the foregoing positions;
 2. one or more natural persons not described in subparagraph 1 above who were, now are or shall become full or part-time employees of the **Company**, but solely with respect to (i) a **Securities Claim**, or (ii) any other **Claim** while such **Claim** is brought and maintained against both such employee(s) and an **Insured Person** described in subparagraph 1 above; provided that such employee(s) shall not be considered **Insured Persons** for purposes of Exclusion C or D in Section IV of this policy;
 3. one or more natural persons described in subparagraph 1 above while serving in an **Outside Position**.
- N. **Insureds** means the **Insured Persons** and, solely with respect to Insuring Clause B, Insuring Clause C and Insuring Clause E, the **Company**.
- O. **Interrelated Wrongful Acts** means all **Wrongful Acts** that have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of causally connected facts, circumstances, situations, events, transactions or causes.
- P. **Investigative Costs** means reasonable costs, charges, fees (including but not limited to counsel fees, attorney's fees and expert's fees) and expenses (other than regular or overtime wages, salaries or fees of the directors, officers or employees of the **Company**) incurred by the Company (including its Board of Directors or any committee of its Board of Directors) in investigating or evaluating on behalf of the Company whether it is in the best interest of the Company to prosecute the claims alleged in a **Securityholder Derivative Demand**.
- Q. **Loss** means the total amount the **Insureds** become legally obligated to pay on account of **Claims** made against them for **Wrongful Acts** for which coverage applies under this policy, including, but not limited to, damages, judgments, settlements, costs, any award of pre-judgment and post-judgment interest with respect to covered damages and judgments, and **Defence Costs**. Solely with respect to Insuring Clause E, **Loss** means **Investigative Costs**.

Loss (other than **Defence Costs**) does not include any of the following:

1. any amount not indemnified by the **Company** for which the **Insureds** are absolved from payment by reason of any covenant, agreement or court order;
2. taxes, other than, in Canada only, taxes and related penalties and interest actually assessed against the **Insured Person(s)** solely by reason of their serving in such capacity, pursuant to the Canada Income

Tax Act or any comparable Canadian provincial or territorial income tax statute, or the Canadian Excise Tax Act or any comparable Canadian federal, provincial or territorial retail sales tax statute;

3. fines or penalties imposed by law, unless expressly covered within this definition;
4. any amount incurred by the **Company** that represents or is substantially equivalent to an increase in the consideration paid or proposed to be paid by a **Company** in connection with its purchase of any securities or assets; or
5. matters uninsurable under the law pursuant to which this policy is construed.

Loss does not exclude:

1. punitive, exemplary or multiple damages;
2. civil money penalties assessed against an **Insured** pursuant to Section 2(g)(2)(B) of the United States Foreign Corrupt Practices Act, 15 U.S.C. §78dd-2(g)(2)(B); or
3. civil money penalties assessed against an **Insured** for a violation of any federal, provincial, territorial, state, local, municipal or foreign election law if such violation is not knowing or wilful;

to the extent such damages or penalties are insurable under the internal laws of any applicable jurisdiction most favourable to the **Insureds**, including without limitation the jurisdiction in which the **Company**, the **Insured Persons**, the Underwriter, this policy or the **Claim** is located.

In addition, the Underwriter shall not assert with respect to a **Securities Claim** that **Loss** incurred by any **Insured**, in the **Insured's** capacity as such, is uninsurable due to the **Insured's** actual or alleged violation of Section 130 or 130.1 of the Ontario Securities Act, Section 11, 12 or 15 of the United States Securities Act of 1933, or similar provisions of any provincial, territorial or foreign legislation governing securities; provided, however, that this paragraph shall not apply to any settlement or judgment in a **Securities Claim** if and to the extent a final and non-appealable judgment adverse to such **Insured** in any proceeding not brought by the Underwriter, or a final determination by a regulatory or other governmental authority, or a written admission by such **Insured** in a settlement of such **Securities Claim**, establishes such settlement or judgment constitutes disgorgement, restitution or the return of ill-gotten gain.

R. **Manager** means any natural person who was, now is or shall become (i) a manager, member of the Board of Managers or equivalent executive of a **Company** that is a limited liability company, and (ii) a general partner, managing partner or equivalent executive of a **Company** that is a partnership or joint venture.

S. **Outside Entity** means:

1. any organization:
 - (i) chartered or incorporated as a not-for-profit organization; and
 - (ii) operated as a not-for-profit organization;
2. any for-profit organization in which the **Company** owns an equity interest, provided such organization is neither a financial institution nor an organization whose securities are publicly owned or traded; or
3. any other organization specifically included as an **Outside Entity** by endorsement to this policy;

provided such organization is not included in the definition of **Company**.

- T. **Outside Position** means the position of director, officer, manager, trustee, governor or other equivalent executive position in an **Outside Entity** held by an **Insured Person** described in Definition M.1 in Section III, if service in such position is with the knowledge and consent of, at the direction or request of, or part of the duties regularly assigned to the **Insured Person** by, the **Company**.
- U. **Policy Period** means the period set forth in Item 3. of the Declarations, subject to prior termination in accordance with Subsection V.M.
- V. **Policyholder** means the organization designated in Item 1. of the Declarations.
- W. **Pollutants** means any substance located anywhere in the world exhibiting any hazardous characteristics as defined by, or identified on, a list of hazardous substances issued pursuant to or by the Canadian Environmental Protection Act, 1999, the United States Environmental Protection Agency, or any federal, provincial, territorial, state, county, municipality or locality counterpart thereof. **Pollutants** shall also mean any other air emission, odour, waste water, oil or oil products, infectious or medical waste, asbestos or asbestos products, silica, noise, fungus (including mould, mildew and any mycotoxins, spores, scents or by-products produced or released by fungi, but not any fungi intended by the **Insured** for consumption), and electric or magnetic or electromagnetic field. **Pollutants** shall also include, without limitation, solid, liquid, gaseous, thermal, biological, nuclear or radiological irritants, contaminants or smoke, soot, fumes, acids, alkalis, chemicals or waste materials.
- X. **Retired Independent Director** means any **Insured Person** who (i) served as a duly elected or appointed director or functionally equivalent executive of the **Policyholder**, (ii) never has been an officer or employee of any **Company**, and (iii) no longer serves any **Company** in any capacity insured under this policy.
- Y. **Run-Off Coverage Period** means the period of extended coverage described in Subsection V.E.2.
- Z. **Securities Claim** means any **Claim** alleging a violation of any statutory or common law governing securities which in whole or in part is: (i) brought by one or more securities holders of the **Company**, in their capacity as such, or (ii) based upon, arising out of or attributable to the purchase or sale of, or offer or solicitation of an offer to purchase or sell, any securities issued by the **Company**, whether such purchase, sale, offer or solicitation involves a transaction with the **Company** or occurs in the open market (including without limitation any such **Claim** brought by the Ontario Securities Commission, the United States Securities and Exchange Commission, or any similar Canadian, United States or foreign authority).

Securities Claim for purposes of Insuring Clause C shall not include any employment-related **Claim** brought by an **Insured Person** or by any actual, alleged or prospective employee of the **Company**.

AA. **Securityholder Derivative Demand** means:

1. any written demand by a securityholder of a **Company**, upon the Board of Directors or Board of Managers of such **Company**, to bring a civil proceeding in a court of law against an **Insured Person** for a **Wrongful Act**; or
2. any lawsuit by a securityholder of a **Company**, brought derivatively on behalf of such **Company**, against an **Insured Person** for a **Wrongful Act** without first making a demand as described in paragraph 1 above.

BB. **Subsidiary** means:

1. any organization, including any joint venture and partnership, in which more than fifty percent (50%) of the outstanding voting securities or voting rights representing the present right to vote for election of directors, **Managers** or equivalent executives is owned or controlled, directly or indirectly, in any combination, by one or more **Companies**;

2. any organization, including any joint venture and partnership, in which one or more **Companies**, in any combination, directly or indirectly have the right, pursuant to a written contract with or the constating documents, by-laws, charter, operating agreement or similar document of such organization, to elect or appoint a majority of the directors, **Managers** or equivalent executives of such organization; and
3. any foundation, charitable trust or political action committee controlled or exclusively sponsored by one or more **Companies**.

CC. **Wrongful Act** means:

1. any error, misstatement, misleading statement, act, omission, neglect, or breach of duty actually or allegedly committed or attempted by any of the **Insured Persons**, individually or otherwise, in their capacity as such, or in an **Outside Position**, or with respect to Insuring Clause C, by the **Company**; or
2. any matter claimed against the **Insured Persons** solely by reason of their serving in such capacity or in an **Outside Position**.

IV. Exclusions

The Underwriter shall not be liable for **Loss** on account of any **Claim** made against any **Insured**:

- A. based upon, arising out of, or attributable to any fact, circumstance or situation which has been the subject of any written notice given prior to inception of this policy under any prior directors and officers liability insurance policy;
- B. based upon, arising out of, or attributable to any written demand, suit or proceeding pending, or order, decree or judgment entered against the **Company** or any **Insured Person** on or prior to the Pending or Prior Date set forth in Item 6. of the Declarations, or the same or substantially the same **Wrongful Act, Interrelated Wrongful Acts**, fact, circumstance or situation underlying or alleged therein;
- C. brought or maintained by or on behalf of the **Company** or any **Insured Person** in any capacity, provided that this exclusion shall not apply to:
 1. a **Claim** that is a derivative action brought or maintained on behalf of the **Company** by one or more persons who are not **Insured Persons** if the **Claim** is brought and maintained without the solicitation or active assistance or participation of the **Company** or any **Insured Person** or if the only such solicitation, assistance or participation by the **Company** and **Insured Persons** is (i) solely pursuant to, or in compliance with, a subpoena or similar legal process, or (ii) protected pursuant to Section 806 of the United States Sarbanes-Oxley Act of 2002 or any similar whistleblower protection provision of any Canadian federal, provincial or territorial, or any foreign, statute;
 2. a **Claim** for an employment-related **Wrongful Act** brought or maintained by any **Insured Person**;
 3. a **Claim** brought or maintained by any **Insured Person** for contribution or indemnity, if the **Claim** directly results from another **Claim** covered under this policy;
 4. a **Claim** brought by an **Insured Person** who has not served as an **Insured Person** for at least three (3) years prior to the date such **Claim** is first made and who brings and maintains such **Claim** without the solicitation or active assistance or participation of the **Company** or of any other **Insured Person** who is serving or has served as an **Insured Person** within such three (3) year period;
 5. a **Claim** brought or maintained by or on behalf of a bankruptcy or insolvency trustee, examiner, receiver, or similar official, or creditors committee, for such **Company**, or any assignee of such trustee, examiner, receiver, or similar official, or creditors committee; or

6. a **Claim** by or on behalf of the **Company** brought and maintained against any **Insured Person** in any non-common law jurisdiction outside of Canada or the United States;
- D. for a **Wrongful Act** by an **Insured Person** in an **Outside Position** if such **Claim** is brought or maintained by or on behalf of the **Outside Entity** in which the **Insured Person** serves, or by or on behalf of any past, present or future director, officer, manager, governor or trustee of such entity, except:
1. a **Claim** that is a derivative action brought or maintained on behalf of such **Outside Entity** by one or more persons who are not directors, officers, managers, governors or trustees of the **Outside Entity** if the **Claim** is brought and maintained without the solicitation or active assistance or participation of the **Company**, any **Insured Person**, the **Outside Entity** or any director, officer, manager, governor or trustee of the **Outside Entity** or if the only such solicitation, assistance or participation by the **Company**, any **Insured Person**, the **Outside Entity** or any director, officer, manager, governor or trustee of the **Outside Entity** is (i) solely pursuant to or in compliance with a subpoena or similar legal process, or (ii) protected pursuant to Section 806 of the United States Sarbanes-Oxley Act of 2002 or any similar whistleblower protection provision of any Canadian federal, provincial, or territorial, or foreign, statute;
 2. a **Claim** for an employment-related **Wrongful Act** brought or maintained by a director, officer, manager, governor or trustee of such **Outside Entity**;
 3. a **Claim** brought by a director, officer, manager, governor or trustee of such **Outside Entity** who has not served as such for at least three (3) years prior to the date such **Claim** is first made and who brings and maintains such **Claim** without the solicitation or active assistance or participation of such **Outside Entity** or of any other director, officer, manager, governor or trustee of such **Outside Entity** who is serving or has served as such within such three (3) year period;
 4. a **Claim** brought or maintained by or on behalf of a bankruptcy or insolvency trustee, examiner, receiver, or similar official, or creditors committee, for such **Outside Entity**, or any assignee of such trustee, examiner, receiver, or similar official, or creditors committee; or
 5. a **Claim** by or on behalf of the **Outside Entity** brought and maintained in any non-common law jurisdiction outside of Canada or the United States;
- E. for an actual or alleged violation of the responsibilities, obligations or duties imposed by the Canadian Pension Benefits Standards Act, by the Ontario Pension Benefits Act, 1985, by the United States Employee Retirement Income Security Act of 1974, or by any federal, provincial, territorial, state, local, or foreign statutory law or common law, upon fiduciaries of any pension, profit sharing, health and welfare or other employee benefit plan or trust established or maintained for the purpose of providing benefits to employees of the **Company**;
- F. for bodily injury, mental anguish, emotional distress, sickness, disease or death of any person or damage to or destruction of any tangible property including loss of use thereof; provided that this exclusion shall not apply to:
1. allegations of emotional distress or mental anguish in any **Securities Claim** or any employment-related **Claim**;
 2. **Defence Costs** on account of any **Claim** which is a criminal proceeding pursuant to section 217.1 of the Criminal Code of Canada against an **Insured Person**;
- G. based upon, arising out of or attributable to an **Environmental Event**; provided that this exclusion shall not apply to **Environmental Mismanagement Claims**;
- H. for service by the **Insured Person** in any position or capacity in any organization other than the **Company** even if the **Company** directed or requested the **Insured Person** to serve in such other position or capacity, provided that this exclusion shall not apply to service by the **Insured Person** in an **Outside Position**;

- I. based upon, arising out of or attributable to any deliberately fraudulent act or omission or any wilful violation of any statute or regulation committed by such **Insured**, if a final and non-appealable adjudication adverse to such **Insured** in any proceeding not brought by the Underwriter establishes such a deliberately fraudulent act or omission or wilful violation; or
- J. based upon, arising out of or attributable to such **Insured** gaining any profit, remuneration or financial advantage to which such **Insured** was not legally entitled, if a final and non-appealable adjudication adverse to such **Insured** in any proceeding not brought by the Underwriter establishes such **Insured** gained any such profit, remuneration or advantage.

For the purpose of determining the applicability of any Exclusion set forth in this Section IV, the **Wrongful Act** or knowledge of any **Insured Person** shall not be imputed to any other **Insured Person**, and under Insuring Clause C, only the **Wrongful Act** or knowledge of an **Executive Officer** of a **Company** shall be imputed to such **Company** and its **Subsidiaries**.

V. General Conditions and Limitations

A. Presumptive Indemnification

If the **Company** is permitted or required by common or statutory law to indemnify the **Insured Persons** for **Loss** but fails or refuses to do so other than for reason of **Financial Impairment**, then, notwithstanding any other conditions, provisions or terms of this policy to the contrary, any payment by the Underwriter of such **Loss** under Insuring Clause A or Insuring Clause D shall be subject to the Insuring Clause B Retention set forth in Item 4. of the Declarations.

For purposes of this Subsection V.A, the shareholder and board of director resolutions and by-laws of the **Company** shall be deemed to provide indemnification for such **Loss** to the fullest extent permitted by law.

B. Representations, Severability and Non-Rescindable Coverages

1. Representations

The **Insureds** represent and acknowledge that the statements and information contained in the **Application** are true and complete, are the basis of this policy and are to be considered as incorporated into and constituting a part of this policy. This policy is issued in reliance upon the truth and completeness of such representations and information.

2. Severability

The **Application** shall be construed as a separate application for coverage by each of the **Insured Persons**. In the event the **Application** contains any misrepresentation or omission (i) made with the intent to deceive, or (ii) which materially affects either the acceptance of the risk or the hazard assumed by the Underwriter under this policy, then this policy shall be void *ab initio* as to:

- a. any **Company** under Insuring Clause B to the extent such **Company** indemnifies an **Insured Person** who knew the facts that were not truthfully disclosed in the **Application**; and
- b. any **Company** and its **Subsidiaries** under Insuring Clause C if an **Executive Officer** of such **Company** knew the facts that were not truthfully disclosed in the **Application**;

whether or not such **Insured Person** or **Executive Officer** knew the **Application** contained such misrepresentation or omission. No knowledge of any **Insured Person** shall be imputed to any other **Insured Persons** for purposes of this Subsection V.B.

3. Non-Rescindable Coverages

The Underwriter shall not have the right to rescind or void, in whole or in part, the coverage provided under Insuring Clause A or Insuring Clause D for any reason.

C. Limits of Liability, Retention and Single Claims

1. Limits of Liability

The Underwriter's maximum aggregate liability for all **Loss** on account of all **Claims** under Insuring Clauses A, B, C and E, combined, shall be the Limit of Liability set forth in Item 2.A of the Declarations.

The Underwriter's maximum aggregate liability for all **Investigative Costs** on account of all **Securityholder Derivative Demands** under Insuring Clause E shall be the sub-limit set forth in Item 2.B of the Declarations, which shall be part of and not in addition to the Limit of Liability set forth in Item 2.A of the Declarations.

The Underwriter's maximum liability for all **Loss** incurred by each **Retired Independent Director** on account of all **Claims** under Insuring Clause D shall be the Separate Limit set forth in Item 2.C of the Declarations, which shall be part of and not in addition to the Separate Aggregate Limit of Liability set forth in Item 2.D of the Declarations, and shall be in addition to the Limit of Liability set forth in Item 2.A of the Declarations.

The Underwriter's maximum aggregate liability for all **Loss** incurred by all **Retired Independent Directors** on account of all **Claims** under Insuring Clause D shall be the Separate Aggregate Limit set forth in Item 2.D of the Declarations, and shall be in addition to the Limit of Liability set forth in Item 2.A of the Declarations.

Defence Costs are part of and not in addition to the Limits of Liability set forth in Item 2. of the Declarations, and the payment by the Underwriter of **Defence Costs** reduces such Limits of Liability. If the applicable Limit of Liability is exhausted by payment of **Loss**, the Underwriter's obligations under this policy shall be completely fulfilled and extinguished. Subject to Subsection V.L, the Underwriter is entitled to pay **Loss** as it becomes due and payable by the **Insureds**, without consideration of other future payment obligations.

The Limit of Liability for any **Extended Reporting Period** or **Run-Off Coverage Period** shall be part of and not in addition to the applicable Limits of Liability set forth in Items 2.A, 2.C and 2.D of the Declarations.

If **Loss** is due and owing by the Underwriter under both Insuring Clause A and Insuring Clause D, then such **Loss** shall be allocated to and paid by the Underwriter under the respective Limits of Liability in whatever portions will maximize the total amount of such **Loss** being paid under this policy.

2. Retention

The Underwriter's liability under Insuring Clause B and Insuring Clause C with respect to **Loss** on account of each **Claim** shall apply only to that part of **Loss** which is excess of the applicable Retention set forth in Item 4. of the Declarations, and such Retention shall be borne by the **Company** uninsured and at its own risk. Except as provided in Subsection V.A, no Retention shall apply to any **Loss** covered under Insuring Clause A or Insuring Clause D or to **Investigative Costs** covered under Insuring Clause E.

If a single **Claim** is covered in part under Insuring Clause A and/or Insuring Clause D and in part under Insuring Clause B and/or Insuring Clause C, the applicable Retention will be applied separately to each part of such **Claim**, but the maximum total Retention applicable to such **Claim** shall not exceed the largest applicable Retention.

3. Single Claims

All **Claims** arising out of the same **Wrongful Act** and all **Interrelated Wrongful Acts** of **Insureds** shall be deemed one **Claim**, and such **Claim** shall be deemed to be first made on the date the earliest of such **Claims** is first made against any **Insured**, regardless of whether such date is before or during the **Policy Period**.

D. Allocation

If in any **Claim** the **Insureds** incur both **Loss** covered by this policy and loss not covered by this policy because the **Claim** against the **Insureds** includes both covered and uncovered matters and/or because the **Claim** is made against both **Insureds** who are afforded coverage for such **Claim** and others, including **Insureds**, who are not afforded coverage for such **Claim**, the **Insureds** and the Underwriter shall use their best efforts to allocate such amount between covered **Loss** and uncovered loss based upon the relative legal and financial exposures of the parties to covered and uncovered matters.

If the Underwriter and the **Insureds** cannot agree on an allocation of **Defence Costs**, the Underwriter shall advance on a current basis amounts that the Underwriter believes to be covered **Defence Costs** until a different allocation is negotiated, arbitrated or judicially determined. Any such negotiated, arbitrated or judicially determined allocation shall be applied retroactively to all **Defence Costs** on account of such **Claim**, notwithstanding any prior advancement to the contrary. Any allocation or advancement of **Defence Costs** on account of a **Claim** shall not apply to the allocation of other **Loss** on account of such **Claim**.

In any arbitration, suit or other proceeding between the Underwriter and the **Insureds** or the **Company**, no presumption shall exist concerning what is a fair and proper allocation between covered **Loss** and uncovered loss.

E. Changes in Exposure

1. New Organizations

- a. Subject to paragraph b below, if before or during the **Policy Period** the **Company** acquires or creates a new **Subsidiary** or acquires an entity by amalgamation, merger or consolidation, coverage under this policy automatically shall apply to the new or continuing organization and its **Insured Persons** but only for **Wrongful Acts** taking place after such acquisition or creation, unless subparagraph c below applies.
- b. However, if the total assets of a newly acquired organization exceeds twenty percent (20%) of the total assets of the **Policyholder** as reflected in their respective most recent audited consolidated financial statements, the coverage provided in subparagraph a above shall apply only if the Underwriter agrees to afford such coverage pursuant to subparagraph c below.
- c. Notwithstanding subparagraphs a and b above, the Underwriter may agree to extend coverage under this policy to the new **Subsidiary** and its **Insured Persons** (i) with respect to an acquisition described in subparagraph a above for **Wrongful Acts** taking place prior to its acquisition or creation, or (ii) with respect to an acquisition or creation described in subparagraph b above, if, within ninety (90) days after the acquisition or creation, the **Policyholder** provides any additional information, pays any additional premium and agrees to any additional terms and conditions reasonably required by the Underwriter for such extension of coverage. In either such event, the Underwriter shall issue an endorsement to this policy confirming such coverage extension.

2. Acquisition of **Policyholder**

If during the **Policy Period** the **Policyholder** amalgamates with, merges into or consolidates with another organization such that the **Policyholder** is not the surviving or continuing entity, or

another organization or person or group of organizations and/or persons acting in concert acquires securities or voting rights of the **Policyholder** which result in ownership or voting control by the other organization(s) or person(s) of more than fifty percent (50%) of the outstanding securities representing the present right to vote for the election of directors of the **Policyholder**, then coverage under this policy shall continue until the later of the expiration of the **Run-Off Coverage Period**, if exercised, or termination of this policy, but only with respect to **Claims** for **Wrongful Acts** taking place prior to such amalgamation, merger, consolidation or acquisition.

The right to exercise the **Run-Off Coverage Period** shall lapse unless the **Policyholder** gives written notice of such exercise to the Underwriter prior to expiration of the **Policy Period**, including the requested length of the **Run-Off Coverage Period**, which shall not exceed six (6) years after such amalgamation, merger, consolidation or acquisition. The Underwriter shall then notify the **Policyholder** of the additional premium for the requested **Run-Off Coverage Period**, and the **Policyholder** shall promptly pay such additional premium as a condition precedent to commencement of the **Run-Off Coverage Period**.

The entire additional premium for the **Run-Off Coverage Period** shall be deemed fully earned at the inception of the **Run-Off Coverage Period**.

The **Insureds** shall not be entitled to elect the **Run-Off Coverage Period** if the **Extended Reporting Period** is elected pursuant to Subsection II.B.

3. Cessation of **Subsidiaries**

If before or during the **Policy Period** an organization ceases to be a **Subsidiary**, coverage with respect to such **Subsidiary** and its **Insured Persons** shall continue until termination of this policy but only with respect to **Claims** for **Wrongful Acts** taking place prior to the date such organization ceased to be a **Subsidiary**.

F. Defence and Settlement

It shall be the duty of the **Insureds** and not the duty of the Underwriter to defend **Claims** against the **Insureds**.

The **Insureds** agree not to offer to settle or to settle any **Claim**, incur any **Defence Costs** or otherwise assume any contractual obligation, admit any liability or stipulate to any judgment with respect to any **Claim** without the Underwriter's prior written consent, which shall not unreasonably be withheld. The Underwriter shall not be liable for or as a result of any offer to settle, settlement, **Defence Costs**, assumed obligation, admission or stipulated judgment to which it has not given its prior written consent.

The Underwriter shall have the right and shall be given the opportunity to make any investigation it deems necessary and to effectively associate with the **Insureds** in the investigation, defence and settlement, including but not limited to the negotiation of a settlement, of any **Claim** that is or reasonably could be covered in whole or in part by this policy.

The **Insureds** agree to provide the Underwriter with all information, assistance and cooperation which the Underwriter reasonably requests and agree that, in the event of a **Claim**, the **Insureds** will do nothing that shall prejudice the Underwriter's position or its potential or actual rights of recovery.

The Underwriter shall advance **Defence Costs** on a current basis. Any advancement of **Defence Costs** shall be repaid to the Underwriter by the **Insureds** severally according to their respective interests if and to the extent the **Insureds** shall not be entitled under the terms and conditions of this policy to coverage for such **Defence Costs**.

G. Territory and Valuation

Coverage under this policy shall extend to **Wrongful Acts** taking place, **Loss** incurred or **Claims** made anywhere in the world, to the extent legally permitted.

All premiums, limits, retentions, **Loss** and other amounts under this policy are expressed and payable in the currency of Canada. If judgment is rendered, settlement is denominated or another element of **Loss** under this policy is stated in a currency other than Canadian dollars, payment under this policy shall be made in Canadian dollars at the noon rate of exchange published by the Bank of Canada on the date the final judgment is reached, the amount of the settlement is agreed upon or the other element of **Loss** is due, respectively, unless the **Policyholder** and the Underwriter agree otherwise.

H. Reporting and Notice

1. Notice of **Claims**

As a condition precedent to their rights under this policy, the **Insureds** shall give to the Underwriter written notice of any **Claim** made against the **Insureds** as soon as practicable after an employee of the **Company's** office of general counsel, risk management or functionally equivalent departments first learns of such **Claim**, but in no event later than (i) ninety (90) days after expiration of the **Policy Period**, or (ii) the expiration of the **Extended Reporting Period** or **Run-Off Coverage Period**, if exercised.

2. Notice of Potential **Claims**

If during the **Policy Period** or the **Extended Reporting Period** or **Run-Off Coverage Period**, if exercised, the **Insureds** become aware of circumstances that could give rise to a **Claim** against the **Insureds** and give written notice of such circumstances to the Underwriter during the **Policy Period** or the **Extended Reporting Period** or **Run-Off Coverage Period**, if exercised, then any **Claims** subsequently arising from such circumstances shall be considered to have been made during the **Policy Period**. No coverage is afforded under this policy for fees, expenses or other loss incurred in connection with such potential **Claim** prior to the time such notice results in a **Claim**.

3. As a condition precedent to exercising their rights under this policy, the **Insureds** shall: (i) include within any notice of **Claim** or circumstances a description of the **Claim** or circumstances, the nature of the alleged **Wrongful Act**, the nature of the alleged or potential damage, the names of actual or potential claimants, and the manner in which the **Insureds** first became aware of the **Claim** or circumstances, and (ii) give to the Underwriter such information and cooperation as it may reasonably require.

4. Except as otherwise provided in this policy, all notices under any provision of this policy shall be in writing and given by prepaid express courier, registered or certified mail, email or fax properly addressed to the appropriate party. Notice to the **Insureds** may be given to the **Policyholder** at the address as shown in Item 1. of the Declarations.

Notice to the Underwriter of **Claims** or of potential **Claims** shall be given to:

Zurich Insurance Company Ltd
100 King Street West, Suite 5300
Toronto, Ontario, M5X 1C9
Attn.: Claims – Specialties Department.
by facsimile to 416-348-1222;
or by e-mail to claims@zurich.com

All other notices to the Underwriter under this policy shall be given to:
Zurich Insurance Company Ltd
100 King Street West, Suite 5500

Toronto, Ontario, M5X 1C9
Attn.: Claims – Specialties Department.

Notice given as described above shall be deemed to be received and effective upon actual receipt thereof by the addressee or one day following the date such notice is sent, whichever is earlier, subject to proof of transmittal.

I. Other Insurance

If any **Loss** is insured under any other valid and collectible policy(ies) issued to any **Insured**, then this policy shall cover such **Loss**, subject to its limitations, conditions, provisions and other terms, only to the extent that the amount of such **Loss** is in excess of the amount of such other insurance whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written only as specific excess insurance over the Limits of Liability provided in this policy.

J. Subrogation

In the event of any payment under this policy, the Underwriter shall be subrogated to the extent of such payment to all the **Insureds'** rights of recovery, including without limitation any right of recovery from the **Company** for **Loss** covered under Insuring Clause A or Insuring Clause D. The **Insureds** shall execute all papers required and shall do everything necessary to secure and preserve such rights, to enable the Underwriter effectively to bring suit in the name of the **Insureds**. In any subrogation claim against the **Company** to enforce the **Insured Persons'** right of indemnification, the shareholder and board of director resolutions and by-laws of the **Company** shall be deemed to provide indemnification to the fullest extent permitted by law, and the Underwriter's recovery from the **Company** for **Loss** covered under Insuring Clause B shall not exceed the applicable Retention set forth in Item 4. of the Declarations. In no event shall the Underwriter exercise its right of subrogation against an **Insured Person** unless and to the extent Exclusion I or J in Section IV applies to such **Insured Person**.

K. Alteration, Assignment and Headings

No change in, modification of, or assignment of interest under this policy shall be effective except when made by a written endorsement to this policy which is signed by an authorized representative of the Underwriter.

The titles and headings to the various sections, subsections and endorsements of this policy, as well as the schedule of endorsements attached to this policy, are included solely for ease of reference and do not in any way limit, expand or otherwise affect the provisions or existence of such sections, subsections or endorsements.

L. Payment Priority

If the **Loss** due and owing by the Underwriter exceeds the then-remaining Limit of Liability applicable to such **Loss**, the Underwriter shall pay such **Loss**, subject to the applicable Limits of Liability, in the following priority:

1. first, the Underwriter shall pay **Loss** covered under Insuring Clause A;
2. second, the Underwriter shall pay **Loss** covered under Insuring Clause B, Insuring Clause C and Insuring Clause E;
3. third, the Underwriter shall pay **Loss** covered under Insuring Clause D.

Subject to the foregoing, the Underwriter, upon receipt of a written request from the **Policyholder**, shall delay any payment of **Loss** due and owing under Insuring Clause B, Insuring Clause C and/or Insuring

Clause E until such time as the **Policyholder** designates, provided that the Underwriter's liability with respect to any such delayed **Loss** payment shall not be increased, and shall not include any interest, on account of such delay.

M. Policy Termination and Nonrenewal

This policy shall terminate at the earliest of the effective date of nonrenewal of the **Policy Period** shown in Item 3. of the Declarations or the effective date of cancellation, as described below.

1. Cancellation

- a. The **Policyholder** may cancel this policy by surrender of this policy to the Underwriter or by giving prior written notice to the Underwriter stating when such cancellation shall take effect.
- b. The Underwriter may cancel this policy only for non-payment of premium. In such event, the Underwriter shall mail written notice of cancellation for non-payment of premium to the **Policyholder**. Such notice shall state the effective date of cancellation, which shall not be less than fifteen (15) days after mailing of such notice.
- c. In the event of cancellation, the Underwriter shall refund the unearned premium computed pro rata.

2. Nonrenewal

If the Underwriter elects not to renew this policy, the Underwriter shall mail to the **Policyholder** written notice thereof at least sixty (60) days prior to the expiration of the **Policy Period**.

3. Notice

The Underwriter shall send all notices required under this Subsection V.M by registered or certified mail to the **Policyholder** at the address in Item 1. of the Declarations, and by mail or electronic mail to the **Policyholder's** authorized agent, if any. Proof of mailing will be sufficient proof of notice.

N. Authorization Clause

By acceptance of this policy, the **Policyholder** agrees to act on behalf of the **Insureds** with respect to:

paying premiums (subject to any **Insured's** right under Subsection II.B and to any **Insured Person's** right under Subsection II.C) and receiving any return premiums that may become due under this policy; agreeing to endorsements; giving or receiving notices provided for in this policy (subject to any **Insured's** right to give notices to apply for the **Extended Reporting Period** or **Run-Off Coverage Period**); or giving notices of **Claim** or potential **Claim**, and the **Insureds** agree that the **Policyholder** shall act on their behalf.

O. Bankruptcy

Bankruptcy or insolvency of any **Insured** or of the estate of any **Insured** shall not relieve the Underwriter of its obligations nor deprive the Underwriter of its rights or defences under this policy.

In the event a liquidation or reorganization proceeding is commenced by or against a **Company** pursuant to Canadian bankruptcy, insolvency, winding-up or dissolution legislation, or any similar foreign, provincial, territorial, state or local law, the **Company** and the **Insured Persons** hereby (i) waive and release any automatic stay or injunction which may apply in such proceeding to this policy or its proceeds under such bankruptcy law, and (ii) agree not to oppose or object to any efforts by the Underwriter, the **Company** or any **Insured Person** to obtain relief from any such stay or injunction.

P. Alternative Dispute Resolution

The **Insureds** and the Underwriter shall submit any dispute or controversy arising out of or relating to this policy to either non-binding mediation or binding arbitration as described in this Subsection V.P (“ADR”). Either the **Insureds** or the Underwriter may initiate the ADR process by sending written notice to the other parties designating which type of ADR process is being elected. If within ten (10) days after such notice is given the parties disagree on the type of ADR process, the **Insureds’** preference shall control.

Unless otherwise agreed by the parties, any such non-binding mediation or binding arbitration shall be administered by the ADR Institute of Ontario, Inc., in accordance with its then prevailing National Mediation Rules or National Arbitration Rules, as the case may be.

If the ADR process elected is arbitration, the **Insureds** collectively and the Underwriter shall each select a disinterested arbitrator, and those two arbitrators shall select a third disinterested arbitrator. A decision by a majority of those three arbitrators shall be final and binding upon the **Insureds** and the Underwriter, but the arbitrators’ award shall not include counsel fees or other costs incurred in connection with the arbitration.

If the ADR process elected is non-binding, and the matter is not resolved in as a result of the non-binding ADR process, then either party to the mediation may thereafter commence a judicial proceeding against the other party with respect to such dispute, provided that neither party may commence such a judicial proceeding prior to ninety (90) days following termination of the mediation.

The parties to the ADR process shall share equally the fees and expenses of the mediator or the third-appointed arbitrator as well as other common expenses of the ADR process. Each party shall pay the fees and expenses of such party’s appointed arbitrator.

Statutory Conditions, General Conditions and Other Conditions



Please refer to the Statutory Conditions, General Conditions and Other Conditions applicable to your Province(s)/ Territory(ies).

1. Statutory Conditions

Page 1 - All Provinces/Territories except:

- a. Alberta, British Columbia and Quebec.
- b. Conditions 5. (Termination) and 15. (Notice) do not apply to Ontario, please see Other Conditions for the Termination and Notice conditions that apply in Ontario.
- c. Condition 14. (Action) does not apply to Manitoba, please see Other Conditions for the Action condition that applies in Manitoba.

Page 4 - Alberta.

Page 8 - British Columbia.

2. General Conditions

Page 12 - Quebec .

3. Other Conditions

Page 18.

Statutory Conditions

(For all provinces except Alberta, British Columbia and Quebec, except that paragraph 14 does not apply to Saskatchewan).

These Statutory Conditions apply to all riders, endorsements, declarations pages and other policy forms attaching to this insurance policy; however, if any of the conditions of any such riders, endorsements, declarations and other policy forms attaching to this insurance policy are more favourable to the insured than those set out in these Statutory Conditions, the conditions more favourable to the insured will prevail.

1. Misrepresentation

Where a person applying for insurance falsely describes the property to the prejudice of the Insurer, or misrepresents or fraudulently omits to communicate a circumstance which is material to be made known to the Insurer in order to enable it to judge the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

2. Property of Others

Unless otherwise specifically stated in the contract, the Insurer is not liable for loss or damage to property owned by any person other than the Insured, unless the interest of the Insured is stated in the contract.

3. Change of Interest

The Insurer shall be liable for loss or damage occurring after an authorized assignment under the *Bankruptcy Act* (Canada) or change of title by succession, by operation of law or by death.

4. Material Change

A change material to the risk and within the control and knowledge of the Insured shall void the contract as the part affected by it, unless the change is promptly notified in writing to the Insurer or its local agent; and the Insurer when so notified may return the unearned portion of the premium paid and cancel the contract, or may notify the Insured in writing that, if the Insured desires the contract to continue in force, the Insured shall, within 15 days of the receipt of the notice pay to the Insurer an additional premium; and in default of the payment the contract shall no longer be in force and the Insurer shall return the unearned portion of the premium paid.

5. Termination

- (1) This contract may be terminated.
 - (a) by the Insurer giving to the Insured 15 days' notice of termination by registered mail or five days written notice of termination personally delivered;
 - (b) by the Insured at any time on request.
- (2) Where this contract is terminated by the Insurer,
 - (a) the Insurer shall refund the excess of premium actually paid by the Insured over the proportional premium for the expired time, but, in no event shall the proportional premium for the expired time be considered to be less than any minimum retained premium specified; and
 - (b) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund shall be made as soon as practicable.
- (3) Where this contract is terminated by the Insured, the Insurer shall refund as soon as practicable the excess of premium actually paid by the Insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be considered to be less than a minimum retained premium specified.
- (4) The refund may be made by money, postal or express company money order or by cheque payable at par.
- (5) The 15 days mentioned in clause (1) (a) of this condition start to run on the day following the receipt of the registered letter at the post office to which it is addressed.

6. Requirements After Loss

- (1) Upon the occurrence of a loss of or damage to the insured property, the Insured shall, where the loss or damage is covered by the contract, in addition to observing the requirements of conditions 9, 10 and 11,
 - (a) forthwith give notice of the loss or damage in writing to the Insurer;
 - (b) deliver as soon as practicable to the Insurer a proof of loss verified by a statutory declaration,
 - (i) giving a complete inventory of the destroyed and damaged property and showing in detail quantities, costs, actual cash value and particulars of amount of loss claimed,
 - (ii) stating when and how the loss occurred, and where caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the Insured knows or believes,

- (iii) stating that the loss did not occur through a wilful act or neglect or the procurement, means or connivance of the Insured,
 - (iv) showing the amount of other insurances and the names of other insurers,
 - (v) showing the interest of the Insured and of all others in the property with particulars of all liens, encumbrances and other charges upon the property,
 - (vi) showing any changes in title, use, occupation, location, possession or exposures of the property since the issue of the contract,
 - (vii) showing the place where the property insured was at the time of loss:
- (c) where required, give a complete inventory of undamaged property and showing in detail quantities, cost, actual cash value;
 - (d) where required, and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers verified by statutory declaration, and furnish a copy of the written portion of any other contract.
- (2) The evidence furnished under clauses 1 (c) and (d) of this condition shall not be considered proof of loss within the meaning of conditions 12 and 13.

7. Fraud

A fraud or a wilfully false statement in a statutory declaration in relation to the above particulars, shall vitiate the claim of the person making the declaration.

8. Who May Give Notice and Proof

Notice of loss may be given, and proof of loss may be made, by the agent of the Insured named in the contract in case of absence or inability of the Insured to give the notice or make the proof, and absence or inability being satisfactorily accounted for, or in the like case, or where the Insured refuses to do so, by a person to whom a part of the insurance money is payable.

9. Salvage

- (1) The Insured, in the event of any loss or damage to the property insured under the contract, shall take all reasonable steps to prevent further damage to the property so damaged and to prevent damage to other property insured under the contract including, where necessary, its removal to prevent damage or further damage to the property.
- (2) The Insurer shall contribute proportionally towards reasonable and proper expenses in connection with steps taken by the Insured and required under subparagraph (1) of this condition according to the respective interest of the parties.

10. Entry, Control, Abandonment

After loss or damage to insured property, the Insurer shall have an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and, after the insured has secured the property, a further right of access and entry sufficient to enable them to make appraisal or particular estimate of the loss or damage, but the Insurer shall not be entitled to the control or possession of the insured property, and without the consent of the Insurer there can be no abandonment to it of insured property.

11. Appraisal

In the event of a disagreement as to the value of the property insured, the property saved or the amount of the loss, those questions shall be determined by appraisal as provided under the *Insurance Act*, or the *Insurance Contracts Act* in the case of Newfoundland and Labrador, before there can be a recovery under this contract whether the right to recover on the contract is disputed or not, and independently of all other questions. There shall be no right to an appraisal until a specific demand for an appraisal is made in writing and until after proof of loss has been delivered.

12. When Loss Payable

The loss shall be payable within 60 days after completion of the proof of loss, unless the contract provides for a shorter period.

13. Replacement

- (1) The Insurer, instead of making payment, may repair, rebuild, or replace the property damaged or lost, giving written notice of its intention to do so within 30 days after receipt of the proof of loss.
- (2) In that event the Insurer shall start to repair, rebuild, or replace the property within 45 days after receipt of the proofs of loss, and shall after that time proceed with all due diligence to the completion of the property.

14. Action

Every action or proceeding against the Insurer for the recovery of a claim under or by virtue of this contract is absolutely barred unless commenced within 1 year next after the loss or damage occurs.

15. Notice

Any written notice to the Insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the Insurer in the province. Written notice may be given to the Insured named in the contract by letter personally delivered to him or her or by registered mail addressed to him or her at his or her latest post office address as notified to the Insurer. In this condition, the expression "registered" means registered in or outside Canada.

Statutory Conditions

(applicable in the province of Alberta). Subject to certain exceptions set out in the Insurance Act and regulations thereunder, the Statutory Conditions are deemed to be part of every contract of insurance in force in the province of Alberta. (**Statutory Conditions** 1 and 6 to 13 apply only to contracts that include insurance against loss or damage to property).

These Statutory Conditions apply to all riders, endorsements, declarations pages and other policy forms attaching to this insurance policy; however, if any of the conditions of any such riders, endorsements, declarations and other policy forms attaching to this insurance policy are more favourable to the insured than those set out in these Statutory Conditions, the conditions more favourable to the insured will prevail.

1. Misrepresentation

If a person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the insurer in order to enable it to judge the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

2. Property of Others

The insurer is not liable for loss or damage to property owned by a person other than the insured unless

- (a) otherwise specifically stated in the contract, or
- (b) the interest of the insured in that property is stated in the contract.

3. Change of Interest

The insurer is liable for loss or damage occurring after an authorized assignment under the *Bankruptcy and Insolvency Act* (Canada) or a change of title by succession, by operation of law or by death.

4. Material Change in Risk

- (1) The insured must promptly give notice in writing to the insurer or its agent of a change that is
 - (a) material to the risk, and
 - (b) within the control and knowledge of the insured.
- (2) If an insurer or its agent is not promptly notified of a change under subparagraph (1) of this condition, the contract is void as to the part affected by the change.
- (3) If an insurer or its agent is notified of a change under subparagraph (1) of this condition, the insurer may
 - (a) terminate the contract in accordance with Statutory Condition 5, or
 - (b) notify the insured in writing that, if the insured desires the contract to continue in force, the insured must, within 15 days after receipt of the notice, pay to the insurer an additional premium specified in the notice.
- (4) If the insured fails to pay an additional premium when required to do so under subparagraph (3)(b) of this condition, the contract is terminated at that time and Statutory Condition 5(2)(a) applies in respect of the unearned portion of the premium.

5. Termination of Insurance

- (1) The contract may be terminated
 - (a) by the insurer giving to the insured 15 days' notice of termination by registered mail or 5 days' written notice of termination personally delivered, or
 - (b) by the insured at any time on request.
- (2) If the contract is terminated by the insurer,
 - (a) the insurer must refund the excess of premium actually paid by the insured over the prorated premium for the expired time, but in no event may the prorated premium for the expired time be less than any minimum retained premium specified in the contract, and
 - (b) the refund must accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund must be made as soon as practicable.
- (3) If the contract is terminated by the insured, the insurer must refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time specified in the

contract, but in no event may the short rate premium for the expired time be less than any minimum retained premium specified in the contract.

- (4) The 15-day period referred to in subparagraph (1)(a) of this condition starts to run on the day the registered letter or notification of it is delivered to the insured's postal address.

6. Requirements After Loss

- (1) On the happening of any loss or damage to insured property, the insured must, if the loss or damage is covered by the contract, in addition to observing the requirements of Statutory Condition 9,
- (a) immediately give notice in writing to the insurer,
 - (b) deliver as soon as practicable to the insurer a proof of loss in respect of the loss or damage to the insured property verified by statutory declaration
 - (i) giving a complete inventory of that property and showing in detail quantities and costs of that property and particulars of the amount of loss claimed,
 - (ii) stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the insured knows or believes,
 - (iii) stating that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the insured,
 - (iv) stating the amount of other insurances and the names of other insurers,
 - (v) stating the interest of the insured and of all others in that property with particulars of all liens, encumbrances and other charges on that property,
 - (vi) stating any changes in title, use, occupation, location, possession or exposure of the property since the contract was issued, and
 - (vii) stating the place where the insured property was at the time of loss,
 - (c) if required by the insurer, give a complete inventory of undamaged property showing in detail quantities and cost of that property, and
 - (d) if required by the insurer and if practicable,
 - (i) produce books of account and inventory lists,
 - (ii) furnish invoices and other vouchers verified by statutory declaration, and
 - (iii) furnish a copy of the written portion of any other relevant contract.
- (2) The evidence given, produced or furnished under subparagraph (1)(c) and (d) of this condition must not be considered proofs of loss within the meaning of Statutory Conditions 12 and 13.

7. Fraud

Any fraud or wilfully false statement in a statutory declaration in relation to the particulars required under Statutory Condition 6 invalidates the claim of the person who made the declaration.

8. Who May Give Notice and Proof

Notice of loss under Statutory Condition 6(1)(a) may be given and the proof of loss under Statutory Condition 6(1)(b) may be made

- (a) by the agent of the insured if
 - (i) the insured is absent or unable to give the notice or make the proof, and
 - (ii) the absence or inability is satisfactorily accounted for,
- or
- (b) by a person to whom any part of the insurance money is payable, if the insured refuses to do so, or in the circumstances described in clause (a) of this condition.

9. Salvage

- (1) In the event of loss or damage to insured property, the insured must take all reasonable steps to prevent further loss or damage to that property and to prevent loss or damage to other property insured under the contract, including, if necessary, removing the property to prevent loss or damage or further loss or damage to the property.
- (2) The insurer must contribute on a prorated basis towards any reasonable and proper expenses in connection with steps taken by the insured under subparagraph (1) of this condition.

10. Entry, Control, Abandonment

After loss or damage to insured property, the insurer has

- (a) an immediate right of access and entry by accredited representatives sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and
- (b) after the insured has secured the property, a further right of access and entry by accredited representatives sufficient to enable them to appraise or estimate the loss or damage, but
 - (i) without the insured's consent, the insurer is not entitled to the control or possession of the insured property, and
 - (ii) without the insurer's consent, there can be no abandonment to it of the insured property.

11. In Case of Disagreement

- (1) In the event of disagreement as to the value of the insured property, the value of the property saved, the nature and extent of the repairs or replacements required or, if made, their adequacy, or the amount of the loss or damage, those questions must be determined using the applicable dispute resolution process set out in the *Insurance Act* whether or not the insured's right to recover under the contract is disputed, and independently of all other questions.
- (2) There is no right to a dispute resolution process under this condition until
 - (a) a specific demand is made for it in writing, and
 - (b) the proof of loss has been delivered to the insurer.

12. When Loss Payable

Unless the contract provides for a shorter period, the loss is payable within 60 days after the proof of loss is completed in accordance with Statutory Condition 6 and delivered to the insurer.

13. Repair or Replacement

- (1) Unless a dispute resolution process has been initiated, the insurer, instead of making payment, may repair, rebuild or replace the insured property lost or damaged, on giving written notice of its intention to do so within 30 days after receiving the proof of loss.
- (2) If the insurer gives notice under subparagraph (1) of this condition, the insurer must begin to repair, rebuild or replace the property within 45 days after receiving the proof of loss and must proceed with all due diligence to complete the work within a reasonable time.

14. Notice

- (1) Written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the province.
- (2) Written notice to the insured may be personally delivered at, or sent by registered mail addressed to, the insured's last known address as provided to the insurer by the insured.

15. Action

Every action or proceeding against an Insurer for the recovery of insurance money payable under the contract is absolutely barred unless commenced within the time set out in the *Insurance Act*.

Statutory Conditions

(applicable in the province of British Columbia). Subject to certain exceptions set out in the Insurance Act and regulations thereunder, the Statutory Conditions are deemed to be part of every contract of insurance in force in the province of British Columbia. (**Statutory Conditions 1 and 6 to 13** apply only to contracts that include insurance against loss or damage to property).

These Statutory Conditions apply to all riders, endorsements, declarations pages and other policy forms attaching to this insurance policy; however, if any of the conditions of any such riders, endorsements, declarations and other policy forms attaching to this insurance policy are more favourable to the insured than those set out in these Statutory Conditions, the conditions more favourable to the insured will prevail.

1. Misrepresentation

If a person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the insurer in order to enable it to judge the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

2. Property of others

The insurer is not liable for loss or damage to property owned by a person other than the insured unless

- (a) otherwise specifically stated in the contract, or
- (b) the interest of the insured in that property is stated in the contract.

3. Change of interest

The insurer is liable for loss or damage occurring after an authorized assignment under the *Bankruptcy and Insolvency Act* (Canada) or a change of title by succession, by operation of law or by death.

4. Material change in risk

- (1) The insured must promptly give notice in writing to the insurer or its agent of a change that is
 - (a) material to the risk, and
 - (b) within the control and knowledge of the insured.
- (2) If an insurer or its agent is not promptly notified of a change under subparagraph (1) of this condition, the contract is void as to the part affected by the change.
- (3) If an insurer or its agent is notified of a change under subparagraph (1) of this condition, the insurer may
 - (a) terminate the contract in accordance with Statutory Condition 5, or
 - (b) notify the insured in writing that, if the insured desires the contract to continue in force, the insured must, within 15 days after receipt of the notice, pay to the insurer an additional premium specified in the notice.
- (4) If the insured fails to pay an additional premium when required to do so under subparagraph (3) (b) of this condition, the contract is terminated at that time and Statutory Condition 5 (2) (a) applies in respect of the unearned portion of the premium.

5. Termination of insurance

- (1) The contract may be terminated
 - (a) by the insurer giving to the insured 15 days' notice of termination by registered mail or 5 days' written notice of termination personally delivered, or
 - (b) by the insured at any time on request.
- (2) If the contract is terminated by the insurer,
 - (a) the insurer must refund the excess of premium actually paid by the insured over the prorated premium for the expired time, but in no event may the prorated premium for the expired time be less than any minimum retained premium specified in the contract, and
 - (b) the refund must accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund must be made as soon as practicable.
- (3) If the contract is terminated by the insured, the insurer must refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time specified in the contract, but in no event may the short rate premium for the expired time be less than any minimum retained premium specified in the contract.
- (4) The 15 day period referred to in subparagraph (1) (a) of this condition starts to run on the day the registered letter or notification of it is delivered to the insured's postal address.

6. Requirements after loss

- (1) On the happening of any loss of or damage to insured property, the insured must, if the loss or damage is covered by the contract, in addition to observing the requirements of Statutory Condition 9,
 - (a) immediately give notice in writing to the insurer,
 - (b) deliver as soon as practicable to the insurer a proof of loss in respect of the loss or damage to the insured property verified by statutory declaration,
 - (i) giving a complete inventory of that property and showing in detail quantities and cost of that property and particulars of the amount of loss claimed,
 - (ii) stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the insured knows or believes,
 - (iii) stating that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the insured,
 - (iv) stating the amount of other insurances and the names of other insurers,
 - (v) stating the interest of the insured and of all others in that property with particulars of all liens, encumbrances and other charges on that property,
 - (vi) stating any changes in title, use, occupation, location, possession or exposure of the property since the contract was issued, and
 - (vii) stating the place where the insured property was at the time of loss,
 - (c) if required by the insurer, give a complete inventory of undamaged property showing in detail quantities and cost of that property, and
 - (d) if required by the insurer and if practicable,
 - (i) produce books of account and inventory lists,
 - (ii) furnish invoices and other vouchers verified by statutory declaration, and
 - (iii) furnish a copy of the written portion of any other relevant contract.
- (2) The evidence given, produced or furnished under subparagraph (1) (c) and (d) of this condition must not be considered proofs of loss within the meaning of Statutory Conditions 12 and 13.

7. Fraud

Any fraud or wilfully false statement in a statutory declaration in relation to the particulars required under Statutory Condition 6 invalidates the claim of the person who made the declaration.

8. Who may give notice and proof

Notice of loss under Statutory Condition 6 (1) (a) may be given and the proof of loss under Statutory Condition 6 (1) (b) may be made

- (a) by the agent of the insured, if
 - (i) the insured is absent or unable to give the notice or make the proof, and
 - (ii) the absence or inability is satisfactorily accounted for, or
- (b) by a person to whom any part of the insurance money is payable, if the insured refuses to do so or in the circumstances described in clause (a) of this condition.

9. Salvage

- (1) In the event of loss or damage to insured property, the insured must take all reasonable steps to prevent further loss or damage to that property and to prevent loss or damage to other property insured under the contract, including, if necessary, removing the property to prevent loss or damage or further loss or damage to the property.
- (2) The insurer must contribute on a prorated basis towards any reasonable and proper expenses in connection with steps taken by the insured under subparagraph (1) of this condition.

10. Entry, control, abandonment

After loss or damage to insured property, the insurer has

- (a) an immediate right of access and entry by accredited representatives sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and
- (b) after the insured has secured the property, a further right of access and entry by accredited representatives sufficient to enable them to appraise or estimate the loss or damage, but
 - (i) without the insured's consent, the insurer is not entitled to the control or possession of the insured property, and
 - (ii) without the insurer's consent, there can be no abandonment to it of the insured property.

11. In case of disagreement

- (1) In the event of disagreement as to the value of the insured property, the value of the property saved, the nature and extent of the repairs or replacements required or, if made, their adequacy, or the amount of the loss or damage, those questions must be determined using the applicable dispute resolution process set out in the *Insurance Act*, whether or not the insured's right to recover under the contract is disputed, and independently of all other questions.
- (2) There is no right to a dispute resolution process under this condition until
 - (a) a specific demand is made for it in writing, and
 - (b) the proof of loss has been delivered to the insurer.

12. When loss payable

Unless the contract provides for a shorter period, the loss is payable within 60 days after the proof of loss is completed in accordance with Statutory Condition 6 and delivered to the insurer.

13. Repair or replacement

- (1) Unless a dispute resolution process has been initiated, the insurer, instead of making payment, may repair, rebuild or replace the insured property lost or damaged, on giving written notice of its intention to do so within 30 days after receiving the proof of loss.
- (2) If the insurer gives notice under subparagraph (1) of this condition, the insurer must begin to repair, rebuild or replace the property within 45 days after receiving the proof of loss, and must proceed with all due diligence to complete the work within a reasonable time.

14. Notice

- (1) Written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the province.
- (2) Written notice to the insured may be personally delivered at, or sent by registered mail addressed to, the insured's last known address as provided to the insurer by the insured.

15. Action

Every action or proceeding against an Insurer for the recovery of insurance money payable under the contract is absolutely barred unless commenced within the time set out in the *Insurance Act*.

General Conditions

(This Policy is subject to the Civil Code of Quebec)

Reference to Civil Code articles in some instances is for easier reading only and should not be construed as exact quotations.

These General Conditions apply to all riders, endorsements, declarations pages and other policy forms attaching to this insurance policy; however, if any of the conditions of any such riders, endorsements, declarations and other policy forms attaching to this insurance policy are more favourable to the insured than those set out in these General Conditions, the conditions more favourable to the insured will prevail.

For all coverages except where inapplicable.

1. Statements

1.1 Representation of risk (Article 2408)

The client, and the Insured if the Insurer requires it, is bound to represent all the facts known to him which are likely to materially influence an insurer in the setting of the premium, the appraisal of the risk or the decision to cover it, but he is not bound to represent facts known to the Insurer or which from their notoriety he is presumed to know, except in answer to inquiries.

The client means the person submitting an insurance application.

1.2 Material change in risk (Articles 2466 and 2467)

The Insured shall promptly notify the Insurer of any change that increases the risks stipulated in the policy and that results from events within his control if it is likely to materially influence an insurer in setting the rate of the premium, appraising the risk or deciding to continue to insure it.

On being notified of any material change in the risk, the Insurer may cancel the contract or propose, in writing, a new rate of premium. Unless the new premium is accepted and paid by the Insured within thirty days of the proposal, the policy ceases to be in force.

1.3 Misrepresentations or concealment (Articles 2410, 2411 and 2466)

Any misrepresentation or concealment of relevant facts mentioned in section 1.1 and in the first paragraph of section 1.2 by the client or the Insured nullifies the contract at the instance of the Insurer, even in respect of losses not connected with the risk so misrepresented or concealed.

Unless the bad faith of the client or of the Insured is established or unless it is established that the Insurer would not have covered the risk if he had known the true facts, the Insurer remains liable towards the Insured for such proportion of the indemnity as the premium he collected bears to the premium he should have collected.

1.4 Warranties (Article 2412)

Any increase in risk resulting from a breach of warranty suspends the coverage until accepted by the Insurer or until such breach has been remedied by the Insured.

2. General Provisions

2.1 Insurable interest (Articles 2481 and 2484) *(Applicable to property insurance only)*

A person has an insurable interest in a property where the loss or deterioration of the property may cause him direct and immediate damage. It is necessary that the insurable interest exist at the time of the loss but not necessary that the same interest have existed throughout the duration of the contract. The insurance of a property in which the Insured has no insurable interest is null.

2.2 Changes (Article 2405)

The terms of this policy shall not be waived or changed except by endorsement.

2.3 Assignment (Articles 2475 and 2476)

This policy may be assigned only with the consent of the Insurer and in favour of a person who has an insurable interest in the insured property.

Upon the death or bankruptcy of the Insured or the assignment of his interest in the insurance to a co-Insured, the insurance continues in favour of the heir, trustee in bankruptcy or remaining Insured, subject to his performing the obligations that were incumbent upon the Insured.

2.4 Books and records

The Insurer and its authorized representatives shall have the right to examine the Insured's books and records related to the subject matter of this insurance at any time during the period of this policy and the three subsequent years.

2.5 Inspection

The Insurer and its authorized representatives shall have the right but are not obligated to make inspections of the risk, inform the Insured of the conditions found and recommend changes. Any inspections, surveys, findings or recommendations relate only to insurability and the premiums to be charged. They shall not constitute a warranty that the premises, property or operations are safe or healthful or comply with laws, codes or standards.

2.6 Currency

All limits of insurance, premiums and other amounts as expressed in this policy are in Canadian currency.

3. Losses

3.1 Notice of loss (Article 2470)

The Insured shall notify the Insurer of any loss which may give rise to an indemnity, as soon as he becomes aware of it. Any interested person may give such notice.

In the event that the requirement set out in the preceding paragraph is not fully complied with, all rights to compensation shall be forfeited by the Insured where such non-compliance has caused prejudice to the Insurer.

3.2 Information to be provided (Article 2471)

The Insured shall inform the Insurer as soon as possible of all the circumstances surrounding the loss, including its probable cause, the nature and extent of the damage, the location of the insured property, the rights of third parties, and any concurrent insurance; he shall also furnish him with vouchers and swear or warrant to the truth of the information.

Where, for a serious reason, the Insured is unable to fulfil such obligation, he is entitled to a reasonable time in which to do so. If the Insured fails to fulfil his obligation, any interested person may do so on his behalf.

In addition, the Insured shall forthwith send to the Insurer a copy of any notice, letter, subpoena or writ or document received in connection with a claim.

3.3 False representation (Article 2472)

Any deceitful representation entails the loss or the right of the person making it to any indemnity in respect of the risk to which the representation relates.

However, if the occurrence of the event insured against entails the loss of both movable and immovable property or of both property for occupational use and personal property, forfeiture is incurred only with respect to the class of property to which the representation relates.

3.4 Intentional Fault (Article 2464)

The Insurer is never liable to compensate for injury resulting from the Insured's intentional fault.

Where there is more than one Insured, the obligation of coverage remains in respect of those Insureds who have not committed an intentional fault.

Where the Insurer is liable for injury caused by a person for whose acts the Insured is liable, the obligation of coverage subsists regardless of the nature or gravity of that person's fault.

3.5 Notice to police *(Applicable to property insurance only)*

The Insured must promptly give notice to the police of any loss caused by vandalism, theft or attempted theft or other criminal act.

3.6 Safeguarding and examination of property (Article 2495) *(Applicable to property insurance only)*

At the expense of the Insurer, the Insured must take all reasonable steps to prevent further loss or damage to the insured property and any further loss or damage resulting directly or indirectly from the Insured's failure to take such action shall not be recoverable.

The Insured may not abandon the damaged property if there is no agreement to that effect. The Insured shall facilitate the salvage and inspection of the insured property by the Insurer.

He shall, in particular, permit the Insurer and his representatives to visit the premises and examine the insured property before repairing, removing or modifying the damaged property, unless so required to safeguard the property.

3.7 Admission of liability and cooperation

The Insured shall cooperate with the Insurer in the processing of all claims.

(The following two paragraphs are applicable to liability insurance only : Article 2504)

No transaction made without the consent of the Insurer may be set up against him.

The Insured shall not admit any liability nor settle or attempt to settle any claim, except at his own risk.

3.8 Right of action (Article 2502) *(Applicable to property insurance only)*

The Insurer may set up against the injured third person any grounds he could have invoked against the Insured at the time of the loss, but not grounds pertaining to facts that occurred after the loss; the Insurer has a right of action against the Insured in respect of facts that occurred after the loss.

4. Compensation and Settlement

4.1 Basis of settlement (Articles 2490, 2491, 2493) *(Applicable to property insurance only)*

Unless otherwise provided, the Insurer shall not be liable for more than the actual cash value of the property at the time of the loss as normally determined.

In unvalued policies, the amount of insurance does not make proof of the value of the insured property. In valued policies, the agreed value makes complete proof, between the Insurer and the Insured, of the value of the insured property.

If the amount of insurance is less than the value of the property, the Insurer is released by paying the amount of the insurance in the event of total loss or a proportional indemnity, in the event of partial loss.

4.2 Pair and set (Applicable to property insurance only)

In the case of loss of or damage to any article or articles, whether scheduled or unscheduled, which are part of a set, the measure of loss of or damage to such article or articles shall be a reasonable and fair proportion of the total value of the set, but in no event shall such loss or damage be construed to mean total loss of set.

4.3 Parts (*Applicable to property insurance only*)

In the case of loss of or damage to any part of the insured property, whether scheduled or unscheduled, consisting, when complete for use, of several parts, the Insurer is not liable for more than the insured value of the part lost or damaged, including the cost of installation.

4.4 Replacement (Article 2494) (*Applicable to property insurance only*)

Subject to the rights of preferred and hypothecary creditors, the Insurer re-serves the right to repair, rebuild or replace the insured property. He is then entitled to salvage and may take over the property.

4.5 Time of payment (Articles 1591, 2469 and 2473)

The Insurer shall pay the indemnity within sixty days after receiving the notice of loss or, at his request, all relevant information and vouchers, provided the Insured shall have complied with all the terms of the contract.

Any outstanding premium may be deducted from the indemnity payable.

4.6 Property of others (*Applicable to property insurance only*)

Where a claim is made as a result of loss of or damage to property not owned by the Insured, the Insurer reserves the right to pay the indemnity to the Insured or to the owner of the property and to deal directly with such owner.

4.7 Waiver

Neither the Insurer nor the Insured shall be deemed to have waived any term or condition of the policy by any act relating to arbitration or to the completion or delivery of proof of loss, or to the investigation or adjustment of the claim.

4.8 Limitation of actions (Article 2925)

Every action or proceeding against the Insurer under this policy shall be commenced within three years from the date the right of action has arisen.

4.9 Subrogation (Article 2474)

Unless otherwise provided, the Insurer shall be subrogated to the extent of the amount paid or the liability assumed therefor under this policy to the rights of the Insured against persons responsible for the loss except when they are members of the Insured's household. The Insurer may be fully or partly released from his obligation towards the Insured where, owing to any act of the Insured, he cannot be so subrogated.

5. Other Insurance

5.1 Property insurance (Article 2496)

The Insured who, without fraud, is insured by several insurers, under several policies, for the same interest and against the same risk so that the total amount of indemnity that would result from the separate performance of such policies would exceed the loss incurred may be indemnified by the insurer or insurers of his choice, each being liable only for the amount he has contracted for.

No clause suspending all or part of the performance of the contract by reason of other insurance may be used against the Insured.

Unless otherwise agreed, the indemnity is apportioned among the insurers in proportion to the share of each in the total coverage, except in respect of specific insurance, which constitutes primary insurance.

5.2 Liability insurance

The liability insurance provided under this policy is primary insurance except when stated to apply in excess of, or contingent upon the absence of, other insurance. When this insurance is primary and the Insured has other insurance which is stated to be applicable to the loss on an excess or contingent basis, the amount of the Insurer's liability under this policy shall not be reduced by the existence of such other insurance. When both this insurance and other insurance apply to the loss on the same basis whether primary, excess or contingent, the Insurer shall not be liable under this policy for a greater proportion of the loss than that stated in the applicable contribution provision below:

– Contribution by equal share:

If all of such other collectible insurance provides for contribution by equal shares, this Insurer shall not be liable for a greater proportion of such loss than would be payable if each insurer contributed an equal share until the share of each insurer equals the lowest applicable limit of liability under any one policy or the full amount of the loss is paid, and with respect to any amount of loss not so paid the remaining insurers then continue to contribute equal shares of the remaining amount of the loss until each such insurer has paid its limit in full or the full amount of the loss is paid.

– Contribution by limits:

If any such other insurance does not provide for contribution by equal shares, this Insurer shall not be liable for a greater proportion of such loss than the applicable limit of liability under this policy for such loss bears to the total applicable limit of liability of all valid and collectible insurance against such loss.

6. Cancellation (Articles 2477 and 2479)

This policy may be cancelled at any time:

- (a) By mere written notice from each of the Named Insureds. Termination takes effect upon receipt of the notice and the Insured shall therefore be entitled to a refund of the excess of the premium actually paid over the short-term rate for the expired time.
- (b) By the Insurer giving written notice to each of the Named Insureds. Termination takes effect fifteen days following receipt of such notice by the Insured at his last known address and the Insurer shall refund the excess of premium actually paid over the pro rata premium for the expired time. If the premium is subject to adjustment or determination as to amount, the refund shall be made as soon as practicable.

Where one or more of the Named Insureds have been mandated to receive or send the notices provided for under paragraph (a) or (b) above, notices sent or received by them shall be deemed to have been sent or received by all Named Insureds.

In this Condition, the words "premium actually paid" mean the premium actually paid by the Insured to the Insurer or its representative, but do not include any premium or part thereof paid to the Insurer by a representative unless actually paid to the representative by the Insured.

7. Notice

Any notice to the Insurer may be sent by any recognized means of communication to the Insurer or its authorized representative. Notice may be given to the named Insured by letter personally delivered to him or by mail addressed to him at his last known address.

It is incumbent upon the sender to prove that such notice was received.

Other Conditions

The Conditions shown below are deemed to be part of every contract of insurance in force in the province of Ontario:

Termination

- (1) This contract may be terminated,
 - (a) by the insurer giving to the insured fifteen days' notice of termination by registered mail or five days' written notice of termination personally delivered or delivered by prepaid courier if there is a record by the person who delivered it that the notice has been sent;
 - (b) by the insured at any time on request;
- (2) Where this contract is terminated by the insurer,
 - (a) the insurer shall refund the excess of premium actually paid by the insured over the proportionate premium for the expired time, but, in no event, shall the proportionate premium for the expired time be deemed to be less than any minimum retained premium specified; and
 - (b) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund shall be made as soon as practicable.
- (3) Where this contract is terminated by the insured, the insurer shall refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.
- (4) The refund may be made by money, postal or express company money order or cheque payable at par.
- (5) The fifteen days mentioned in clause (1) (a) of this condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed.

Notice

- (1) Written notice may be given to the insurer in the following ways:
 - (a) It may be personally delivered at the chief agency or head office of the insurer in the Province.
 - (b) It may be sent by registered mail to the chief agency or head office of the insurer in the Province.
 - (c) It may be delivered by electronic means.
- (2) Written notice may be given to the insured named in the contract in the following ways:
 - (a) It may be personally delivered.
 - (b) It may be delivered by prepaid courier to the latest address of the insured on the records of the insurer if there is a record by the person who has delivered it that the notice has been sent.

(c) It may be sent by registered mail to the latest address of the insured on the records of the insurer.

(d) It may be delivered by electronic means, if the insured consents to delivery by electronic means.

(3) In this condition, the expression “registered” means registered in or outside Canada.

The Condition shown below is deemed to be part of every contract of insurance in force in the province of Manitoba:

Action

Every action or proceeding against an Insurer for the recovery of insurance money payable under the contract is absolutely barred unless commenced within the time set out in the Insurance Act.

Trade and Economic Sanctions Limitation

This endorsement changes the policy. Please read it carefully.

This endorsement modifies insurance provided under the policy it forms part of.

Notwithstanding any other terms under this agreement, no insurer shall be deemed to provide coverage or will make any payments or provide any service or benefit to any insured or other party to the extent that such cover, payment, service, benefit and/or any business or activity of the insured would violate any applicable trade or economic sanctions law or regulation.

Except as provided herein, all the terms and conditions of this policy shall have full force and effect.



Amended Definition of Insured Person Endorsement

Endorsement # 1

Policyholder	Lynx Air Holdings Corporation		
Policy Number	8622083	Effective Date of Endorsement	October 14, 2023
Effective Date of Policy	October 14, 2023	Expiry Date of Policy	October 14, 2024
Additional Premium	N/A	Return Premium	N/A

This endorsement changes the policy. Please read it carefully.

This endorsement modifies insurance provided under the following:

Directors and Officers Liability Insurance Policy – D&O Select

It is agreed that:

Item 6. **Insured Persons**, of the Declarations is amended to include the following individual(s):

Name	Title
Mike Woodward	Interim CFO

It is further understood and agreed that the **Company** shall be deemed to have granted indemnification to the above noted individuals in the same manner as provided or permissible under applicable corporate by-laws or corporate indemnity statutes for the Directors and or Officers of the **Company**. As a result of such presumptive indemnification the Deductible Amount, provided under Item 4. of the Declarations shall apply to **Loss** arising out of the amendment made to the definition of **Insured Persons** as noted above regardless of whether or not the **Company** actually indemnifies the **Insured Persons** for the **Loss**.

Except as provided herein, all the terms and conditions of this policy shall have full force and effect.

All headings are for convenience only. This policy shall be interpreted and applied without regard for such headings.

Conversion of Policy to Side A Only Endorsement (No Coverage for Insuring Clauses B, C, and E)



Endorsement # 2

Policyholder	Lynx Air Holdings Corporation		
Policy Number	8622083	Effective Date of Endorsement	October 14, 2023
Effective Date of Policy	October 14, 2023	Expiry Date of Policy	October 14, 2024
Additional Premium	N/A	Return Premium	N/A

This endorsement changes the policy. Please read it carefully

This endorsement modifies insurance provided under the following:

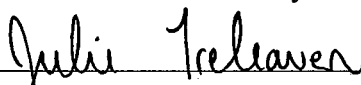
Directors & Officers Liability Insurance Policy – Zurich D&O Select™

It is agreed that:

- I. Item 2.A of the Declarations is deleted and replaced with the following:
 - A. Aggregate Limit of Liability for all **Loss** under Insuring Clause A: \$10,000,000 USD
Aggregate Limit of Liability for all Loss under Insuring Clause B, C and E: \$0 (Coverages Not Offered)
- II. Item 4. Retention of the Declarations is deleted and replaced with the following:
 - A. Each **Securities Claim** under Insuring Clauses B and C: Not Applicable (Coverages Not Offered)
 - B. Each **Claim**, other than a **Securities Claim** under Insuring Clause B: Not Applicable (Coverage Not Offered)
- III. Subsection III. Definitions is amended as follows:
 - A. Subsection III.N, the definition of **Insureds**, is deleted and replaced with the following:
 - N. **Insureds** means **Insured Persons**.
 - B. Subsection III.CC.1., the definition of **Wrongful Act**, is deleted and replaced with the following:
 - CC. **Wrongful Act** means:
 1. any error, misstatement, misleading statement, act, omission, neglect, or breach of duty actually or allegedly committed or attempted by any of the **Insured Persons**, individually or otherwise, their capacity as such, or in an **Outside Position**; or

All other terms and conditions of the policy shall remain unchanged.

This is **Exhibit "6"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barister & Solicitor

Markel Canada Limited

Combined Insurance Policy Declarations



Excess Private Company Directors and Officers Liability

Effected with Certain Lloyd's Underwriters "the Insurer" through Lloyd's Approved Coverholder ("the Coverholder"):

MARKEL

200 Wellington Street West, Suite 800, Toronto, ON M5V 3C7

Declarations

SUMMARY OF POLICY

Policy Number:	PFR568328-04
Policy Type:	Renewal
Policy Period:	From: October 14, 2023 To: October 14, 2024 12:01 a.m. Standard Time at the address of the Named Insured as stated below.
Insured / Policyholder:	1263343 Alberta Inc. dba Lynx Air and Lynx Air Holdings Corporation
Mailing Address:	123 - 1440 Aviation Park NE , Calgary, Alberta, CANADA, T2E 7E2
Total Underlying Limits:	\$10,000,000 Per Claim / \$10,000,000 Aggregate
Premium:	\$74,500.00
Minimum Retained Premium:	0%
Currency:	US Dollars
Territory:	As described in the applicable policy wording and endorsements
Broker:	ARTHUR J. GALLAGHER CANADA LIMITED
Brokerage Address:	SUITE 300 - 334 11 AVENUE S.E., CALGARY, Alberta, CANADA, T2G 0Y2

THIS POLICY CONTAINS A CLAUSE WHICH MAY LIMIT THE AMOUNT PAYABLE.

For the purpose of the Insurance Companies Act (Canada), this Canadian Policy was issued in the course of Lloyd's Underwriters' insurance business in Canada.

In return for payment of the premium, and subject to all the terms of this insurance, we agree with you to provide the insurance as stated in the attached policy documents. The Insured is requested to read this policy, and if incorrect, return it immediately for alteration.

In the event of an occurrence likely to result in a claim under this insurance, immediate notice should be given to the Coverholder whose name and address appears below. All inquiries and disputes are also to be addressed to this Coverholder.

This insurance is issued subject to the Declarations, limits, coverage agreements, exclusions, definitions, stipulations, policy terms and conditions contained in the forms attached, including any endorsements to the policy which may from time to time be added to form part of the policy.

IDENTIFICATION OF INSURER / ACTION AGAINST INSURER

Where LLOYD'S UNDERWRITERS are subscribing insurers to the Policy, the following applies to them:

This insurance has been entered into in accordance with the authorization granted to the Coverholder by the Underwriting Members of the Syndicates whose definitive numbers and proportions are shown in the Table attached to the Agreement shown in the List of Subscribing Companies (hereinafter referred to as "the Underwriters"). The Underwriters shall be liable hereunder each for his own and not one for another in proportion to the several sums that each of them has subscribed to the said Agreement.

In any action to enforce the obligations of the Underwriters they can be designated or named as "Lloyd's Underwriters" and such designation shall be binding on the Underwriters as if they had each been individually named as defendant. Service of such proceedings may validly be made upon the Attorney In Fact in Canada for Lloyd's Underwriters, whose address for such service is 1155, rue Metcalfe, Suite 2220, Montreal, Quebec H3B 2V6.

NOTICE

Any notice to the Underwriters may be validly given to the Coverholder:

In witness whereof this policy has been signed as authorized by the Underwriters, by the Coverholder **MARKEL CANADA LIMITED, 200 Wellington Street West, Suite 800, Toronto, ON, M5V3C7**

Per:



David A. Crozier,
President & Managing Director
Markel Canada Limited

DECLARATIONS (Continued)**Named Insured:** 1263343 Alberta Inc. dba Lynx Air and Lynx Air Holdings Corporation**Broker:** ARTHUR J. GALLAGHER CANADA LIMITED**Policy Number:** PFR568328-04**EXCESS DIRECTORS AND OFFICERS LIABILITY**

Coverages	Limits of Liability		Premium
Excess Directors and Officers Liability	\$5,000,000	Any One Claim	Included
	\$5,000,000	Aggregate Limit	Included

EXCESS DIRECTORS AND OFFICERS LIABILITY PREMIUM TOTAL: \$74,500.00

Coverages	Deductibles / Retention
Excess Directors and Officers Liability	\$0 Annual Aggregate (Self-Insured Retention)

Schedule of Underlying Insurance

Underlying Insurer	Underlying Policy	Underlying Limit	Underlying Policy Period	
Zurich Insurance Company Ltd.	8622083	\$10,000,000	14/10/2023	14/10/2024

DECLARATIONS (Continued)

Named Insured: 1263343 Alberta Inc. dba Lynx Air and Lynx Air Holdings Corporation
Broker: ARTHUR J. GALLAGHER CANADA LIMITED
Policy Number: PFR568328-04

SUBSCRIPTION POLICY

In consideration of the Insured having undertaken to pay to each of the Companies named in the List of Subscribing Companies forming part hereof, or to Companies whose names are substituted therefor or added thereto by Endorsement, hereinafter called "The Company" its proportion of the agreed premium as set forth elsewhere, the Companies severally and not jointly agree, each for its proportion shown hereunder, to indemnify the Insured in accordance with the Terms and Conditions contained herein or endorsed hereon.

It is understood and agreed that the liability of the Companies individually shall be limited to the said Proportion of the Limit(s) of Liability shown elsewhere herein, and to the same Proportion of any loss, claim or expense paid or payable hereunder.

Wherever in this Policy, or in any endorsement attached hereto, reference is made to "The Company", "The Insurer", "This Company", "we", "us", or "our", reference shall be deemed to be made to each of the Insurers severally.

IN WITNESS WHEREOF THE COMPANIES, through their representative duly authorized by them for this purpose, have executed and signed this Policy on the face hereof.

LIST OF SUBSCRIBING COMPANIES

COVERAGE	COMPANY	PROPORTION	PREMIUM
All Other Coverages	Certain Underwriters at Lloyd's, Under Agreement No. MKL2023001; UMRB6027MKL2023001	100%	\$74,500.00

Total Policy Premium **\$74,500.00**
(excluding any applicable taxes)



EXCESS FOLLOW FORM POLICY

NOTICE: UNLESS OTHERWISE PROVIDED BY THE UNDERLYING INSURANCE, THE COVERAGE OF THIS POLICY IS GENERALLY LIMITED TO LIABILITY FOR ONLY THOSE CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD AND REPORTED IN WRITING TO THE INSURER PURSUANT TO THE TERMS HEREIN.

VARIOUS PROVISIONS IN THIS POLICY RESTRICT COVERAGE. PLEASE READ THE ENTIRE POLICY CAREFULLY AND DISCUSS THE COVERAGE THEREUNDER WITH YOUR INSURANCE AGENT OR BROKER.

Words and phrases that appear in **bold** have defined meanings as are set out in the **DEFINITIONS** section of this Policy. Headings throughout the entire Policy are for ease of identification only and shall not affect the interpretation of this Policy.

In consideration of the payment of the premium, in reliance upon all materials and written statements, which form part of this Policy, submitted by or on behalf of the **insured** to the **insurer** or any issuer of the **underlying insurance** in connection with this Policy and subject to the Declarations made a part hereof the **insurer** and the **policyholder** agree as follows:

I. INSURING AGREEMENTS

The **insurer** shall provide the **insured** with insurance, during the **policy period** excess of the **underlying limits**, which shall attach:

1. as excess, only after the **underlying limits** for such **policy period** shall have been **exhausted**, or
2. as primary, subject to the remaining Limits of Liability stated in the Declarations, for subsequent losses, but only after **exhaustion**.

Cover hereunder shall apply in accordance with the terms and conditions of the **primary policy** and any more restrictive terms and conditions of any other **underlying insurance**, except as otherwise provided herein or set forth in the Declarations of this Policy.

II. DEFINITIONS

In this Policy, when used in **bold type** in this policy either in the singular or the plural unless otherwise specified.

1. **Exhausted** or **exhaustion** means a situation where payment for a covered loss, as a result of a covered claim, by the insurers of the **underlying insurance**, the **insured**, or any other party has resulted in the equivalent of total exhaustion of all **underlying limits**. If an insurer of the **underlying insurance** fails to, or refuses to, pay any loss, that unpaid loss shall not be covered under this Policy but shall be retained by the **insured**.
2. **Insured** means all persons or entities defined as being insured under the **primary policy**, subject to all the more restrictive definitions of the other **underlying insurance**. Where there is more than one **insured**, for the purposes of this Policy all such **insured** are insured jointly and for their joint interests.
3. **Insurer** means Certain Lloyd's Insurers as described in the Declarations.
4. **Limits of liability** means the **insurer's** maximum aggregate liability for all covered loss under this Policy as set forth in the Declarations.
5. **Policyholder** means the company designated in the Declarations.

6. **Policy period** means the period of time specified in the Declarations, subject to prior termination in accordance with Section 11, Policy Termination. If a right to any extended reporting period is exercised, such extension shall be treated as set forth in the **primary policy**.
7. **Primary policy** means the first scheduled policy set forth in the Schedule of Underlying Insurance of this Policy's Declarations.
8. **Underlying insurance** means all policies as specifically scheduled in the Schedule of Underlying Insurance set forth in the Declarations, or by endorsement, to this Policy.
9. **Underlying limits** means the amount equal to the aggregate of all limits of liability for all **underlying insurance**.

III. EXCLUSIONS

PENDING OR PRIOR MATTERS

The **insurer** shall not be liable under this Policy for any loss which is based upon, arises from or is in consequence of any pending or prior litigation or proceeding as defined and excluded by the **primary policy**, or any more restrictive definition and exclusion in any other **underlying insurance**, except the pending or prior litigation or proceeding date applicable to this Policy shall be the inception date of this Policy.

IV. MAINTENANCE OF UNDERLYING INSURANCE

It is a condition precedent to the liability of the **insurer** hereunder that:

1. the **underlying insurance** shall be maintained in full effect during the **policy period** except for any reduction or **exhaustion** of the **underlying limits**. The **policyholder** shall notify the **insurer** in writing as soon as practicable of any material change to the terms or conditions of the **underlying insurance**. In the event of such material change, the **insurer** shall have the right to amend the terms or conditions of this Policy, confirmation of such amendments will be made in writing by the **insurer** including any additional premiums due; and
2. the **policyholder** shall notify the **insurer** in writing as soon as practicable of any additional or return premiums charged or paid in connection with any **underlying insurance**.

V. CLAIM NOTICE AND PARTICIPATION

It is a condition precedent to the **insurer's** liability under this Policy for a loss that:

1. each **insured** comply with all its obligations in the **underlying insurance** with regard to notification of such loss and of the claim or matter which gives rise to it; and
2. an **insured** notify the **insurer** in writing as soon as practicable but in no event later than the **underlying insurance**.
3. notice to the **insurer** under this Policy shall be given in writing to the address stated in the Declarations, or by email to Canadaclaims@markel.com. Notice shall be effective on the date of receipt at such address.
4. the **insurer** may, at its sole discretion, elect to participate in the investigation, negotiation, settlement or defence of any claim made against an **insured** under the **underlying insurance** whether or not the **underlying insurance** has been **exhausted**.

VI. LIMITS OF LIABILITY

1. The **insurer** maximum liability for all loss on account of all covered matters, whether the claims or other matters on account of which loss is incurred are against or involve one or any number of **insureds**, shall be the Limits of Liability for each **policy period** stated in the Declarations.

2. If any **underlying insurance** is subject to a sublimit, coverage under this Policy shall not apply to a claim which is subject to such sublimit unless otherwise added by Endorsement to this Policy. The **underlying limits** shall be recognized hereunder as reduced to the extent of any payment of such claim subject to such sublimit.
3. If any insurer of the **underlying insurance** in connection with any claim either:
 - i. fails to pay covered loss due to insolvency, bankruptcy or liquidation of any such Insurer; or
 - ii. pays covered loss that is less than the full amount of its respective limits of liability, and which amounts are supplemented by an amount paid by the **insured**, or by any other party, without any right of recovery or recoupment, such that the full amount of the respective limits of liability of the **underlying insurance** for covered loss is equalled,

then the **insured(s)** covered by this Policy shall be deemed to self-insure the amount of the limits of liability of such **underlying insurance** which has not been **exhausted**. The **insurer's** liability under this Policy with respect to only part (b.) above shall not exceed the lowest proportionate share of liability paid by any participating insurer for covered loss in the **underlying insurance**, provided always that nothing herein shall require the **insurer** to make any payment.

VII. SUBROGATION – RECOVERIES

The **insurer** shall be subrogated to the extent of any payment made under this Policy to each **insured's** rights of recovery as per the terms and conditions regarding subrogation and recoveries of the **primary policy**, or any such more restrictive terms and conditions regarding subrogation and recoveries in any **underlying insurance**.

VIII. AUTHORISATION CLAUSE

By acceptance of this Policy, the **policyholder** named in the Declarations agrees to act on behalf of all **insureds** with respect to the giving or receiving of any notice provided for under this Policy (except the giving of notice to apply for any extended reporting period), including claims and termination, the payment of premiums, the receiving of any return premiums which become due under this Policy and the negotiation, agreement to and acceptance of endorsements, and the **policyholder** hereby represents that the **insureds** have consented to its acting on their behalf.

IX. ALTERATIONS AND ASSIGNMENT

No amendment, or assignment of interest under this Policy shall be effective unless made by endorsement to this Policy by the **insurer**. No person other than the **policyholder** and natural persons who are **insureds** shall have any rights under or in connection with this Policy. The **policyholder** and such natural persons may not assign to any other person any right or cause of action against the **insurer** under or in connection with this Policy.

X. POLICY TERMINATION

This Policy shall terminate:

1. In the same manner as provided by the terms and conditions of the termination or cancellation provisions of the **primary policy**;
2. Upon termination of the **policy period** set forth in the Declarations; or
3. Immediately upon cancellation or termination of any **underlying insurance**.

XI. TERMINATION OF PRIOR POLICIES

Any Policies issued by the **insurer** of which this Policy is a renewal or replacement shall terminate, if not already terminated, as of the inception date of this Policy.

XII. POLICY INTERPRETATION

This Policy shall be interpreted and construed in accordance with the laws of the Canadian province in which this Policy was issued and subject to the exclusive jurisdiction of the courts within the territorial jurisdiction of Canada.

XIII. SANCTIONS

It is understood and agreed that the **insurer** will not be deemed to provide cover and shall not be liable to pay **loss** on account of any **claim** or provide any benefit hereunder to the extent that the provision of such cover, payment of such **claim** or provision of such benefit would expose the **insurer** to any sanction, prohibition or restriction under United Nations resolutions or the trade and economic sanctions, laws, or regulations of Canada, United Kingdom, European Union or United States of America.

STATUTORY CONDITIONS, GENERAL CONDITIONS AND POLICY NOTICES

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Please refer to the Statutory Conditions, General Conditions and Other Conditions applicable to your Province(s)/Territory(ies).

1. Statutory Conditions

Page 1 - All Provinces/Territories except:

- a. Alberta, British Columbia and Quebec.
- b. Statutory Condition 14. (Action) does not apply to Manitoba.

Page 4 – Alberta.

Page 7 – British Columbia.

2. General Conditions

Page 10 – Quebec.

3. Other Conditions

Page 15.

STATUTORY CONDITIONS

(For all provinces except Alberta, British Columbia and Quebec, except that paragraph 14 does not apply to Saskatchewan).

The **Statutory Conditions** apply to the peril of fire and as modified or supplemented by riders or endorsements attached apply as Policy Conditions to all other perils insured in this Policy.

1. Misrepresentation

Where a person applying for insurance falsely describes the property to the prejudice of the Insurer, or misrepresents or fraudulently omits to communicate a circumstance which is material to be made known to the Insurer in order to enable it to judge the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

2. Property of Others

Unless otherwise specifically stated in the contract, the Insurer is not liable for loss or damage to property owned by any person other than the Insured, unless the interest of the Insured is stated in the contract.

3. Change of Interest

The Insurer shall be liable for loss or damage occurring after an authorized assignment under the Bankruptcy Act (Canada) or change of title by succession, by operation of law or by death.

4. Material Change

A change material to the risk and within the control and knowledge of the Insured shall void the contract as the part affected by it, unless the change is promptly notified in writing to the Insurer or its local agent; and the Insurer when so notified may return the unearned portion of the premium paid and cancel the contract, or may notify the Insured in writing that, if the Insured desires the contract to continue in force, the Insured shall, within 15 days of the receipt of the notice pay to the Insurer an additional premium; and in default of the payment the contract shall no longer be in force and the Insurer shall return the unearned portion of the premium paid.

5. Termination

- (1) This contract may be terminated.
 - (a) by the Insurer giving to the Insured 15 days' notice of termination by registered mail or five days written notice of termination personally delivered;
 - (b) by the Insured at any time on request.
- (2) Where this contract is terminated by the Insurer,
 - (a) the Insurer shall refund the excess of premium actually paid by the Insured over the proportional premium for the expired time, but, in no event shall the proportional premium for the expired time be considered to be less than any minimum retained premium specified; and
 - (b) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund shall be made as soon as practicable.
- (3) Where this contract is terminated by the Insured, the Insurer shall refund as soon as practicable the excess of premium actually paid by the Insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be considered to be less than a minimum retained premium specified.
- (4) The refund may be made by money, postal or express company money order or by cheque payable at par.
- (5) The 15 days mentioned in clause (1) (a) of this condition start to run on the day following the receipt of the registered letter at the post office to which it is addressed.

6. Requirements After Loss

- (1) Upon the occurrence of a loss of or damage to the insured property, the Insured shall, where the loss or damage is covered by the contract, in addition to observing the requirements of conditions 9, 10 and 11,
 - (a) forthwith give notice of the loss or damage in writing to the Insurer;
 - (b) deliver as soon as practicable to the Insurer a proof of loss verified by a statutory declaration,
 - (i) giving a complete inventory of the destroyed and damaged property and showing in detail quantities, costs, actual cash value and particulars of amount of loss claimed,
 - (ii) stating when and how the loss occurred, and where caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the Insured knows or believes,
 - (iii) stating that the loss did not occur through a wilful act or neglect or the procurement, means or connivance of the Insured,
 - (iv) showing the amount of other insurances and the names of other insurers,
 - (v) showing the interest of the Insured and of all others in the property with particulars of all liens, encumbrances and other charges upon the property,
 - (vi) showing any changes in title, use, occupation, location, possession or exposures of the property since the issue of the contract,
 - (vii) showing the place where the property insured was at the time of loss:
 - (c) where required, give a complete inventory of undamaged property and showing in detail quantities, cost, actual cash value;
 - (d) where required, and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers verified by statutory declaration, and furnish a copy of the written portion of any other contract.
- (2) The evidence furnished under clauses 1 (c) and (d) of this condition shall not be considered proof of loss within the meaning of conditions 12 and 13.

7. Fraud

A fraud or a wilfully false statement in a statutory declaration in relation to the above particulars, shall vitiate the claim of the person making the declaration.

8. Who May Give Notice and Proof

Notice of loss may be given, and proof of loss may be made, by the agent of the Insured named in the contract in case of absence or inability of the Insured to give the notice or make the proof, and absence or inability being satisfactorily accounted for, or in the like case, or where the Insured refuses to do so, by a person to whom a part of the insurance money is payable.

9. Salvage

- (1) The Insured, in the event of any loss or damage to the property insured under the contract, shall take all reasonable steps to prevent further damage to the property so damaged and to prevent damage to other property insured under the contract including, where necessary, its removal to prevent damage or further damage to the property.
- (2) The Insurer shall contribute proportionally towards reasonable and proper expenses in connection with steps taken by the Insured and required under subparagraph (1) of this condition according to the respective interest of the parties.

10. Entry, Control, Abandonment

After loss or damage to insured property, the Insurer shall have an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and, after the insured has secured the property, a further right of access and entry sufficient to enable them to make appraisal or particular estimate of the loss or damage, but the Insurer shall not be entitled to the control or possession of the insured property, and without the consent of the Insurer there can be no abandonment to it of insured property.

11. Appraisal

In the event of a disagreement as to the value of the property insured, the property saved or the amount of the loss, those questions shall be determined by appraisal as provided under the *Insurance Act*, or the *Insurance Contracts Act* in the case of Newfoundland and Labrador, before there can be a recovery under this contract whether the right to recover on the contract is disputed or not, and independently of all other questions. There shall be no right to an appraisal until a specific demand for an appraisal is made in writing and until after proof of loss has been delivered.

12. When Loss Payable

The loss shall be payable within 60 days after completion of the proof of loss, unless the contract provides for a shorter period.

13. Replacement

- (1) The Insurer, instead of making payment, may repair, rebuild, or replace the property damaged or lost, giving written notice of its intention to do so within 30 days after receipt of the proof of loss.
- (2) In that event the Insurer shall start to repair, rebuild, or replace the property within 45 days after receipt of the proofs of loss, and shall after that time proceed with all due diligence to the completion of the property.

14. Action

Every action or proceeding against the Insurer for the recovery of a claim under or by virtue of this contract is absolutely barred unless commenced within 1 year next after the loss or damage occurs.

15. Notice

Any written notice to the Insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the Insurer in the province. Written notice may be given to the Insured named in the contract by letter personally delivered to him or her or by registered mail addressed to him or her at his or her latest post

office address as notified to the Insurer. In this condition, the expression "registered" means registered in or outside Canada.

STATUTORY CONDITIONS

(Applicable in the province of Alberta)

Subject to certain exceptions set out in the Insurance Act and regulations thereunder, the Statutory Conditions are deemed to be part of every contract of insurance in force in the province of Alberta. (**Statutory Conditions 1 and 6 to 13** apply only to contracts that include insurance against loss or damage to property).

1. Misrepresentation

If a person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the insurer in order to enable it to judge the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

2. Property of Others

The insurer is not liable for loss or damage to property owned by a person other than the insured unless

- (a) otherwise specifically stated in the contract, or
- (b) the interest of the insured in that property is stated in the contract.

3. Change of Interest

The insurer is liable for loss or damage occurring after an authorized assignment under the *Bankruptcy and Insolvency Act* (Canada) or a change of title by succession, by operation of law or by death.

4. Material Change in Risk

- (1) The insured must promptly give notice in writing to the insurer or its agent of a change that is
 - (a) material to the risk, and
 - (b) within the control and knowledge of the insured.
- (2) If an insurer or its agent is not promptly notified of a change under subparagraph (1) of this condition, the contract is void as to the part affected by the change.
- (3) If an insurer or its agent is notified of a change under subparagraph (1) of this condition, the insurer may
 - (a) terminate the contract in accordance with Statutory Condition 5, or
 - (b) notify the insured in writing that, if the insured desires the contract to continue in force, the insured must, within 15 days after receipt of the notice, pay to the insurer an additional premium specified in the notice.
- (4) If the insured fails to pay an additional premium when required to do so under subparagraph (3)(b) of this condition, the contract is terminated at that time and Statutory Condition 5(2)(a) applies in respect of the unearned portion of the premium.

5. Termination of Insurance

- (1) The contract may be terminated
 - (a) by the insurer giving to the insured 15 days' notice of termination by registered mail or 5 days' written notice of termination personally delivered, or
 - (b) by the insured at any time on request.
- (2) If the contract is terminated by the insurer,
 - (a) the insurer must refund the excess of premium actually paid by the insured over the prorated

premium for the expired time, but in no event may the prorated premium for the expired time be less than any minimum retained premium specified in the contract, and

- (b) the refund must accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund must be made as soon as practicable.
- (3) If the contract is terminated by the insured, the insurer must refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time specified in the contract, but in no event may the short rate premium for the expired time be less than any minimum retained premium specified in the contract.
- (4) The 15-day period referred to in subparagraph (1)(a) of this condition starts to run on the day the registered letter or notification of it is delivered to the insured's postal address.

6. Requirements After Loss

- (1) On the happening of any loss or damage to insured property, the insured must, if the loss or damage is covered by the contract, in addition to observing the requirements of Statutory Condition 9,
 - (a) immediately give notice in writing to the insurer,
 - (b) deliver as soon as practicable to the insurer a proof of loss in respect of the loss or damage to the insured property verified by statutory declaration
 - (i) giving a complete inventory of that property and showing in detail quantities and costs of that property and particulars of the amount of loss claimed,
 - (ii) stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the insured knows or believes,
 - (iii) stating that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the insured,
 - (iv) stating the amount of other insurances and the names of other insurers,
 - (v) stating the interest of the insured and of all others in that property with particulars of all liens, encumbrances and other charges on that property,
 - (vi) stating any changes in title, use, occupation, location, possession or exposure of the property since the contract was issued, and
 - (vii) stating the place where the insured property was at the time of loss,
 - (c) if required by the insurer, give a complete inventory of undamaged property showing in detail quantities and cost of that property, and
 - (d) if required by the insurer and if practicable,
 - (i) produce books of account and inventory lists,
 - (ii) furnish invoices and other vouchers verified by statutory declaration, and
 - (iii) furnish a copy of the written portion of any other relevant contract.
- (2) The evidence given, produced or furnished under subparagraph (1)(c) and (d) of this condition must not be considered proofs of loss within the meaning of Statutory Conditions 12 and 13.

7. Fraud

Any fraud or wilfully false statement in a statutory declaration in relation to the particulars required under Statutory Condition 6 invalidates the claim of the person who made the declaration.

8. Who May Give Notice and Proof

Notice of loss under Statutory Condition 6(1)(a) may be given and the proof of loss under Statutory Condition 6(1)(b) may be made

- (a) by the agent of the insured if
 - (i) the insured is absent or unable to give the notice or make the proof, and

- (ii) the absence or inability is satisfactorily accounted for, or
- (b) by a person to whom any part of the insurance money is payable, if the insured refuses to do so, or in the circumstances described in clause (a) of this condition.

9. Salvage

- (1) In the event of loss or damage to insured property, the insured must take all reasonable steps to prevent further loss or damage to that property and to prevent loss or damage to other property insured under the contract, including, if necessary, removing the property to prevent loss or damage or further loss or damage to the property.
- (2) The insurer must contribute on a prorated basis towards any reasonable and proper expenses in connection with steps taken by the insured under subparagraph (1) of this condition.

10. Entry, Control, Abandonment

After loss or damage to insured property, the insurer has

- (a) an immediate right of access and entry by accredited representatives sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and
- (b) after the insured has secured the property, a further right of access and entry by accredited representatives sufficient to enable them to appraise or estimate the loss or damage, but
 - (i) without the insured's consent, the insurer is not entitled to the control or possession of the insured property, and
 - (ii) without the insurer's consent, there can be no abandonment to it of the insured property.

11. In Case of Disagreement

- (1) In the event of disagreement as to the value of the insured property, the value of the property saved, the nature and extent of the repairs or replacements required or, if made, their adequacy, or the amount of the loss or damage, those questions must be determined using the applicable dispute resolution process set out in the *Insurance Act* whether or not the insured's right to recover under the contract is disputed, and independently of all other questions.
- (2) There is no right to a dispute resolution process under this condition until
 - (a) a specific demand is made for it in writing, and
 - (b) the proof of loss has been delivered to the insurer.

12. When Loss Payable

Unless the contract provides for a shorter period, the loss is payable within 60 days after the proof of loss is completed in accordance with Statutory Condition 6 and delivered to the insurer.

13. Repair or Replacement

- (1) Unless a dispute resolution process has been initiated, the insurer, instead of making payment, may repair, rebuild or replace the insured property lost or damaged, on giving written notice of its intention to do so within 30 days after receiving the proof of loss.
- (2) If the insurer gives notice under subparagraph (1) of this condition, the insurer must begin to repair, rebuild or replace the property within 45 days after receiving the proof of loss and must proceed with all due diligence to complete the work within a reasonable time.

14. Notice

- (1) Written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the province.
- (2) Written notice to the insured may be personally delivered at, or sent by registered mail addressed to, the insured's last known address as provided to the insurer by the insured.

STATUTORY CONDITIONS

(applicable in the province of British Columbia).

Subject to certain exceptions set out in the Insurance Act and regulations thereunder, the Statutory Conditions are deemed to be part of every contract of insurance in force in the province of British Columbia. (**Statutory Conditions** 1 and 6 to 13 apply only to contracts that include insurance against loss or damage to property).

1. Misrepresentation

If a person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the insurer in order to enable it to judge the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

2. Property of others

The insurer is not liable for loss or damage to property owned by a person other than the insured unless

- (a) otherwise specifically stated in the contract, or
- (b) the interest of the insured in that property is stated in the contract.

3. Change of interest

The insurer is liable for loss or damage occurring after an authorized assignment under the *Bankruptcy and Insolvency Act* (Canada) or a change of title by succession, by operation of law or by death.

4. Material change in risk

- (1) The insured must promptly give notice in writing to the insurer or its agent of a change that is
 - (a) material to the risk, and
 - (b) within the control and knowledge of the insured.
- (2) If an insurer or its agent is not promptly notified of a change under subparagraph (1) of this condition, the contract is void as to the part affected by the change.
- (3) If an insurer or its agent is notified of a change under subparagraph (1) of this condition, the insurer may
 - (a) terminate the contract in accordance with Statutory Condition 5, or
 - (b) notify the insured in writing that, if the insured desires the contract to continue in force, the insured must, within 15 days after receipt of the notice, pay to the insurer an additional premium specified in the notice.
- (4) If the insured fails to pay an additional premium when required to do so under subparagraph (3) (b) of this condition, the contract is terminated at that time and Statutory Condition 5 (2) (a) applies in respect of the unearned portion of the premium.

5. Termination of insurance

- (1) The contract may be terminated
 - (a) by the insurer giving to the insured 15 days' notice of termination by registered mail or 5 days' written notice of termination personally delivered, or
 - (b) by the insured at any time on request.
- (2) If the contract is terminated by the insurer,
 - (a) the insurer must refund the excess of premium actually paid by the insured over the prorated premium for the expired time, but in no event may the prorated premium for the expired time be less than any minimum retained premium specified in the contract, and
 - (b) the refund must accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund must be made as soon as practicable.

- (3) If the contract is terminated by the insured, the insurer must refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time specified in the contract, but in no event may the short rate premium for the expired time be less than any minimum retained premium specified in the contract.
- (4) The 15 day period referred to in subparagraph (1) (a) of this condition starts to run on the day the registered letter or notification of it is delivered to the insured's postal address.

6. Requirements after loss

- (1) On the happening of any loss of or damage to insured property, the insured must, if the loss or damage is covered by the contract, in addition to observing the requirements of Statutory Condition 9,
 - (a) immediately give notice in writing to the insurer,
 - (b) deliver as soon as practicable to the insurer a proof of loss in respect of the loss or damage to the insured property verified by statutory declaration,
 - (i) giving a complete inventory of that property and showing in detail quantities and cost of that property and particulars of the amount of loss claimed,
 - (ii) stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the insured knows or believes,
 - (iii) stating that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the insured,
 - (iv) stating the amount of other insurances and the names of other insurers,
 - (v) stating the interest of the insured and of all others in that property with particulars of all liens, encumbrances and other charges on that property,
 - (vi) stating any changes in title, use, occupation, location, possession or exposure of the property since the contract was issued, and
 - (vii) stating the place where the insured property was at the time of loss,
 - (c) if required by the insurer, give a complete inventory of undamaged property showing in detail quantities and cost of that property, and
 - (d) if required by the insurer and if practicable,
 - (i) produce books of account and inventory lists,
 - (ii) furnish invoices and other vouchers verified by statutory declaration, and
 - (iii) furnish a copy of the written portion of any other relevant contract.
- (2) The evidence given, produced or furnished under subparagraph (1) (c) and (d) of this condition must not be considered proofs of loss within the meaning of Statutory Conditions 12 and 13.

7. Fraud

Any fraud or wilfully false statement in a statutory declaration in relation to the particulars required under Statutory Condition 6 invalidates the claim of the person who made the declaration.

8. Who may give notice and proof

Notice of loss under Statutory Condition 6 (1) (a) may be given and the proof of loss under Statutory Condition 6 (1) (b) may be made

- (a) by the agent of the insured, if
 - (i) the insured is absent or unable to give the notice or make the proof, and
 - (ii) the absence or inability is satisfactorily accounted for, or
- (b) by a person to whom any part of the insurance money is payable, if the insured refuses to do so or in the circumstances described in clause (a) of this condition.

9. Salvage

- (1) In the event of loss or damage to insured property, the insured must take all reasonable steps to prevent further loss or damage to that property and to prevent loss or damage to other property insured under the contract, including, if necessary, removing the property to prevent loss or damage or further loss or damage to the property.
- (2) The insurer must contribute on a prorated basis towards any reasonable and proper expenses in connection with steps taken by the insured under subparagraph (1) of this condition.

10. Entry, control, abandonment

After loss or damage to insured property, the insurer has

- (a) an immediate right of access and entry by accredited representatives sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and
- (b) after the insured has secured the property, a further right of access and entry by accredited representatives sufficient to enable them to appraise or estimate the loss or damage, but
 - (i) without the insured's consent, the insurer is not entitled to the control or possession of the insured property, and
 - (ii) without the insurer's consent, there can be no abandonment to it of the insured property.

11. In case of disagreement

- (1) In the event of disagreement as to the value of the insured property, the value of the property saved, the nature and extent of the repairs or replacements required or, if made, their adequacy, or the amount of the loss or damage, those questions must be determined using the applicable dispute resolution process set out in the *Insurance Act*, whether or not the insured's right to recover under the contract is disputed, and independently of all other questions.
- (2) There is no right to a dispute resolution process under this condition until
 - (a) a specific demand is made for it in writing, and
 - (b) the proof of loss has been delivered to the insurer.

12. When loss payable

Unless the contract provides for a shorter period, the loss is payable within 60 days after the proof of loss is completed in accordance with Statutory Condition 6 and delivered to the insurer.

13. Repair or replacement

- (1) Unless a dispute resolution process has been initiated, the insurer, instead of making payment, may repair, rebuild or replace the insured property lost or damaged, on giving written notice of its intention to do so within 30 days after receiving the proof of loss.
- (2) If the insurer gives notice under subparagraph (1) of this condition, the insurer must begin to repair, rebuild or replace the property within 45 days after receiving the proof of loss, and must proceed with all due diligence to complete the work within a reasonable time.

14. Notice

- (1) Written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the province.
- (2) Written notice to the insured may be personally delivered at, or sent by registered mail addressed to, the insured's last known address as provided to the insurer by the insured.

GENERAL CONDITIONS

(This Policy is subject to the Civil Code of Quebec)

Reference to Civil Code articles in some instances is for easier reading only and should not be construed as exact quotations.

For all coverages except where inapplicable.

1. Statements

1.1 Representation of risk (Article 2408)

The client, and the Insured if the Insurer requires it, is bound to represent all the facts known to him which are likely to materially influence an insurer in the setting of the premium, the appraisal of the risk or the decision to cover it, but he is not bound to represent facts known to the Insurer or which from their notoriety he is presumed to know, except in answer to inquiries.

The client means the person submitting an insurance application.

1.2 Material change in risk (Articles 2466 and 2467)

The Insured shall promptly notify the Insurer of any change that increases the risks stipulated in the policy and that results from events within his control if it is likely to materially influence an insurer in setting the rate of the premium, appraising the risk or deciding to continue to insure it.

On being notified of any material change in the risk, the Insurer may cancel the contract or propose, in writing, a new rate of premium. Unless the new premium is accepted and paid by the Insured within thirty days of the proposal, the policy ceases to be in force.

1.3 Misrepresentations or concealment (Articles 2410, 2411 and 2466)

Any misrepresentation or concealment of relevant facts mentioned in section 1.1 and in the first paragraph of section 1.2 by the client or the Insured nullifies the contract at the instance of the Insurer, even in respect of losses not connected with the risk so misrepresented or concealed.

Unless the bad faith of the client or of the Insured is established or unless it is established that the Insurer would not have covered the risk if he had known the true facts, the Insurer remains liable towards the Insured for such proportion of the indemnity as the premium he collected bears to the premium he should have collected.

1.4 Warranties (Article 2412)

Any increase in risk resulting from a breach of warranty suspends the coverage until accepted by the Insurer or until such breach has been remedied by the Insured.

2. General Provisions

2.1 Insurable interest (Articles 2481 and 2484)

(Applicable to property insurance only)

A person has an insurable interest in a property where the loss or deterioration of the property may cause him direct and immediate damage. It is necessary that the insurable interest exist at the time of the loss but not necessary that the same interest have existed throughout the duration of the contract. The insurance of a property in which the Insured has no insurable interest is null.

2.2 Changes (Article 2405)

The terms of this policy shall not be waived or changed except by endorsement.

2.3 Assignment (Articles 2475 and 2476)

This policy may be assigned only with the consent of the Insurer and in favour of a person who has an insurable interest in the insured property.

Upon the death or bankruptcy of the Insured or the assignment of his interest in the insurance to a co-

Insured, the insurance continues in favour of the heir, trustee in bankruptcy or remaining Insured, subject to his performing the obligations that were incumbent upon the Insured.

2.4 Books and records

The Insurer and its authorized representatives shall have the right to examine the Insured's books and records related to the subject matter of this insurance at any time during the period of this policy and the three subsequent years.

2.5 Inspection

The Insurer and its authorized representatives shall have the right but are not obligated to make inspections of the risk, inform the Insured of the conditions found and recommend changes. Any inspections, surveys, findings or recommendations relate only to insurability and the premiums to be charged. They shall not constitute a warranty that the premises, property or operations are safe or healthful or comply with laws, codes or standards.

2.6 Currency

All limits of insurance, premiums and other amounts as expressed in this policy are in Canadian currency.

3. Losses

3.1 Notice of loss (Article 2470)

The Insured shall notify the Insurer of any loss which may give rise to an indemnity, as soon as he becomes aware of it. Any interested person may give such notice.

In the event that the requirement set out in the preceding paragraph is not fully complied with, all rights to compensation shall be forfeited by the Insured where such non-compliance has caused prejudice to the Insurer.

3.2 Information to be provided (Article 2471)

The Insured shall inform the Insurer as soon as possible of all the circumstances surrounding the loss, including its probable cause, the nature and extent of the damage, the location of the insured property, the rights of third parties, and any concurrent insurance; he shall also furnish him with vouchers and swear or warrant to the truth of the information.

Where, for a serious reason, the Insured is unable to fulfil such obligation, he is entitled to a reasonable time in which to do so. If the Insured fails to fulfil his obligation, any interested person may do so on his behalf.

In addition, the Insured shall forthwith send to the Insurer a copy of any notice, letter, subpoena or writ or document received in connection with a claim.

3.3 False representation (Article 2472)

Any deceitful representation entails the loss or the right of the person making it to any indemnity in respect of the risk to which the representation relates.

However, if the occurrence of the event insured against entails the loss of both movable and immovable property or of both property for occupational use and personal property, forfeiture is incurred only with respect to the class of property to which the representation relates.

3.4 Intentional Fault (Article 2464)

The Insurer is never liable to compensate for injury resulting from the Insured's intentional fault.

Where there is more than one Insured, the obligation of coverage remains in respect of those Insureds who have not committed an intentional fault.

Where the Insurer is liable for injury caused by a person for whose acts the Insured is liable, the obligation of coverage subsists regardless of the nature or gravity of that person's fault.

3.5 Notice to police

(Applicable to property insurance only)

The Insured must promptly give notice to the police of any loss caused by vandalism, theft or attempted theft or other criminal act.

3.6 Safeguarding and examination of property (Article 2495)

(Applicable to property insurance only)

At the expense of the Insurer, the Insured must take all reasonable steps to prevent further loss or damage to the insured property and any further loss or damage resulting directly or indirectly from the Insured's failure to take such action shall not be recoverable.

The Insured may not abandon the damaged property if there is no agreement to that effect. The Insured shall facilitate the salvage and inspection of the insured property by the Insurer.

He shall, in particular, permit the Insurer and his representatives to visit the premises and examine the insured property before repairing, removing or modifying the damaged property, unless so required to safeguard the property.

3.7 Admission of liability and cooperation

The Insured shall cooperate with the Insurer in the processing of all claims.

(The following two paragraphs are applicable to liability insurance only : Article 2504)

No transaction made without the consent of the Insurer may be set up against him.

The Insured shall not admit any liability nor settle or attempt to settle any claim, except at his own risk.

3.8 Right of action (Article 2502)

(Applicable to property insurance only)

The Insurer may set up against the injured third person any grounds he could have invoked against the Insured at the time of the loss, but not grounds pertaining to facts that occurred after the loss; the Insurer has a right of action against the Insured in respect of facts that occurred after the loss.

4. Compensation and Settlement

4.1 Basis of settlement (Articles 2490, 2491, 2493)

(Applicable to property insurance only)

Unless otherwise provided, the Insurer shall not be liable for more than the actual cash value of the property at the time of the loss as normally determined.

In unvalued policies, the amount of insurance does not make proof of the value of the insured property. In valued policies, the agreed value makes complete proof, between the Insurer and the Insured, of the value of the insured property.

If the amount of insurance is less than the value of the property, the Insurer is released by paying the amount of the insurance in the event of total loss or a proportional indemnity, in the event of partial loss.

4.2 Pair and set (Applicable to property insurance only)

In the case of loss of or damage to any article or articles, whether scheduled or unscheduled, which are part of a set, the measure of loss of or damage to such article or articles shall be a reasonable and fair proportion of the total value of the set, but in no event shall such loss or damage be construed to mean total loss of set.

4.3 Parts (Applicable to property insurance only)

In the case of loss of or damage to any part of the insured property, whether scheduled or unscheduled,

consisting, when complete for use, of several parts, the Insurer is not liable for more than the insured value of the part lost or damaged, including the cost of installation.

4.4 Replacement (Article 2494)

(Applicable to property insurance only)

Subject to the rights of preferred and hypothecary creditors, the Insurer re-serves the right to repair, rebuild or replace the insured property. He is then entitled to salvage and may take over the property.

4.5 Time of payment (Articles 1591, 2469 and 2473)

The Insurer shall pay the indemnity within sixty days after receiving the notice of loss or, at his request, all relevant information and vouchers, provided the Insured shall have complied with all the terms of the contract.

Any outstanding premium may be deducted from the indemnity payable.

4.6 Property of others

(Applicable to property insurance only)

Where a claim is made as a result of loss of or damage to property not owned by the Insured, the Insurer reserves the right to pay the indemnity to the Insured or to the owner of the property and to deal directly with such owner.

4.7 Waiver

Neither the Insurer nor the Insured shall be deemed to have waived any term or condition of the policy by any act relating to arbitration or to the completion or delivery of proof of loss, or to the investigation or adjustment of the claim.

4.8 Limitation of actions (Article 2925)

Every action or proceeding against the Insurer under this policy shall be commenced within three years from the date the right of action has arisen.

4.9 Subrogation (Article 2474)

Unless otherwise provided, the Insurer shall be subrogated to the extent of the amount paid or the liability assumed therefor under this policy to the rights of the Insured against persons responsible for the loss except when they are members of the Insured's household. The Insurer may be fully or partly released from his obligation towards the Insured where, owing to any act of the Insured, he cannot be so subrogated.

5. Other Insurance

5.1 Property insurance (Article 2496)

The Insured who, without fraud, is insured by several insurers, under several policies, for the same interest and against the same risk so that the total amount of indemnity that would result from the separate performance of such policies would exceed the loss incurred may be indemnified by the insurer or insurers of his choice, each being liable only for the amount he has contracted for.

No clause suspending all or part of the performance of the contract by reason of other insurance may be used against the Insured.

Unless otherwise agreed, the indemnity is apportioned among the insurers in proportion to the share of each in the total coverage, except in respect of specific insurance, which constitutes primary insurance.

5.2 Liability insurance

The liability insurance provided under this policy is primary insurance except when stated to apply in excess of, or contingent upon the absence of, other insurance. When this insurance is primary and the Insured has other insurance which is stated to be applicable to the loss on an excess or contingent basis,

the amount of the Insurer's liability under this policy shall not be reduced by the existence of such other insurance. When both this insurance and other insurance apply to the loss on the same basis whether primary, excess or contingent, the Insurer shall not be liable under this policy for a greater proportion of the loss than that stated in the applicable contribution provision below:

– Contribution by equal share:

If all of such other collectible insurance provides for contribution by equal shares, this Insurer shall not be liable for a greater proportion of such loss than would be payable if each insurer contributed an equal share until the share of each insurer equals the lowest applicable limit of liability under any one policy or the full amount of the loss is paid, and with respect to any amount of loss not so paid the remaining insurers then continue to contribute equal shares of the remaining amount of the loss until each such insurer has paid its limit in full or the full amount of the loss is paid.

– Contribution by limits:

If any such other insurance does not provide for contribution by equal shares, this Insurer shall not be liable for a greater proportion of such loss than the applicable limit of liability under this policy for such loss bears to the total applicable limit of liability of all valid and collectible insurance against such loss.

6. Cancellation (Articles 2477 and 2479) This policy may be cancelled at any time:

- (a) By mere written notice from each of the Named Insureds. Termination takes effect upon receipt of the notice and the Insured shall therefore be entitled to a refund of the excess of the premium actually paid over the short-term rate for the expired time.
- (b) By the Insurer giving written notice to each of the Named Insureds. Termination takes effect fifteen days following receipt of such notice by the Insured at his last known address and the Insurer shall refund the excess of premium actually paid over the pro rata premium for the expired time. If the premium is subject to adjustment or determination as to amount, the refund shall be made as soon as practicable.

Where one or more of the Named Insureds have been mandated to receive or send the notices provided for under paragraph (a) or (b) above, notices sent or received by them shall be deemed to have been sent or received by all Named Insureds.

In this Condition, the words "premium actually paid" mean the premium actually paid by the Insured to the Insurer or its representative, but do not include any premium or part thereof paid to the Insurer by a representative unless actually paid to the representative by the Insured.

7. Notice

Any notice to the Insurer may be sent by any recognized means of communication to the Insurer or its authorized representative. Notice may be given to the named Insured by letter personally delivered to him or by mail addressed to him at his last known address.

It is incumbent upon the sender to prove that such notice was received.

OTHER CONDITIONS

The Condition shown below is deemed to be part of every contract of insurance in force in the provinces of British Columbia, Alberta and Manitoba.

Action

Every action or proceeding against an Insurer for the recovery of insurance money payable under the contract is absolutely barred unless commenced within the time set out in the *Insurance Act*.

CODE OF CONSUMER RIGHTS AND RESPONSIBILITIES

Insurers (including Lloyd's Underwriters), along with the brokers and agents who sell home, auto and business insurance are committed to safeguarding your rights both when you shop for insurance and when you submit a claim following a loss. Your rights include the right to be informed fully, to be treated fairly, to timely complaint resolution, and to privacy. These rights are grounded in the contract between you and your insurer and the insurance laws of your province. With rights, however, come responsibilities including, for example, the expectation that you will provide complete and accurate information to your insurer. Your policy outlines other important responsibilities. Insurers and their distribution networks, and governments also have important roles to play in ensuring that your rights are protected.

Right to Be Informed

You can expect to access clear information about your policy, your coverage, and the claims settlement process. You have the right to an easy-to-understand explanation of how insurance works and how it will meet your needs. You also have a right to know how insurers calculate price based on relevant facts. Under normal circumstances, insurers will advise an insurance customer or the customer's intermediary of changes to, or the cancellation of a policy within a reasonable prescribed period prior to the expiration of the policy, if the customer provides information required for determining renewal terms of the policy within the time prescribed, which could vary by province, but is usually 45 days prior to expiry of the policy.

You have the right to ask who is providing compensation to your broker or agent for the sale of your insurance. Your broker or agent will provide information detailing for you how he or she is paid, by whom, and in what ways.

You have a right to be told about insurers' compensation arrangements with their distribution networks. You have a right to ask the broker or agent with whom you deal for details of how and by whom it is being paid. Brokers and agents are committed to providing information relating to ownership, financing, and other relevant facts.

Responsibility to Ask Questions and Share Information

To safeguard your right to purchase appropriate coverage at a competitive price, you should ask questions about your policy so that you understand what it covers and what your obligations are under it. You can access information through one-on-one meetings with your broker or agent. You have the option to shop the marketplace for the combination of coverages and service levels that best suits your insurance needs. To maintain your protection against loss, you must promptly inform your broker or agent of any change in your circumstances.

Right to Complaint Resolution

Insurers, their brokers and agents are committed to high standards of customer service. If you have a complaint about the service you have received, you have a right to access Lloyd's Underwriters' complaint resolution process for Canada. Your agent or broker can provide you with information about how you can ensure that your complaint is heard and promptly handled. Consumers may also contact their respective provincial insurance regulator for information. Lloyd's is a member of an independent complaint resolution office, the General Insurance OmbudService.

Responsibility to Resolve Disputes

You should always enter into the dispute resolution process in good faith, provide required information in a timely manner, and remain open to recommendations made by independent observers as part of that process.

Right to Professional Service

You have the right to deal with insurance professionals who exhibit a high ethical standard, which includes acting with honesty, integrity, fairness and skill. Brokers and agents must exhibit extensive knowledge of the product, its coverages and its limitations in order to best serve you.

Right to Privacy

Because it is important for you to disclose any and all information required by an insurer to provide the insurance coverage that best suits you, you have the right to know that your information will be used for the purpose set out in the privacy statement made available to you by your broker, agent or insurance representative. This information will not be disclosed to anyone except as permitted by law. You should know that Lloyd's Underwriters are subject to Canada's privacy laws - with respect to their business in Canada.

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PRIVACY: NOTICE CONCERNING PERSONAL INFORMATION

Who we are

We are the Lloyd's underwriter(s) identified in the insurance contract and/or the certificate of insurance. Your privacy is important to us. This Privacy notice explains what personal information we collect, use and disclose about policyholders, beneficiaries, claimants and witnesses and for what purposes, in compliance with applicable Canadian privacy laws.

What personal information we collect

Personal information is any information about an identified and or identifiable individual. The personal information that is collected for a clear and legitimate use and disclosure generally includes the following:

- Identification and contact information (name, address including postal code, country, telephone number, email address, month and date of birth, drivers licence, employer, job title, employment history, family details)
- Policy information (policy number, policy amounts, policy terms)
- Claim information (claim number, information relating to a potential or existing claim)
- Payment information (credit card details, bank account details, credit score)
- Other information related to your insurance cover or a claim only for legitimate business purposes

We also collect personal information about you when you visit www.lloyds.com. Further details can be found on our online Cookies policy at <http://www.lloyds.com/common/privacy-and-cookies-statement>

We will not use your personal information for marketing purposes and we will not sell your personal information to other parties.

How we use your information

By purchasing insurance from certain Lloyd's Underwriters ("Lloyd's"), a customer provides Lloyd's with his or her explicit consent to the collection, use and disclosure of personal information. Meaningful consent is subject to the customer's understanding of the nature, purpose and consequences of the collection, use or disclosure of their personal information.

Information is generally collected, used, disclosed and stored in order to provide you with the insurance products that you have requested, including to:

- Identify you and provide you with insurance cover
- Communicate with Lloyd's policyholders
- Calculate, collect or refund premiums
- Underwrite policies and facilitate policy administration
- Evaluate and process claims
- Detect and prevent fraud, carry out anti-money laundering and sanctions checks
- Investigate and prosecute fraud
- Meet our regulatory and other legal obligations
- Enforce terms or exercise rights under the insurance contract
- Analyze insurance risk and business results
- Improve our services and offerings
- Provide general client care
- Defend or prosecute legal claims
- Renew your insurance policy
- Transfer of books of business, company sales and reorganisations Or as maybe otherwise required or authorized by law.

Your information may be shared and disclosed;

In order to fulfil the purposes described in this Privacy notice, we may share your personal information with other third parties that we have engaged to provide services on our behalf, or who otherwise assist us in providing you with services, such as affiliated organizations, sub-contractors, agents/coverholders, legal counsel, insurers, brokers, reinsurers, loss adjusters and other service providers.

We will limit this disclosure to only the Personal Information that is reasonably necessary for the purpose or service for which the third party or affiliate will provide. We will use contractual and other means to provide a comparable level of protection while the information is being processed by these service providers, including limiting such providers to using your Personal Information solely to provide Lloyd's with the specific service for which they were engaged, and for no other purpose. You can obtain more information about our policies and practices with respect to the use of Personal Information by Third Party Service Providers by contacting us as described below, under the section "How to Contact Us" at the end of this document.

Some of these entities may be located outside Canada, therefore your information may be processed in a foreign jurisdiction, where it will be subject to the laws of that jurisdiction, which may be different than the laws in your province. Personal information that is stored or processed outside Canada may also be accessible to the law enforcement and national security authorities of that jurisdiction.

We may also share or transfer your Personal Information where reasonably required in the context of a sale, merger or amalgamation of all or part of our business or the insurance or securitization of our assets. In any such case, the recipient parties will be contractually required to keep the information confidential and use it only for the purposes of the transaction, or proposed transaction, in question. In the event a business transaction is affected, assignees or successors of Lloyd's or our business or assets, or those of our affiliated entities, may use and disclose Personal Information only for the purposes as set out in this Privacy notice, unless further consent is obtained.

We may also share your Personal Information with law enforcement, national security agencies or other governmental officials, as required or permitted by law, such as in response to a court order or a verified request relating to a criminal investigation or alleged illegal activity, where we are legally obligated to contribute information to compulsory insurance databases, or where required to detect, prevent or prosecute fraud.

Authority to collect, use and disclose personal information

When you share information with us for particular purposes, such as providing you with insurance, you give us explicit consent to collect, use and disclose your information for those purposes. Canadian law also authorizes us to collect, use and disclose personal information without consent in certain circumstances prescribed by law, which may include the following:

- Detecting or suppressing fraud
- Investigating or preventing financial abuse
- For communication with the next of kin or authorized representative of an injured, ill or deceased individual
- Investigating a breach of an agreement or a contravention of the laws of Canada or a foreign jurisdiction where obtaining consent would compromise the availability or accuracy of the information
- Witness statement necessary to assess, process or settle insurance claims
- Information that is produced in the course of an individual's employment, business or profession

There may be situations where we need your additional consent to collect, use, and disclose information about you. In those situations, we will ask you for consent separately. You do not have to give your consent and, subject to legal and contractual restrictions, you can withdraw your consent to us collecting, using and disclosing your information at any time. However, withdrawing your consent may affect our ability to provide you with insurance cover or other services.

Retention and security

We retain personal information for as long as necessary to provide you with insurance cover and meet the other purposes for collection, use and disclosure described in this Privacy notice, or as otherwise required or permitted by law. When your Personal Information is no longer required, we will make all reasonable efforts to ensure all electronic and hard copies of such information are securely destroyed and irreversibly deleted from our systems.

We use various physical, technical and administrative security measures, appropriate to the sensitivity of the personal information, that are designed to protect against loss, theft, unauthorized access, disclosure, copying, use or modification by. Although we will take reasonable measures to protect personal information, the transmission of information through the internet or other electronic means is not guaranteed to be secure and may create risks for the privacy and security of your information.

How to access your personal information

Subject to certain exceptions provided by applicable law, you have the right to access your personal information, request corrections about your personal information if you identify any inaccuracies, and request that we delete your information. If you would like to exercise any of these rights, please contact the Ombudsperson at info@lloyds.ca.

The Ombudsperson can also provide additional information about Lloyd's policies and practices, answer questions about the collection, use, disclosure or storage of personal information by Lloyd's and its service providers located outside Canada, as well as discuss any complaints you may have regarding the collection, use and disclosure of your personal information.

Changes

We may amend this Privacy notice from time to time as our business evolves, in response to legal developments, as new technologies become available, or as we introduce new features, products or services.

When we make changes to wording of this Privacy notice we will revise the "last updated" date at the bottom of this Privacy notice. You should check back here periodically to find out if any changes have been made to this Privacy notice. If we make substantial changes we will, as appropriate prominently post these changes to our Site or notify registered Users directly.

How to contact us

Further information about Lloyd's personal information protection policy may be obtained by visiting, <https://www.lloyds.com/lloyds-around-the-world/americas/canada/market-conduct> from your broker, or by contacting Lloyd's by phone: 514 861 8361, 1 877 455 6937 or email: info@lloyds.ca.

05/19 - LSW1543D

LLOYD'S UNDERWRITERS' POLICYHOLDERS' COMPLAINT PROTOCOL

Lloyd's strives to enhance your customer experience with us through superior service and innovative insurance products.

We have developed a formal complaint handling protocol in accordance with the Insurance Companies Act of Canada to ensure your concerns as our valued customer are addressed expeditiously by our representatives. This protocol will assist you in understanding the steps we will undertake to help resolve any dispute which may arise with our product or service. All complaints will be handled in a professional manner. All complaints will be investigated, acted upon, and responded to in writing or by telephone by a Lloyd's representative promptly after the receipt of the complaint. If you are not satisfied with our products or services, you can take the following steps to address the issue:

- Firstly, please contact the broker who arranged the insurance on your behalf about your concerns so that he or she may have the opportunity to help resolve the situation.
- If your broker is unable to help resolve your concerns, we ask that you provide us in writing an outline of your complaint along with the name of your broker and your policy number.

Please forward your complaint to:

Lloyd's Underwriters

Attention: Complaints Officer

1155 rue Metcalfe, Suite 2220

Montréal (Québec) H3B 2V6

Tel: 1-877-455-6937

E-mail: info@lloyds.ca

Your complaint will be directed to the appropriate business contact for handling. They will write to you within two business days to acknowledge receipt of your complaint and to let you know when you can expect a full response. If need be, we will also engage internal staff in Lloyd's Policyholder and Market Assistance Department in London, England, who will respond directly to you, and in the last stages, they will issue a final letter of position on your complaint.

In the event that your concerns are still not addressed to your satisfaction, you have the right to continue your pursuit to have your complaint reviewed by the following organizations:

General Insurance OmbudService (GIO): assists in the resolution of conflicts between insurance customers and their insurance companies. The GIO can be reached at:

Toll free number: 1-877-225-0446

www.giocanada.org

For Quebec clients:

Autorité des marchés financiers (AMF): The regulation of insurance companies in Quebec is administered by the AMF. If you remain dissatisfied with the manner in which your complaint has been handled, or with the results

of the complaint protocol, you may send your complaint to the AMF who will study your file and who may recommend mediation, if it deems this action appropriate and if both parties agree to it. The AMF can be reached at:

Toll Free: 1-877-525-0337

Québec: (418) 525-0337

Montréal: (514) 395-0311

www.lautorite.qc.ca

If you have a complaint specifically about Lloyd's Underwriters' complaints handling procedures you may contact the FCAC.

Financial Consumer Agency of Canada (FCAC) provides consumers with accurate and objective information about financial products and services, and informs Canadians of their rights and responsibilities when dealing with financial institutions. FCAC also ensures compliance with the federal consumer protection laws that apply to banks and federally incorporated trust, loan and insurance companies. The FCAC does not get involved in individual disputes. The FCAC can be reached at:

427 Laurier Avenue West, 6th Floor

Ottawa ON

K1R 1B9

Services in English: 1-866-461-FCAC (3222)

Services in French: 1-866-461- ACFC (2232)

www.fcac-acfc.gc.ca

09/14-LSW1542F

SHORT RATE CANCELLATION TABLE

NOTWITHSTANDING anything to the contrary contained herein and in consideration of the premium for which this insurance is written, it is agreed that in the event of cancellation thereof by the Insured the earned premium shall be computed as follows:

For insurance written for one year:

Days Insurance Inforce	Percentage of One Year Premium	Days Insurance Inforce	Percentage of One Year Premium	Days Insurance Inforce	Percentage of One Year Premium
0-1	5	95 - 98	37	219 - 223	69
2	6	99 - 102	38	224 - 228	70
3 - 4	7	103 - 105	39	229 - 232	71
5 - 6	8	106 - 109	40	233 - 237	72
7 - 8	9	110 - 113	41	238 - 241	73
9 - 10	10	114 - 116	42	242 - 246 (8 months)	74
11 - 12	11	117 - 120	43	247 - 250	75
13 - 14	12	121 - 124 (4 months)	44	251 - 255	76
15 - 16	13	125 - 127	45	256 - 260	77
17 - 18	14	128 - 131	46	261 - 264	78
19 - 20	15	132 - 135	47	265 - 269	79
21 - 22	16	136 - 138	48	270 - 273 (9 months)	80
23 - 25	17	139 - 142	49	274 - 278	81
26 - 29	18	143 - 146	50	279 - 282	82
30 - 32 (1 month)	19	147 - 149	51	283 - 287	83
33 - 36	20	150 - 153 (5 months)	52	288 - 291	84
37 - 40	21	154 - 156	53	292 - 296	85
41 - 43	22	157 - 160	54	297 - 301	86
44 - 47	23	161 - 164	55	302 - 305 (10 months)	87
48 - 51	24	165 - 167	56	306 - 310	88
52 - 54	25	168 - 171	57	311 - 314	89
55 - 58	26	172 - 175	58	315 - 319	90
59 - 62 (2 months)	27	176 - 178	59	320 - 323	91
63 - 65	28	179 - 182 (6 months)	60	324 - 328	92
66 - 69	29	183 - 187	61	329 - 332	93
70 - 73	30	188 - 191	62	333 - 337 (11 months)	94
74 - 76	31	192 - 196	63	338 - 342	95
77 - 80	32	197 - 200	64	343 - 346	96
81 - 83	33	201 - 205	65	347 - 351	97
84 - 87	34	206 - 209	66	352 - 355	98
88 - 91 (3 months)	35	210 - 214 (7 months)	67	356 - 360	99
92 - 94	36	215 - 218	68	361 - 366	100

IN THE EVENT OF A CLAIM

*****PLEASE NOTE THE FOLLOWING NEW CLAIMS REPORTING INSTRUCTIONS*****

PLEASE REPORT ANY OCCURRENCES, CLAIMS, ACTIONS OR SUITS AS SOON AS POSSIBLE, TO THE FOLLOWING:

Email: canadaclaims@markel.com

Markel

200 Wellington Street West

Suite 800

Toronto, ON M5V 3C7

Attn: Claims Department

Tel: (416) 601-1133

Toll-free: (800) 223-8858

For claims after hours emergency hotline: 1 (877) 243-2875

The reporting condition of the policy requires that you report any incidents which might give rise to a claim, even if no such claim has yet been received. Failure to promptly report an incident may jeopardize the investigation and defence of a subsequent legal action. To avoid the risk that individual losses may be denied as a result of late reporting, please report all incidents promptly.



Arthur J Gallagher Canada Limited
AJG CANADA EXCESS
POLICY DECLARATIONS

EXCEPT AS HEREIN STATED, THE COVERAGE OF THIS POLICY SHALL FOLLOW ALL OF THE TERMS AND CONDITIONS OF THE PRIMARY POLICY. SUBJECT TO ITS TERMS, THIS POLICY APPLIES ONLY TO 'CLAIMS MADE' AGAINST THE INSURED DURING THE POLICY PERIOD. THE LIMIT OF LIABILITY SHALL BE REDUCED AND MAY BE EXHAUSTED BY AMOUNTS INCURRED AS COSTS, CHARGES AND EXPENSES IN DEFENDING THE INSURED.

NOTICE: ARTHUR J. GALLAGHER IS NOT AN INSURER OR REINSURER UNDER THIS CONTRACT AND SHALL NOT BE RESPONSIBLE FOR THE DUTIES OR OBLIGATIONS OF THE INSURER(S) OR REINSURER(S) UNDER THIS CONTRACT.

Policy No: MEX 665425840

Item A. Insured(s): 1263343 Alberta Inc. dba Lynx Air and Lynx Air Holdings Corporation
Address: 3215 12 Street NE
Calgary, AB T2E 7S9

Item B. Period of Insurance:
From: October 14, 2023
To: October 14, 2024
Both days at 12:01 A.M. Local Time at the Address stated in Item A.

Item C. Total Limit of Liability:
\$5,000,000 in the aggregate (including Defence Costs)
EXCESS OF UNDERLYING LIMITS OF LIABILITY: \$15,000,000

Item D. Drop Down over Followed Sub-Limit(s):

Coverage	Sublimit of Liability	Excess of (Underlying Sublimit)
N/A	N/A	N/A

Item E. Additional Limit(s) of Liability:

Coverage	Sublimit of Liability	Excess of (Underlying Sublimit)
N/A	N/A	N/A



Item F. **Premium:** \$48,425 **Currency:** USD

Item G. **Choice of Law:** As per Primary Policy
Jurisdiction: As per Primary Policy

Item H. **Claims and all Other Notification to Insurer(s) via:**

Continental Casualty Company
CNA CANADA
66 Wellington Street, Suite 3700
Toronto, Ontario M5K 1J5
claim.toronto@cna.com

Item I. **Primary Policy:**

Primary Insurer: Zurich Insurance Company Ltd.
Policy No: 8622083
Limits of Liability: \$10,000,000
Retentions/Deductibles: \$ N/A
Policy Period: October 14, 2023 - October 14 , 2024

Item J. **Underlying Excess Policies/Quota Share Participants:**

Insurer	Policy Number	Limit	Attachment	Premium	Insurer Interest
Markel Canada Limited	PFR568328-04	\$5,000,000	\$5,000,000	\$74,500	100%

Item K. **Territorial Limits:** Worldwide or as Primary



Item L. Endorsement(s) Effective at Inception: 2

- Sanctions Endorsement
- US Currency Clause Endorsement

Item M. Pending or Prior Date: October 14, 2020

Item N. This policy is issued by the following insurance company / companies (herein "Insurer(s))":

Continental Casualty Company
CNA CANADA
66 Wellington Street, Suite 3700
Toronto, Ontario M5K 1J5

The Insurer(s) hereby cause this policy to be signed on the Declarations page by a duly authorized representative of the Insurer(s).

President & Chief Executive Officer
Continental Casualty Company

Toronto, Ontario
Signed At

February 1, 2024
Date



AJG EXCESS WORDING

In consideration of the **Insured(s)** having paid or agreed to pay the Premium specified in Item F. of the Declarations, and subject to all of the terms, conditions and limitations of this Policy, the **Insurer(s)** of this Policy agree:

I. INSURING AGREEMENT

Except as otherwise provided herein, this Policy shall apply in accordance with the terms, conditions, exclusions and definitions set forth in the **Primary Policy**.

Notwithstanding the above, this Policy shall not provide coverage broader than the provisions of the **Primary Policy**, unless such broader coverage is specifically agreed to by the **Insurer(s)** in a written endorsement attached hereto.

II. DEFINITIONS

- (i) **“Insured(s)”** means those natural persons and entities insured under the **Primary Policy**.
- (ii) **“Insurer(s)”** means the insurance company / companies specified in Item N of the Declarations.
- (iii) **“Primary Policy”** means the policy identified in Item I. of the Declarations.
- (iv) **“Underlying Insurance”** means the **Primary Policy** and Underlying Excess Policies identified in Items I. and J. of the Declarations.
- (iv) **“Underlying Limit of Liability”** means an amount equal to the total limits of liability of all **Underlying Insurance**.

III UNDERLYING LIMITS

Liability to pay under this Policy shall only attach after the insurer(s) of the **Underlying Insurance**, the **Insured(s)**, or any other source, including the insurer of any difference-in-conditions policy that is excess of this Policy, shall have paid, admitted liability or been held liable to pay covered loss equal to the **Underlying Limit of Liability**.

Notwithstanding the foregoing, the **Insured(s)**, or any other source including the insurer of any difference-in-conditions policy that is excess of this Policy, may pay, retain or fund any portion of the **Underlying Limit of Liability** in lieu of payment by one or more insurers of the **Underlying Insurance**. Such payments or amounts will be deemed to apply toward reduction or exhaustion of the **Underlying Limit of Liability**.

In no event shall the maximum limit of liability of this Policy exceed an amount equal to the sum of the Total Limit of Liability stated in Item C. of the Declarations and any separate Additional Limit(s) of Liability specified in Item E. of the Declarations.

The **Insurer(s)** of this Policy will recognize any reduction or exhaustion of the **Underlying Limit of Liability** that is deemed to have taken place by reason of the operation of any ‘interlocking clause’ in any **Underlying Insurance** (meaning, a provision in any **Underlying Insurance** that deems its limit of liability to be reduced or exhausted by, or form part of, a single limit of liability inclusive of payments made under a related policy issued by the same insurer, however such provision is titled or styled).



IV. **SUBLIMITS**

If any **Underlying Insurance** is subject to a sub-limit of liability, then (as part of and not in addition to the Total Limit of Liability stated in Item C. of the Declarations) this Policy shall follow form of the sub-limited coverage afforded by and attach excess of the Drop Down Over Followed Sub-Limit(s) stated in Item D. of the Declarations.

Notwithstanding the foregoing, the **Insured(s)** or any other source, including the insurer of any difference-in-conditions policy that is excess of this Policy, may pay, retain or fund any portion of the amount of the underlying sub-limit designated in the Drop Down Over Followed Sub-Limit(s), stated in Item D. of the Declarations, in lieu of payment for covered loss by one or more insurers of the **Underlying Insurance**. Such payments made or amounts retained will be deemed to apply toward reduction or exhaustion of the **Underlying Limit of Liability** and the applicable underlying sub-limits.

V. **ADDITIONAL LIMIT(S) OF LIABILITY**

Solely with respect to any claim made against any **Insured(s)** for which coverage is provided for a separate limit of liability under any **Underlying Insurance**, this Policy shall follow form of the coverage afforded by and attach excess of the Additional Limit(s) of Liability stated in Item E. of the Declarations, which amount shall be separate from and in addition to the Total Limit of Liability set forth in Item C. of the Declarations.

Notwithstanding the foregoing, the **Insured(s)** or any other source may pay, retain or fund any portion of the amount of the Additional Limit(s) of Liability stated in Item E. of the Declarations in lieu of payment for covered loss by one or more insurers of the **Underlying Insurance**. Such payments made or amounts retained will be deemed to apply toward reduction or exhaustion of the separate limit of liability under any **Underlying Insurance**.

In no event shall the separate Additional Limit of Liability of this Policy exceed the limit stated in Item E. of the Declarations.

VI **NOTICE**

This Policy shall follow the notice of claim and/or notice of circumstance provisions of the **Primary Policy**. The **Insured(s)** shall give the same notice to the **Insurer(s)** at the same time and in the same manner required by the terms and conditions of the **Primary Policy**. Notice shall be in writing and given to the **Insurer(s)** in accordance with Item H of the Declarations.. Notice to the insurer(s) of any **Underlying Insurance** shall not constitute notice to the **Insurer(s)** of this Policy unless also given to the **Insurer(s)** as provided herein.

All of the rights and obligations set out in the claims investigation, co-operation, handling, defense, assessment and/or settlement provisions of the **Primary Policy** shall be assumed by the **Insurer(s)** of this Policy.



VII. **FOLLOWING FORM**

This Policy, except as herein stated, shall follow form of the terms, conditions, exclusions and definitions of the **Primary Policy**.

It is agreed that:

- I. Coverage under this Policy shall not follow form of any change during the Policy Period to any **Underlying Insurance** that broadens or expands coverage, nor shall the **Insurer(s)** be liable under this Policy to a greater extent than the **Insurer(s)** would have been without such change unless the **Insurer(s)** agrees in writing and the **Insured(s)** pay any additional premium that may be required by the **Insurer(s)**.
- II. The **Insurer(s)** may, at their sole discretion, associate with the **Insured(s)** in the investigation, defence or settlement of any claim or potential claim reported to the **Insurer(s)** under this Policy even if the **Underlying Limit of Liability** has not been exhausted. The **Insured(s)** shall provide the **Insurer(s)** with such information, assistance and cooperation as the **Insurer(s)** may require to fully and effectively associate with the **Insured(s)**. The failure of any **Insured(s)** to provide the **Insurer(s)** under this Policy with information, assistance and cooperation shall not impair the rights of any other **Insured(s)** under this Policy.

VIII. **LAW AND JURISDICTION**

The construction, interpretation and meaning of the terms, conditions, exclusions and definitions of this Policy shall be determined in accordance with the prevailing law provisions of the **Primary Policy** and, unless otherwise stated in Item G. of the Declarations to the contrary, any dispute arising hereunder will be subject to the exclusive jurisdiction of the courts of the same province or country in accordance with the law governing the **Primary Policy**.

In the event that a dispute arises between the **Insured(s)** and the **Insurer(s)** of this Policy in relation to matters that are also the subject of a dispute with an **Underlying Insurer** then at the **Insured's** election those disputes shall be heard together in the same court or arbitration proceedings.

IX. **SEVERAL LIABILITY OF INSURERS**

The liability of each **Insurer** under this policy is several and not joint with other **Insurer(s)** party to this policy. Each **Insurer** under this Policy is liable only for its proportion of liability, as set forth in Items C. D. and E. of the Declarations.

Excess Liability Endorsement

Policy Number:

Named Insured:

1263343 Alberta Inc. dba Lynx Air and Lynx Air Holdings Corporation

MEX 665425840

Effective Date:

October 14, 2023

Policy Period:

October 14, 2023 - October 14, 2024

Sanctions Endorsement

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This Policy shall not apply to any trade or activity which is subject to any applicable economic, political or trade sanction, prohibition or restriction. No Insurer nor reinsurer shall be deemed to provide cover, be liable to pay any damage or provide any benefit hereunder to the extent that the provision of such cover, payment of such damage or provision of such benefit would expose the Insurer or reinsurer or any member of the Insurers' group to any applicable economic, political or trade sanction, prohibition or restriction. The Insurer or reinsurer is obligated to comply with all applicable United Nations, European Union, US (including those imposed by the Office of Foreign Asset Control) and Canadian financial restrictions, measures and sanctions, which shall all form part of this clause.

All other terms and conditions remain unchanged.

CPC 00-002 CE 072018



Excess Liability Endorsement

Policy Number:

Named Insured:

1263343 Alberta Inc. dba Lynx Air and Lynx Air Holdings Corporation

MEX 665425840

Effective Date:

October 14, 2023

Policy Period:

October 14, 2023 - October 14, 2024

US Currency Clause Endorsement

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

In consideration of the premium paid for this Policy, it is agreed that this Policy is amended by adding the following section:

VI. VALUATION

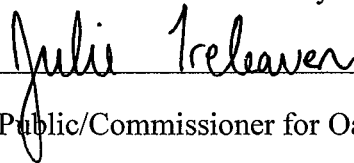
All premiums, limits, retentions, **Loss** and other amounts under this Policy are expressed and payable in United States of America currency. If any judgment, settlement or any part of **Loss** is expressed or calculated in any other currency, payment of such **Loss** due under this Policy will be made in the currency of the United States of America, at the rate of exchange published in The Wall Street Journal on the date the Insurer's obligation to pay such **Loss** is established, or, if not published on that date, on the date of next publication.

All other terms and conditions remain unchanged.

EX-CDN-GEN00072(012019)



This is **Exhibit "7"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

LYNX AIR HOLDINGS CORPORATION

(the Company)

- and -

TSX TRUST COMPANY

(as Trustee)

TRUST INDENTURE

As at September 20, 2023

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TRUST INDENTURE

THIS INDENTURE made as of the 20th day of September, 2023.

BETWEEN:

LYNX AIR HOLDINGS CORPORATION, a corporation incorporated under the Alberta *Business Corporations Act* (the "**Company**")

- and -

TSX TRUST COMPANY, a trust company existing under the laws of Canada (the "**Trustee**")

WHEREAS:

- (1) The Company maintains directors' and officers' liability insurance that would be available, to the extent of the coverage and subject to the terms and exclusions thereof, to defend and indemnify directors and officers of the Company with respect to claims, penalties and other amounts;
- (2) Concerns with respect to claims against the directors and officers of the Company, or against their predecessors, may detract from their performance and contribution to the Company or lead to their resignations, which would disrupt the business and operations of the Company and would not be in the best interest of the Company;
- (3) The Company has determined that protection is required for the Directors and Officers in addition to that provided by the D & O Insurance;
- (4) The Company has paid to the Trustee the sum of C\$2 million which, together with such other contributions as the Company may determine to make from time to time, shall be used to establish a trust fund for the payment of Liability Claims and to be administered by the Trustee in accordance with this Indenture; and
- (5) The foregoing recitals are made as representations and statements of fact by the Company and not the Trustee.

NOW THEREFORE in consideration of the foregoing and the mutual agreements contained herein (the receipt and adequacy of which are acknowledged), it is agreed and declared as follows:

ARTICLE 1 INTERPRETATION

Section 1.1 Definitions

Where used in this Indenture, including in the recitals, the subsequent terms shall have the following meanings:

"Business Day" means a day on which chartered banks are open for business in Alberta and Toronto, Ontario, excluding Saturday, Sunday and any statutory holiday;

"Canadian Dollars" or **"C\$"** means the lawful currency of Canada;

"Certificate" means a written notice to the Trustee, substantially in the form set out as **Schedule "A"**, signed by at least four of the Directors in office as of the date hereof in their capacity as director or, if applicable, former director of the Company and not in their personal capacity, confirming:

- (i) the amount requested to be disbursed from the Trust Property (the **"Requested Amount"**);
- (ii) the applicable use for which the Requested Amount will be paid and applied;
- (iii) that the proposed use described in paragraph (ii) above constitutes a Permitted Use; and
- (iv) the identity and details of all payees.

"Company" has the meaning ascribed thereto in the recitals and includes the subsidiaries and affiliates of the Company;

"D & O Insurance" means director and officer liability policy or policies of insurance maintained by the Company for the Directors and Officers;

"D & O Qualifying Claim" is a Liability Claim that qualifies for coverage under the D & O Insurance whether or not the amount of the coverage available under the D & O Insurance is adequate to defend the Directors and Officers against, and to pay, the particular Liability Claim;

"Directors" means the past, present and future directors of the Company up to and including the date of a Triggering Event. **Schedule "B"** to this Indentures lists the current Directors; Schedule B will be updated, if the circumstances so warrant it, and any such update will be transmitted to the Trustee;

"Former Trustee" means any trustee who has ceased to be a Trustee under this Indenture;

"Indenture" means this Trust Indenture, as amended or supplemented pursuant to the terms hereof from time to time;

"Liability Claim" means any claim, liability, charge, penalty, or expense for which a company can provide a director with indemnity pursuant to the provisions of the Alberta *Business Corporations Act* (including, without limitation, any claim contested by an insurer or insurers and all legal and other expenses arising in connection with defending a Liability Claim) or other amount for which the Directors and Officers, or any of them, may become personally liable arising from their status as Directors or Officers (including, without limitation, claims under Liability Legislation for employee wages, vacation pay, pension obligations, certain tax liabilities and environmental matters), all legal costs and other expenses incurred in asserting that a claim is covered by the D&O Insurance and the payment of any premiums for the purpose of maintaining D&O Insurance, provided that Liability Claim shall not mean any claim arising from the fraud or wilful misconduct of the particular Director or Officer;

"Liability Legislation" means legislation now in force or which may come into force with retroactive effect in the various jurisdictions in which the Company operates;

"Officers" means the past, present and future officers of the Company up to and including the date of a Triggering Event. **Schedule "B"** to this Indentures lists the current Officers; Schedule B will be updated, if the circumstances so warrant it, and any such update will be transmitted to the Trustee;

"Permitted Use" means, after the occurrence of a Triggering Event, the payment of any and all amounts necessary to defend and indemnify Directors and Officers of the Company with respect to Liability Claims and D&O Qualifying Liability Claims, including, without limitation, the payment of all

legal costs and expenses incurred in asserting that a claim is covered by the D&O Insurance and the payment of any taxes payable on the income accumulated pursuant to Section 4.10 of this Indenture;

"Person" includes any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency, authority or entity however designated or constituted;

"Qualified Investments" means short-term bank instruments issued by Schedule I Canadian chartered banks with a term to maturity of less than ninety (90) days; deposits of funds in an interest-bearing trust account of the Trustee; or treasury bills issued by the Government of Canada;

"Successor Trustee", in the following order of succession, means a person or corporation who agrees to act and is nominated by a resolution signed by a simple majority of all persons who are Directors of the Company or, in the event there are no existing Directors of the Company, those persons who were within twelve (12) months preceding the earliest to occur of a Triggering Event or the resignation of the last Director of the Company, a Director of the Company;

"Termination Date" has the meaning ascribed thereto in Section 7.1;

"Termination Notice" means a written notice to the Trustee, substantially in the form set out as **Schedule "C"**, signed by four (4) Directors of the Company in their capacity as director and not in their personal capacity;

"Termination Order" means an order issued by a judge of the Court of King's Bench of Alberta, or another competent Canadian court, ordering the termination of this Indenture;

"Triggering Event" means a determination by the Directors acting reasonably, and confirmed in a written notice to the Trustee, signed by four Directors of the Company, that:

- (i) the Company is not able to meet its liabilities as they fall due;
- (ii) the Company is unable to pay a Liability Claim which has become payable;
- (iii) there has been an application by or in respect of the Company under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act*, or
- (iv) the D & O Insurance may be cancelled or reduced for non-payment of premiums where the Company does not provide the Directors with evidence satisfactory to the Directors in their discretion that such premiums have been or will be paid in a timely fashion;

"Trust" has the meaning ascribed thereto in Section 2.1;

"Trust Property" means the sum of C\$2 million paid by the Company to the Trustee and any further contributions or reductions made thereto and any property into which all the foregoing may be converted together with interest and other revenues generated thereby.

"Trustee" has the meaning ascribed thereto in the recitals;

"Trustee Expenses" has the meaning ascribed thereto in Section 4.1;

"Trustee Fees" has the meaning ascribed thereto in Section 4.1; and

Section 1.2 Headings, etc.

The provision of a table of contents, the division of this Indenture into articles and sections and the insertion of headings are for convenient reference only and are not to affect the interpretation of this Indenture.

Section 1.3 Articles; Sections; etc.

Reference to articles, sections or other parts of this Indenture are to the specified article, section or part.

Section 1.4 Gender; Singular/Plural

References to gender include all genders and, except where the context otherwise requires, the singular includes the plural and *vice versa*.

Section 1.5 Certain Phrases, etc.

In this Indenture (i) the words "including" and "includes" mean "including (or includes) without limitation", (ii) in the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding", and (iii) the words "hereafter", "hereby", "herein", "hereof", "hereunder" and "herewith" refer to the entire Indenture, not just a particular article or section.

Section 1.6 Business Day

Any action or payment required or permitted to be taken or made hereunder on a day which is not a Business Day may be taken or made on the next succeeding Business Day.

**ARTICLE 2
THE TRUST**

Section 2.1 Creation of Trust

The Company as settlor confirms that to constitute and settle the trust created by this Indenture (the "Trust"), it hereby deposits C\$2 million with the Trustee. The Trustee accepts and holds the Trust Property upon the trusts and subject to and in accordance with the terms provided for in this Indenture. The Trustee agrees to distribute and deal with the Trust Property, and at all times agrees to keep the Trust Property segregated and in a segregated account, on the terms and subject to the conditions hereof.

Section 2.2 Irrevocable

The Trust is intended and is hereby declared to be irrevocable, with the exception of the circumstances contemplated in Section 7.1 hereof. The Trust Property shall be held and applied solely for the objects of the Trust and prior to the Termination Date the Trust Property shall not revert to or be applied for the benefit of the Company but shall be applied for the exclusive benefit of the Directors and Officers in accordance with the terms hereof.

Section 2.3 Name

The name of the Trust shall be "Lynx Air Directors' and Officers' Trust".

Section 2.4 Purpose

The purpose of this Indenture is to provide financial support for the defence of the Directors and Officers against Liability Claims and for the payment of Liability Claims, to the extent that the D & O Insurance, for any reason, does not do so and to maintain D & O Insurance through the payment of premiums or other payments, if the Company fails to do so. The Trust is not intended to be and shall not be treated as anything other than a trust, such that that the Company shall benefit from the rights ascribed to it hereunder and with no other rights. Without limitation, the Trust does not constitute a partnership, joint venture, corporation or joint stock company.

Section 2.5 Beneficiary

The beneficiary of the Trust Property in excess of the total amount of the Liability Claims is the Company. The Trustee may pay an amount with respect to a Liability Claim (or as reimbursement of the payment of a Liability Claim) if so provided for in the Certificate.

Section 2.6 No Right to Corpus of the Trust

Other than as expressly provided therein, no Person shall have any right to the corpus of the Trust.

Section 2.7 Not to Constitute Insurance

The Trust Property shall only be available to provide financial support for the defence of or to pay Liability Claims which are not D & O Qualifying Claims. However, the Trust Property shall be available to provide financial support for defending Directors and Officers against a D & O Qualifying Claim and to pay a D & O Qualifying Claim (or a portion thereof) that will not be defended or paid by the D & O Insurance because coverage is inadequate, is disputed or for some other reason.

Section 2.8 Qualified Investments

Pending disbursement of the Trust Property, the Trustee shall, in Canadian Dollars, hold, invest and reinvest the same in Qualified Investments in such manner as may be directed by the Company in writing. All Qualified Investments shall be held in trust by the Trustee subject to and in accordance with the terms provided herein and, where any amounts are held in an interest-bearing trust account, the trust nature of such account shall be clearly identified. The Trustee shall have no liability with respect to any loss in the value of investments as permitted to be made hereunder. In making any payment, the Trustee shall not be liable for any loss sustained from the early termination of any investment if such early termination is required to enable the Trustee to make a payment. The Trustee shall not be liable to account for any profit to any parties to this Indenture or to any other person or entity other than at a rate, if any, established from time to time by the Trustee in relation to the Qualified Investments directed by the Company. If no such direction is provided by the Company, the Trustee shall hold the Trust Property in an interest-bearing trust account until further direction.

Section 2.9 Residence

The residence of the Trust is Canadian. If the Trustee shall cease to be a resident of Canada, the Trustee shall, on the happening of such event, cease to be the Trustee hereunder. The Trustee shall give written notice thereof to the Directors of the Company at least thirty (30) days prior to ceasing to be a resident of Canada.

**ARTICLE 3
PAYMENT OF CLAIMS**

Section 3.1 Payment of Liability Claims

- (1) From time to time, in the event that funds are required to be disbursed from the Trust Property to be paid and applied towards a Permitted Use on behalf of applicable Directors and Officers, a Certificate shall be executed and delivered to the Trustee. Where the total amount of all Liability Claims is in excess of the actual amount of the Trust Property, the Trust Property shall be applied in the following priority:
 - (i) all legal costs and expenses incurred in defending a Liability Claim or in asserting that a claim is covered by the D&O Insurance; and
 - (ii) other Liability Claims (excluding those referenced in Section 3.1(1)(i)).
- (2) If the Trustee is unclear as to the priority of the claims in a situation where the total amount of all Liability Claims is in excess of the actual amount of the Trust Property, the Trustee may request and rely on a written direction of the Directors confirming said priority.

- (3) Upon receipt of a Certificate, the Trustee shall be irrevocably authorized and directed to distribute the Trust Property, in the manner prescribed in the Certificate, within three (3) Business Days.
- (4) The Trustee shall have no obligation to make any determination as to (i) the due authority of a Director executing a Certificate or (ii) the validity of a use stated in a Certificate as being a Permitted Use, and the Trustee shall be entitled to rely and act upon the veracity, genuineness and authenticity of such Certificate, and will not be responsible or held liable for any loss or damage resulting from so relying or acting on such Certificate.
- (5) The Trustee is hereby authorized, subject to Section 4.1(4), to reserve in the Trust Property amounts sufficient to attend to the Trustee Fees and the Trustee Expenses and other payments to be met from the Trust Property under this Indenture.

Section 3.2 No Liability for Insufficient Funds

The Trustee shall not be liable to any Person (including any Director, Officer or the Company) in the event that the Trust Property is insufficient to pay in full or in part any Liability Claim under this Indenture. Furthermore, the Trustee shall, in the event of any insufficiency of funds in the Trust Property, have no obligation to seek or demand any further monies from the Company or any other Person.

Section 3.3 Failure to Deposit

The Trustee shall have no liability for any failure of the Company to deposit amounts with the Trustee.

Section 3.4 Direction

To permit the Trustee to carry out the Trustee's obligations hereunder, the Company specifically authorizes and directs the Trustee to make the stipulated payments or to take the stipulated actions in accordance with the provisions of this Indenture.

Section 3.5 Method of Disbursement and Delivery

- (1) All disbursements of money made under Section 3 or pursuant to this Indenture shall be made by certified cheque, wire or bank draft drawn upon a Canadian Schedule I chartered bank made payable to the Persons entitled to disbursement and in the correct amount and delivered to a Director or Officer or to the Company as per the directions to the Trustee in the Certificate so provided.
- (2) The delivery of a cheque by the Trustee as required hereunder shall satisfy and discharge the liability for any amounts due to the extent of the sum or sums represented thereby, unless such cheque is not honoured on presentation; provided that in the event of the non-receipt of such cheque by the payee, or the loss or destruction thereof, the Trustee, upon being furnished with reasonable evidence of such non-receipt, loss or destruction and funding and indemnity reasonably satisfactory to it, shall issue to such payee a replacement cheque for the amount of such cheque not received, lost or destroyed.

ARTICLE 4 THE TRUSTEE

Section 4.1 Fees and Expenses

- (1) The Company agrees to pay the Trustee an initial fee on the execution of this Indenture, as well as an annual fee, and any transactional fees applicable for all other services rendered by the Trustee hereunder pursuant to the terms of the fee schedule executed by the Company as of the date hereof. Fees payable in accordance with this paragraph are herein referred to as "**Trustee Fees**".

- (2) The Company shall reimburse the Trustee for all commercially reasonable expenses (including taxes, except for any taxes payable with respect to any fees paid to the Trustee) and disbursements in the performance of its duties hereunder (including the reasonable compensation and disbursements of its counsel and all other assistants and advisors not regularly in its employ), as well as including the cost and expense of any suit or litigation of any character, including any proceedings before any governmental agency, reasonably incurred in connection with the Trustee's duties hereunder, but excluding expenses and disbursements paid, incurred or suffered by the Trustee in any suit or litigation in which the Trustee is determined to have acted fraudulently, in bad faith or with wilful misconduct (collectively, the "**Trustee Expenses**").
- (3) Except for the payment on execution of this Indenture and subject to the next following paragraph (4), the Trustee Fees and the Trustee Expenses shall be payable out of the Trust Property.
- (4) The Company shall pay the Trustee Fees and Trustee Expenses, provided however, if any are not paid by the Company within thirty (30) days from the date of the invoice thereof and are otherwise uncontested, the Trustee may satisfy such invoices from the Trust Property. The Trustee is not required to effect any partial or full release unless the Trustee Fees and Trustee Expenses are paid in full.

Section 4.2 Resignation and Replacement

- (1) The Trustee may resign at any time by giving written notice thereof to the Directors of the Company, specifying the date on which it is desired that the Trustee's resignation shall be effective, provided that such notice shall never be given less than sixty (60) days prior to such desired effective date.
- (2) The Trustee shall cease to be a Trustee hereunder if it ceases to be a resident of Canada.
- (3) Upon a cessation, as contemplated in the immediately preceding Section 4.2(1) and Section 4.2(2), the Successor Trustee shall become the Trustee for all purposes of this Indenture in accordance with the order of succession described in the definition of Successor Trustee in Section 1.1.

Section 4.3 Succession

- (1) A Trustee's resignation shall only take effect upon the date that the Successor Trustee becomes the Trustee, accepts the trusts hereunder and upon the Former Trustee having transferred to the Successor Trustee all of the Trust Property. Upon such succession, the Successor Trustee, save and except for the provisions of the first sentence of Section 4.1(1), shall be vested with the same powers, rights and privileges and charged with the same duties, trusts and responsibilities as are herein expressed to be vested in or imposed on the Trustee, as if it had been originally named as trustee hereunder without any further assurance, conveyance, act or deed; but if for any reason it becomes necessary or expedient to execute any further deed or assurance, the same shall be done at the expense of the Company, or charged as a Trustee Expense upon failure to pay for thirty (30) days, and shall be legally and validly executed by the Former Trustee upon payment of all of its outstanding Trustee Fees and Trustee Expenses.
- (2) In the event that the Company shall fail to appoint a Successor Trustee in any circumstance under which the Trustee ceases to hold office hereunder, the Trust shall be terminated upon the effective date of the resignation of the Trustee under Section 4.2(1) or the date the Trustee otherwise ceases to hold office under Section 4.2(2). In such event, this Indenture shall terminate except for the purpose of giving effect to the wind-up provisions of Section 7.2, and to the extent permitted by law the Trustee shall continue to act as trustee in such limited manner until all of the remaining Trust Property has been distributed. Fees and expenses of the Trustee

shall be a charge, to the extent permitted by law, on the Trust Property to secure payment thereof.

- (3) The Company and the Former Trustee shall execute any and all reasonable instruments in writing to fully vest in and confirm to the Successor Trustee all such rights and powers.
- (4) If a Successor Trustee becomes the Trustee pursuant to Section 4.2(2), they shall take all steps necessary to receive, from the Former Trustee or personal representative of the Former Trustee, a full and complete conveyance of the Trust Property and to provide such indemnities and assurances as shall be reasonably necessary to such Former Trustee or personal representative. To the extent practical, the provisions of the preceding Section 4.3(1) and Section 4.3(3) shall apply *mutatis mutandis*.
- (5) Any corporation into or with which the Trustee may be merged, arranged, consolidated or amalgamated, or to which all or substantially all of its corporate trust business is sold, or any corporation resulting therefrom, or any corporation succeeding to the corporate trust or transfer agency business of the Trustee shall be the successor to the Trustee hereunder without any further act on its part or any of the parties hereto.

Section 4.4 Accounting

The Trustee shall maintain accurate books, records and accounts of the transactions effected or controlled by the Trustee hereunder and the receipt, investment, reinvestment and disbursement of the Trust Property, and shall provide to the Company records and written statements thereof periodically upon request.

Section 4.5 Limitation of Liability

Subject to its obligations to the Company and to the Directors and Officers, the Trustee shall have no personal liability to any other Person arising from commitments in this Indenture or contractual relationships. The Trustee is authorized to require any such commitment or contractual relationship to include a provision confirming the foregoing sentence to the Directors and Officers or any other Person with respect to the performance of the responsibilities of the Trustee hereunder, except for damages that may be caused by the deliberate or wilful misconduct or gross negligence of the Trustee. Notwithstanding any other provision hereof, the Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture. None of the provisions of this Indenture shall require the Trustee to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it, and the Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder. Subject to applicable law, in no event shall the Trustee be responsible or liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

Section 4.6 Acceptance of Trusts

The Trustee hereby accepts the covenants, trusts and obligations in this Indenture declared and provided for and agrees to perform the same upon the terms and conditions herein set forth, and to hold and exercise the rights, privileges and benefits conferred upon the Trustee hereby in trust for the benefit of the Company. The Trustee shall not be required to exercise any powers and shall not have any responsibilities except as expressly provided in this Indenture and shall have no obligation to recognize nor have any liability or responsibility arising under any other document or agreement to which the Trustee is not a party, notwithstanding that reference thereto may be made herein.

Section 4.7 Conflict of Interest

The Trustee represents that, to the best of its knowledge, at the time of the execution and delivery hereof, no material conflict of interest exists in the Trustee's role as a fiduciary hereunder and agrees that in the event of a material conflict of interest arising hereafter shall, within thirty (30) days after ascertaining that he has such a material conflict of interest, either eliminate such conflict or resign as the Trustee hereunder. In the event of such a conflict of interest, the Trustee may seek directions from (and determine not to act pending the receipt of such directions from) the Court of King's Bench of Alberta and shall incur no liability whatsoever in such circumstances for such inaction.

Section 4.8 Indemnification

The Company shall indemnify and save harmless the Trustee (and its directors, officers, affiliates, and employees if the Trustee is a corporation) from and against all claims, demands, losses, actions, causes of action, costs, charges, debts, expenses, damages, obligations and liabilities (including, without limitation, all costs and expenses reasonably incurred in the Trustee's defence thereof or in the enforcement of this indemnity,) whatsoever arising in any manner out of or in connection with this Indenture and the Trust (including, without limitation, any investments made, retained or disposed of on the direction of the Company) except to the extent that the same is attributable to fraud, bad faith, or wilful misconduct of the Trustee. Subject to the foregoing, this entitlement to indemnification includes legal fees and expenses on a solicitor and client basis reasonably incurred by the Trustee in enforcing the Trustee's rights to indemnification hereunder. This indemnity shall survive the termination of this Indenture and the resignation or removal of the Trustee.

Section 4.9 Financial Matters

- (1) For tax reporting purposes, all interest or other taxable income earned on the Trust Property shall be paid or made payable to the Company (i) as of December 31 of any calendar year, or (ii) as at the Termination Date if the Termination Date takes place prior to December 31 of any calendar year. The Trustee shall issue any tax reporting forms or slips (including T5 forms) relating to such income in the names of the Company;
- (2) The Company shall provide the Trustee with the tax identification numbers of the Company and such other forms, documents and information that the Trustee may reasonably request in order to fulfill any tax reporting function; and
- (3) The Trustee shall for the purposes of this Indenture open, operate and maintain a segregated account for the Trust Property and shall deposit all assets comprising the Trust Property in such account and any cheques drawn upon any account and all other instructions, as applicable, shall be signed by the Trustee.

Section 4.10 Accumulation of Income

Any payments from the Trust Property made by the Trustee under the terms of this Indenture shall be made from the principal and/or interest of the Trust Property as per the directions outlined in the Certificate provided to them; any income not so paid in any year shall be added to and dealt with as part of the capital of the Trust Property and any taxes payable on such income shall be paid from the Trust Property.

Section 4.11 Professional Advisors

The Trustee shall be entitled to take legal, accounting, tax or other advice and consult or employ such assistance as in the Trustee's judgement, acting reasonably, may be necessary for the proper determination and discharge of the Trustee's duties and, if acting in good faith, may act and rely upon the opinion, information or advice of counsel or any other independent expert or advisor retained by the Trustee and shall not be responsible for any loss resulting from any action or inaction taken in good faith in reliance upon such opinion, information or advice or for the negligence or misconduct of any agent, counsel or any other independent expert or advisor appointed by it with due care. Any such cost associated under this Section 4.11 shall be reimbursed in accordance with Section 4.1(2).

Section 4.12 Certificate of Incumbency

The Company shall deliver to the Trustee a certificate of incumbency which certifies the incumbency and signatures of the Directors of the Company who have the authority to execute documents contemplated under this Indenture on behalf of the Company, including for greater certainty, those that are authorized to execute the Certificates. The Trustee shall be entitled to act and rely, and shall be protected from liability in so acting and relying, on such certificate as to the matters certified therein and absent manifest irregularity in the manner of execution of any document deliverable under this Indenture, the Trustee shall have no obligation to verify the authenticity of any signatures on any document.

Section 4.13 Reliance on Documents

The Trustee shall be fully protected in acting and relying on any document, certificate, statement, instrument, opinion, report or notice, believed by it to be genuine and to have been signed, sent by or on behalf of the proper party or parties or delivered to it pursuant to this Indenture as to its due execution, validity and effectiveness and as to the truth and accuracy of any information contained therein. Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company shall be sufficient if signed by four (4) Directors of the Company.

The Trustee will have the right not to act and will not be liable for refusing to act unless it has received clear and reasonable documentation that complies with the terms of this Indenture. Such documentation must not require the exercise of any discretion or independent judgment.

Section 4.14 No Duties Other Than as Expressed in this Indentures

The Trustee shall have no duties except those which are expressly set forth in this Indenture, and it shall not be bound by any notice of a claim or demand with respect to this Indenture, or any waiver, modification, amendment, termination or recession of this Indenture, unless received by it in writing in accordance with this Indenture and, if its duties under this Indenture are affected, unless it shall have given its prior written consent. The permissive rights of the Trustee enumerated herein shall not be construed as duties.

Section 4.15 Anti-Money Laundering

The Trustee shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Trustee, in its sole reasonable judgment, determines that such act might cause it to be in non-compliance with any applicable anti-money laundering, sanctions or anti-terrorist legislation, regulation or guideline. Further, should the Trustee, in its reasonable judgment, determine at any time that its acting under this Indenture has resulted in its being in non-compliance with any applicable anti-money laundering, sanctions or anti-terrorist legislation, regulation or guideline, then it shall have the right to resign on ten (10) days written notice to the parties hereunder, provided (i) that the Trustee's written notice shall describe the circumstances of such non-compliance to the extent permitted under such applicable anti-money laundering, sanctions or anti-terrorist legislation, regulation or guideline; and (ii) that if such circumstances are rectified to the Trustee's satisfaction within such ten (10) day period, then such resignation shall not be effective.

**ARTICLE 5
RESTRICTIONS ON INDEMNITY**

Section 5.1 Notice of Claims

The Trustee shall notify the Company as soon as it is reasonable to do so, after the Trustee shall have received any written assertion of a claim or shall have been served with a summons or other first legal process in connection with this Indenture giving the Company information as to the nature and basis of the claim, provided that any delay or failure by the Trustee to so notify the Company shall not absolve the Company of its indemnification obligations under Section 4.8. The Company shall be entitled to participate at its own expense in the defence. If the Company so elects at any time after receipt of such notice, it may assume the defence of any suit brought to enforce such claim. If the

Company assumes the defence of any suit, it shall not be liable for the fees and expenses of any additional counsel thereafter retained by the Trustee, provided that such additional counsel was not retained by the Trustee due to a conflict of interest between the interests of the Company and the Trustee with respect to the defence of the particular suit or claim. The Company shall not settle any suit or claim where any such settlement will impose a financial obligation on the Trustee nor shall the Company admit to any fault or liability on the part of the Trustee, in either case without the Trustee's prior written consent.

ARTICLE 6 AMENDMENT

Section 6.1 Amendment Restrictions

- (1) This Indenture only may be amended, varied or supplemented by written agreement executed by the Trustee and the Company, which for all purposes of this Indenture shall be represented by any four (4) persons who are (or were) Directors immediately prior to the Triggering Event, only:
- (a) to add to the provisions hereof additional covenants or provisions for the benefit of the Company, the Directors and Officers and/or the Trustee; and
 - (b) for the purpose of correcting or rectifying ambiguities, defects, errors or omissions contained herein;

provided that any such amendment is not, in the opinion of the Trustee and the Company, based on the advice of the Company's legal counsel, inconsistent with the provisions hereof or prejudicial in any material respect to the interests of the Directors and Officers.

- (2) This Indenture may be amended with or without the approval of the Trustee for the purpose of evidencing the succession to the Successor Trustee and the transfer to and assumption by any such Successor Trustee of the rights, privileges and obligations of the Trustee hereunder.

ARTICLE 7 TERMINATION

Section 7.1 Termination Date

The Trust shall terminate upon the earliest to occur of:

- (a) the provision of the Termination Notice to the Trustee; or
- (b) the issuance of a Termination Order; or
- (c) September 30, 2024.

any of which dates shall be referred to as the "**Termination Date**".

Section 7.2 Consequence of Termination

Upon the termination of this Indenture in accordance with Section 7.1, the Trustee shall deliver the Trust Property then remaining, if any, to or on the direction of the Company in accordance with a written direction of the Company.

ARTICLE 8 OTHER MATTERS

Section 8.1 Governing Law

This Indenture shall be governed and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein.

Section 8.2 Assignment

Subject to Section 4.2 and Section 4.3(5), this Indenture may not be assigned by either the Company or the Trustee without the prior consent in writing of the other party. This Indenture shall be binding upon and enure to the benefit of the Company and the Trustee and their respective lawful successors and assigns.

Section 8.3 No Waiver, etc.

- (1) No waiver of any of the provisions of this Indenture shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (2) No failure on the part of the Company or the Trustee to exercise, and no delay in exercising any right under this Indenture shall operate as a waiver of such right, nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

Section 8.4 Entire Agreement

This Indenture constitutes the entire agreement between the Company and the Trustee with respect to the issues contemplated herein and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of such parties. There are no conditions or other agreements, express or implied, collateral, statutory or otherwise, between the Company and the Trustee in connection with the subject matter of this Indenture, except as specifically set forth herein, and the Company and the Trustee have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Indenture.

Section 8.5 Severability

If any provision of this Indenture shall be determined by an arbitrator or any court of competent jurisdiction to be illegal, invalid or unenforceable, that provision will be severed from this Indenture and the remaining provisions shall remain in full force and effect.

Section 8.6 Time of the Essence

Time is of the essence of this Indenture.

Section 8.7 Further Assurances

The Company and the Trustee shall do or cause to be done all such acts and things and shall execute or cause to be executed all such documents, agreements and other instruments as may be reasonably necessary or desirable for the purpose of carrying out the provisions and intent of this Indenture.

Section 8.8 Counterpart Execution

This Indenture may be executed in any number of counterparts (including counterparts executed by facsimile, email or by other electronic means) and delivered electronically (including in PDF format by email), and all such counterparts so executed and delivered taken together shall be deemed to constitute one and the same instrument.

Section 8.9 Choice of Language

The Company and the Trustee hereby acknowledge that they have expressly required this document to be drawn up in the English language only. *La compagnie et l'administrateur reconnaissent par ceci qu'elles ont expressément exigé de ce document pour être élaborées dans l'anglais seulement.*

Section 8.10 Notice

Any notice, direction or other communication given under this Indenture shall be in writing and given by delivering it or sending it *via* facsimile, email or other similar form of recorded communication, addressed:

(a) to the Company at:

3215 12 St NE
Calgary, Alberta
T2E 7S9

Attention: Mike Woodward, Interim Chief Financial Officer
Email: Mike.Woodward@lynxair.com

(b) to the Board of Directors of the Company at:

Attention: William A, Franke, Chair of the Board
Email: wfranke@indigopartners.net

with a copy to:

Stikeman Elliott
1155 Boulevard René-Lévesque West
Suite 4100
Montreal, Quebec
H3B 3V2

Attention: Guy P. Martel
Email: gmartel@stikeman.com

(c) to the Trustee at:

TSX Trust Company
301-100 Adelaide Street W.
Toronto, ON M5H 4H1

Attention: Vice President, Trust Services
Fax: 416-361-0470
Email: tmxestaff-corporatetrust@tmx.com

Any other demand, notice or communication required or contemplated by this agreement shall be in writing and sent by personal delivery, courier, mail, email transmission or facsimile transmission addressed to the Company as indicated above, and to the Trustee as indicated above, or to such other address, individual, email address or facsimile number as may be designated by notice provided by either party to the other. Any notice, demand, consent, communication or confirmation delivered by (i) the Company to the Trustee pursuant to the terms of this Indenture shall at all times require the signature of at least four (4) Directors of the Company unless otherwise specifically provided for herein,

and shall copy each of the Directors listed at Schedule B; and (ii) the Trustee to the Company pursuant to the terms of this Indenture shall copy each of the Directors listed at Schedule B. In the event of actual or anticipated postal disruption, courier service, personal delivery, email transmission or facsimile transmission shall be used. Any demand, notice or other communication shall be deemed conclusively to have been received by the addressee (i) if sent by mail, five business days after posting; (ii) if sent by courier service or personal delivery, upon actual delivery; and (iii) if sent by facsimile transmission or email transmission, on the same business day if given during the ordinary business hours of the addressee, or the next following business day if given outside of such hours.

Any of the above parties may change his, her or its address for service from time to time by notice given in accordance with the foregoing and any subsequent notice shall be sent to such party at its changed address.

IN WITNESS WHEREOF this Indenture has been executed as of the date first written above.

LYNX AIR HOLDINGS CORPORATION

By: _____

Name: _____

Title: _____

Frederic Martel
Frederic Martel
Director

TSX TRUST COMPANY

DocuSigned by:

Sumit Khanna

04160D18BC0443B...

By: _____

Name: Sumit Khanna

Title: _____

Corporate Trust Officer

DocuSigned by:

Donald Crawford

F755EA70AE4043E...

By: _____

Name: _____

Donald Crawford

Title: _____

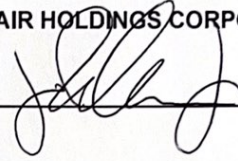
Senior Manager, Corporate Trust

and shall copy each of the Directors listed at Schedule B; and (ii) the Trustee to the Company pursuant to the terms of this Indenture shall copy each of the Directors listed at Schedule B. In the event of actual or anticipated postal disruption, courier service, personal delivery, email transmission or facsimile transmission shall be used. Any demand, notice or other communication shall be deemed conclusively to have been received by the addressee (i) if sent by mail, five business days after posting; (ii) if sent by courier service or personal delivery, upon actual delivery; and (iii) if sent by facsimile transmission or email transmission, on the same business day if given during the ordinary business hours of the addressee, or the next following business day if given outside of such hours.

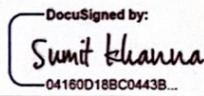
Any of the above parties may change his, her or its address for service from time to time by notice given in accordance with the foregoing and any subsequent notice shall be sent to such party at its changed address.

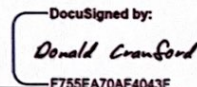
IN WITNESS WHEREOF this Indenture has been executed as of the date first written above.

LYNX AIR HOLDINGS CORPORATION

By: 
Name:
Title:

TSX TRUST COMPANY

By: 
Name: Sumit Khanna
Title: Corporate Trust Officer

By: 
Name: Donald Crawford
Title: Senior Manager, Corporate Trust

Schedule "A"
FORM OF CERTIFICATE TO THE TRUSTEE

TO: TSX Trust Company

CC: Each of the Directors listed in Schedule B (to be notified by email)

RE: Trust Indenture dated as of September 20, 2023 (the "**Indenture**"), among Lynx Air Holdings Corporation (the "**Company**") and TSX Trust Company (the "**Trustee**").

Capitalized terms used in this Certificate and not otherwise defined shall have the meanings ascribed to them in the Indenture.

Pursuant to the Indenture, the undersigned hereby confirm that:

- a) an amount of C\$● is requested to be disbursed by the Trustee from the Trust Property (the "**Requested Amount**");
- b) the Requested Amount will be used to **[insert use]**;
- c) the use described in paragraph (b) above constitutes a Permitted Use; and
- d) the Requested Amount should be paid to **[insert the identity of the payee]** by **[insert method and details for disbursement, i.e. certified cheque, wire or bank draft]**.

DATED this _____ day of _____, 201●.

[INSERT NAME OF SIGNATORY]

Per: _____
Director of ●

[INSERT NAME OF SIGNATORY]

Per: _____
Director of ●

[INSERT NAME OF SIGNATORY]

Per: _____
Director of ●

[INSERT NAME OF SIGNATORY]

Per: _____
Director of ●

Schedule "B"

Current Directors of Lynx Air Holdings Corporation	
Directors	Email Address
Anne-Marie Boucher	annemarieboucher@gmail.com
Andrew Broderick	abroderick@indigopartners.net
William A. Franke	wfranke@indigopartners.net
Brian Franke	brianfranke@indigopartners.net
Frederic Martel	FredericMartel@claridgeinc.com
Thomas (Tim) W. Morgan	TMorgan@airpartners.ca
Greg Melchin	gkmelchin@gmail.com
Officers	Email Address
Jim Sullivan	Jim.Sullivan@lynxair.com
Mike Woodward	Mike.Woodward@lynxair.com

Schedule "C"

TO: TSX Trust Company

CC: Each of the Directors listed in Schedule B (to be notified by email)

RE: Trust Indenture dated as of ●, 2019 (the "**Indenture**"), among Lynx Air Holdings Corporation (the "**Company**") and TSX Trust Company (the "**Trustee**").

Capitalized terms used in this Notice and not otherwise defined shall have the meanings ascribed to them in the Indenture.

The undersigned hereby confirm that:

- a) the Company hereby terminates the Indenture and the Trust created thereunder effective immediately;
- b) the Company hereby irrevocably authorizes and directs the Trustee to release the balance of the Trust Property after deducting its outstanding fees and expenses, as soon as practicable after execution of this certificate, and to pay, in trust, by way of wire transfer or direct deposit to the account as provided in Schedule "●" and this will be the Trustee's good, sufficient and irrevocable authority to do so; and
- c) the Company hereby directs that all income accrued on the Trust Property is to be attributed to the Company for tax reporting purposes.

Upon release of the remaining Trust Property by the Trustee as set out above, the Trustee shall be released from all of its obligations and duties under the Indenture.

Notwithstanding the foregoing, all provisions of the Indenture stated to be applicable after the termination of the Indenture shall continue to so apply, and in addition, Section 4.8 and all other provisions which limit the liability of the Trustee will survive the termination of the Indenture and Trust created thereunder.

[INSERT NAME OF SIGNATORY]

Per: _____
Director of ●

[INSERT NAME OF SIGNATORY]

Per: _____
Director of ●

[INSERT NAME OF SIGNATORY]

Per: _____
Director of ●

[INSERT NAME OF SIGNATORY]

Per: _____
Director of ●

This is **Exhibit "8"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barister & Solicitor

**BY EMAIL****WITHOUT PREJUDICE**Dorval, February 8th, 2024

1263343 Alberta Inc. (d.b.a. Lynx Air)
 C/O Mr. Mike Woodward
 Chief Financial Officer
 3215 12th St NE
 Calgary, Alberta T2N 7S9

Subject: Unpaid Aeronautical fees – Payment Agreement

Sir,

As agreed with Aéroports de Montréal (hereinafter “ADM”)’s Vice President, Legal Affairs & Corporate Secretary, please find bellow the payment schedule of arrears as stated in the email to your attention dated February 7, 2024, upon the following terms and conditions:

1. Lynx Air must remit a signed copy of the present payment agreement, at the latest February 8th, 2024, at 5:00 pm Eastern Standard Time (EST), attesting its acceptance of its terms and conditions, by email in a pdf form.
2. ADM must receive from Lynx Air a series of wire transfers for the unpaid aeronautical fees, payable in four (4) installments, according to the following delays:

	Date	Amount
1	February 23, 2024	\$ 560,017.60*
2	March 08, 2024	\$ 318,517.55 (Final January AIF)
3	March 15, 2024	50% February AIF
4	April 01, 2024	50% February AIF

*Invoices: 1155644, 1156421, 1156060, 1600012912, 1155871, 1155851, 1155817, 90072536, 90072707 and interest of \$17,296.53.

Payment must be received in ADM’s account at the latest on the dates specified in the above table, so please keep in mind any bank delays.

3. ADM must receive the Final February AIF report on March 4th, 2024.



800, place Leigh-Capreol
 Bureau / Suite 1000
 Dorval (Québec)
 H4Y 0A5 CANADA

☎ 514 394-7201
 admt.com

February 8th, 2024

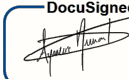
Lynx Air

Page 2

- 4. All other amounts invoiced by ADM not included in this Payment Agreement remain due and payable according to the payment terms indicated in the aeronautical fees schedule.
- 5. Should Lynx Air fail to carry out any of the above-mentioned payment wire transfers in the required delays or fail to respect any of the conditions herein, the present Payment Agreement shall become automatically null and void, interest charges will be due as if this Payment Agreement had never been entered into, and at ADM's sole decision, Lynx Air will be denied access to the airport facilities and the letter of authorization will be terminated, the whole without prejudice and without any further notice or delay.

We thank you in advance for your prompt consideration in this matter.

Sincerely,

DocuSigned by:

 63B11549B9BD478
Ayméric Dussart

Vice President, Finance & Administration, and Chief Financial Officer

c.c. Sylvain Choinière – ADM

I, the undersigned, having the capacity and the power to bind **Lynx Air** hereby declare having read the contents of this payment agreement and confirm on behalf of **Lynx Air** my acceptance of its terms and conditions.

Lynx Air

ACCEPTED at Calgary (City)
on February 8, 2024.

By: 
(duly authorized as he/she declares)

Name: MICHAEL WOODWARD
(in capital letters)

Title: Interim CFO

This is **Exhibit "9"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor



FEBRUARY 16, 2024

Mike Woodward
Chief Financial Officer
1263343 Alberta Inc. dba Lynx Airlines

**Greater Toronto
Airports Authority**
P.O. Box 6031
3111 Convair Drive
Toronto AMF, Ontario
Canada L5P 1B2

P 416.776.3000
F 416.776.7746

GTAA.com

Dear Mr. Woodward,

Re: Notice of Default - Overdue Aeronautical Fees and Charges and Airport Improvement Fees Owing by 1263343 Alberta Inc. dba Lynx Airlines (“Lynx”) relating to Use of Toronto – Lester B. Pearson International Airport (“Toronto Pearson”)

The Greater Toronto Airports Authority (“GTAA”) provides notice that Lynx is in default of its obligations to pay Aeronautical Fees and Charges and Airport Improvement Fees (“AIF”) in respect of its aeronautical activity at Toronto Pearson, in particular:

- a) Failure to pay Aeronautical Fees and Charges (as defined in the [GTAA Rules and Regulations](#)) under Sections 2.34 – 2.37 of The Pearson Standard: Rules and Regulations (the “GTAA Rules”). You received notice and an opportunity to review the GTAA Rules located on Toronto Pearson’s website at <https://www.torontopearson.com/en/operators-at-pearson/the-pearson-standard/rules-and-regulations>.

This Notice of Default constitutes a Notice of Non-Compliance under Section 13 of the GTAA Rules.

- b) Failure to pay the Airport Improvement Fees (“AIF”) as set out below which amounts are overdue and remain unpaid despite the GTAA’s repeated demands for payment. This constitutes an Event of Default under Section 3.1.1 of the AIF Agreement between the GTAA and Lynx, dated January 1, 2023, and
- c) Lynx’s failure to pay the Aeronautical Fees and Charges and AIF which amounts are overdue and remain unpaid despite the GTAA’s repeated demands for payment constitutes an Eligibility Default (as that term is defined in the Airline Partnership Agreement (“APA”) signed by Lynx under paragraph (a) of that definition.

Despite numerous written requests from GTAA to Lynx, starting December 2023, requiring payment of the overdue amounts, Lynx has failed to pay such amounts promptly.



torontopearson.com



Mr. Mike Woodward

Lynx

Page 2 of 3

Overdue and Outstanding Aeronautical Fees and Charges and AIF (CAD\$)

The total amount of the Aeronautical Fees and Charges and AIF owing by Lynx as of the date of this letter is \$2,441,284.71 and is itemized in the table set out below:

As at February 16, 2024

Transaction Number	Transaction Type	Invoice Date	Outstanding Amount
23022956	CHECKIN	12/4/2023	42,708.14
23023011	AL-AERO	12/4/2023	370,461.13
23023113	APRON FEE	12/4/2023	37,141.94
23023472	AL-AERO	12/18/2023	396,587.47
23023582	APRON FEE	12/19/2023	39,781.51
23023818	IT SERVICE	12/22/2023	117.52
24001001	CHECKIN	1/3/2024	57,893.05
24001056	AL-AERO	1/3/2024	457,328.46
24001146	APRON FEE	1/3/2024	44,077.24
24001268	APRON FEE	1/8/2024	3,919.70
			1,450,016.16

AIF

Transaction Number	Transaction Type	Invoice Date	Outstanding Amount
24003311	AIF	2/6/2024	455.62
24003312	AIF	2/6/2024	990,812.93
			991,268.55

**Total
Overdue \$2,441,284.71**

The GTAA hereby demands payment of the total Overdue and Outstanding Aeronautical Fees and Charges and AIF as set out above by **5:00 pm Toronto time on February 21, 2024.**

If the GTAA has not received from Lynx the total overdue and outstanding amount of \$2,441,284.71 CAD by the deadline set out in the immediately preceding paragraph, the GTAA may, without limiting any other remedies available to the GTAA, immediately draw against the Letter of Credit (“LC”) security held by the GTAA for the amount overdue and outstanding without further notice to Lynx.

If the GTAA applies all or any part of the LC security deposit as set out above, this does not alter Lynx’s obligation to maintain and/or replenish a security deposit in accordance with the GTAA’s credit policy in respect of Lynx’s aeronautical activity at Toronto Pearson.



Mr. Mike Woodward
Lynx
Page 3 of 3

The GTAA reserves all rights and remedies available to it including, without limitation, under Section 13.5 of the GTAA Rules, at law, in equity, and under statute to collect any amounts owing by Lynx up to and including seizing and detaining aircraft, all without further notice to you.

Airline Partnership Agreement

On January 9, 2024, the GTAA issued Lynx a Notice of Non-Compliance under the GTAA Rules. Furthermore, Lynx's failure to pay the overdue Aeronautical Fees and Charges and AIF constitutes an Eligibility Default (as described above) under the APA. In addition, this Notice of Default constitutes a further Notice of Non-Compliance under the GTAA Rules.

We remind Lynx that to be eligible to receive Rebates under the APA, Lynx must comply with the terms and conditions of the APA including, without limitation, Section 2 Program Conditions (sections 2.1, 2.2., 2.3 and 2.4), failing which Lynx will not be eligible for Rebates and the GTAA may avail itself of the remedies set out in the APA.

Please direct all communication regarding this Notice of Default to the undersigned.

Yours truly,

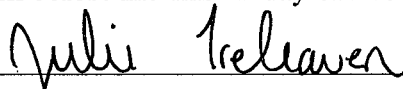
A handwritten signature in black ink that reads "Mark Leung".

Mark Leung

Associate Director, Accounting Services

Cc: Peter Humele, Legal Counsel (GTAA)

This is **Exhibit "10"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor



Delta TechOps
1775 M H Jackson Service Road
Atlanta, GA 30354-3743

February 17, 2024

Mr. Jim Sullivan
1263343 Alberta Inc. dba Lynx Air
3215 12th Street NE
Calgary, Alberta, Canada
T2E 7S9

Dear Mr. Sullivan:

SUBJECT: Non-Payment Notification to Lynx Air

This letter is in reference to the overdue invoices that are for services provided under the Complete Fleet Services Agreement ("CFS") dated September 20th, 2022 between 1263343 Alberta Inc. dba Lynx Air ("Lynx") and Delta Air Lines, Inc. ("Delta")

Delta hereby formally notifies Lynx that Lynx is past due on the following invoices:

Todays Date		2/15/2024		
Invoice	Due Date	Days Past Due	Description	Amount
91095095	1/6/2024	40	Component O&A	\$ 8,904.00
91095096	1/6/2024	40	Engineering O&A	\$ 4,116.00
91095098	1/6/2024	40	Engineering O&A	\$ 70,812.95
91096220	1/17/2024	29	Line MTC O&A Mar-Apr 23	\$ 103,185.50
91096221	1/17/2024	29	Component O&A	\$ 40,721.16
91098409	2/3/2024	12	Line MTC O&A May-Jun 23	\$ 83,270.25
91098410	2/3/2024	12	December PBH 23	\$ 992,101.87
91099141	2/9/2024	6	Line MTC O&A Jul-Aug 23	\$ 181,196.65
91099144	2/9/2024	6	Q1 2024 Fleet Integration Fee	\$ 139,991.11
91099601	2/15/2024	0	2023 Recon	\$ 571,179.03
91101064	2/24/2024	-9	Line MTC O&A Sep-Oct 23	\$ 117,128.81
91102845	3/7/2024	-21	January PBH 2024	\$ 970,138.64
91103426	3/10/2024	-24	Non-Covered Materials	\$ 48,984.60
Total				\$ 3,331,730.57
Past Due				\$ 2,195,478.52

Mr. Jim Sullivan
February 17, 2024
Page 2

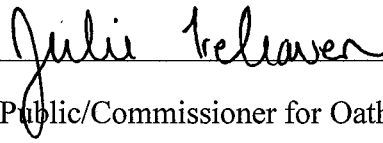
If Lynx does not make full payment to cure such non-payment on the referenced invoices within 5 business days of this notice, Delta has the option to suspend its performance in accordance with section 5.7 of the CFS. Further, Delta also needs the Letter of Credit fulfilled in accordance with section 4.11 of the CFS.

We look forward to Lynx promptly paying the aforementioned overdue invoices. Delta remains available to discuss payment logistics, if necessary.

Sincerely,

William Karow
Director - MRO Services
Delta Air Lines, Inc.
TechOps

This is **Exhibit “11”** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

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Dated: December 20, 2018

ENERJET HOLDCO INC.

and

**1263343 ALBERTA INC.,
DOING BUSINESS AS ENERJET**

and

INDIGO NORTHERN VENTURES LP

NOTE PURCHASE AGREEMENT

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THIS NOTE PURCHASE AGREEMENT is executed as of December 20, 2018 and made
BETWEEN

- (1) **ENERJET HOLDCO INC.** (the “**Company**”), a company registered under the laws of Alberta whose registered office is at 123-1440 Aviation Park NE, Calgary, Alberta, T2E 7E2;
- (2) **1263343 Alberta Inc.**, doing business as Enerjet (the “**Guarantor**” and also referred to herein as the “**Subsidiary**”), a company registered under the laws of Alberta whose registered office is at 123-1440 Aviation Park NE, Calgary, Alberta, T2E 7E2; and
- (3) **INDIGO NORTHERN VENTURES LP** (“**Indigo**”), an exempted limited partnership registered under the laws of the Cayman Islands whose registered office is at c/o Maples Corporate Services Limited, PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands.

BACKGROUND:

- (A) Indigo has agreed to purchase up to the Equivalent Amount in Canadian Dollars of US\$54,100,000 (such U.S. Dollar amount, the “**Indigo Commitment**”) principal amount of Notes in accordance with the provisions of this Agreement.
- (B) The Parties have agreed to enter into this Agreement to govern the terms on which the Notes are to be issued by the Company and held by the Noteholders.

THE PARTIES AGREE AS FOLLOWS:

In consideration of the premises and the covenants and agreements herein set forth, the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement:

“**Additional Financings**” shall have the meaning ascribed to such term in paragraph 2.2 of Schedule 2;

“**Adherence Agreement**” means a joinder to this Agreement substantially in the form set out in Schedule 7;

“**Affiliate**” means, in relation to any Person, a Subsidiary of that Person or any direct or indirect Holding Company of that Person or any other direct or indirect Subsidiary of any such Holding Company;

“**Agency**” means the Canadian Transportation Agency, or any successor agency thereto;

“**Agreement**” means this Note Purchase Agreement dated December 20, 2018;

“**Anti-Corruption Laws**” means all laws, rules, and regulations of any jurisdiction applicable to the Company or its Subsidiaries from time to time concerning or relating to bribery or corruption, including, without limitation, the *Corruption of Foreign Public Officials Acts* (Canada) and the U.S. Foreign Corrupt Practices Act.

“**Authorisation**” means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;

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“Authorised Expenses” means the legal fees of Blake, Cassels & Graydon, LLP, incurred in connection with: (a) the negotiation and documentation of the term sheet relating to this Agreement; and (b) the negotiation and documentation of the Transaction Documents and all ancillary documents connected thereto;

“BIA” means the *Bankruptcy and Insolvency Act (Canada)*, as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation;

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

“Business Day” means any day (other than Saturday or Sunday) which is not a public holiday and on which banks are open for normal banking business in Toronto, Ontario, Calgary, Alberta and New York, New York;

“Canadian” shall have the meaning ascribed to such term in the CTA, as supplemented by the Exemption;

“Canadian Benefit Plan” means any plan, fund, program, or policy, whether oral or written, formal or informal, funded or unfunded, insured or uninsured, providing employee benefits, including medical, hospital care, dental, sickness, accident, disability, life insurance, pension, retirement or savings benefits, under which the Company or its Subsidiaries has any liability with respect to any employee or former employee, but excluding any Canadian Pension Plan.

“Canadian Pension Plan” means each pension plan required to be registered under Canadian federal or provincial law that is maintained or contributed to by the Company or its Subsidiaries for its employees or former employees, but does not include the Canada Pension Plan as maintained by the Government of Canada.

“Capital Event” shall have the meaning ascribed to such term in Condition 15.1;

“Cash Equivalents” means any of the following:

- (a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the Government of Canada or of any Canadian province (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the Government of Canada or of such Canadian province), in each case maturing within one year from the date of acquisition thereof;
- (b) investments in certificates of deposit, bankers' acceptances and time deposits maturing within 180 days from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of Canada or of any Canadian province which has a combined capital surplus and undivided profits of not less than \$500,000,000 and a senior unsecured rating of “A-” or better by S&P and “A3” or better by Moody's;
- (c) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the Government of the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the Government of the United States of America), in each case maturing within one year from the date of acquisition thereof;

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- (d) marketable and freely tradeable securities evidencing direct obligations of corporations, hospitals, municipal boards or school boards having, at the date of acquisition, a rating from DBRS of A, from Moody's of A 2 or from S&P of A, in each case maturing within 180 days from the date of acquisition thereof; or
- (e) deposits in bank accounts made in the ordinary course of business and otherwise permitted hereunder;

"Cash Shortfall Notice" shall have the meaning ascribed to such term in paragraph 2.1 of Schedule 2;

"CCAA" means the *Companies' Creditors Arrangement Act* (Canada), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation;

"Class A Common Shares" shall have the meaning ascribed to such term in the Noteholders' and Shareholders' Agreement;

"Class B Common Shares" shall have the meaning ascribed to such term in the Noteholders' and Shareholders' Agreement;

"Common Shares" shall have the meaning ascribed to such term in the Noteholders' and Shareholders' Agreement;

"Company Bank Account" means the bank account of the Company, the details of which are as follows:

Account:	1263343 Alberta Inc.
Bank:	ATB Financial 239-8 th Avenue SW, Calgary, Alberta T2P 1B9
Bank Code:	219
Transit /Branch:	07609
Account:	00128048124
Swift Code:	ATBCA6EXXX

"Completion" means performance of the obligations set forth in clause 4 provided always that Completion shall under no circumstances occur unless the Indigo Note Amount (less the Indigo Arrangement Fee and the Pre-Completion Expenses) shall have been received in the Company Bank Account for value in immediately available funds;

"Completion Date" means the date on which Completion occurs;

"Conditions" means the conditions and other provisions of the Notes set out in Schedule 11;

"Confidential Information" means any information, whether acquired before or after the date of this Agreement, that relates to:

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- (a) this Agreement;
- (b) any member of the Group or their respective businesses;
- (c) any of the Group's customers, businesses, assets, contracts, employees or affairs; and
- (d) any Party or any of their Affiliates, in each case, in respect of their identity, their being a party to this Agreement and their holdings of Notes and/or Common Shares and making an investment in the Group or any other information relating to any of the foregoing that has been obtained pursuant to the negotiation of this Agreement or any of the documents referred to herein,

save for, in each case:

- (i) information that is independently developed by the relevant Person from information that was neither: (A) provided pursuant to this Agreement; (B) provided by any member of the Group or any Party; nor (C) provided by a third party to the extent that it was provided with any limitation on disclosure or obligation of confidence; or
- (ii) information which is at the date of disclosure within the public domain (otherwise than as a result of a breach of this Agreement);

"Control" shall have the meaning ascribed to such term in the definition of "Affiliation" in the CTA. **"Controlling"** and **"Controlled"** have meanings correlative thereto;

"Controlling Interest" means a direct or indirect beneficial interest in more than 50% of the Fully Diluted Share Capital, or the ability of any Person, either alone or in conjunction with Persons acting in concert with such Person to control a direct or indirect beneficial interest in more than 50% of the Fully Diluted Share Capital, as the context requires;

"Conversion Date" means, in respect of any conversion of Notes, the date on which the Company is required to issue the Conversion Shares to the relevant Noteholder pursuant to the conversion of such Notes;

"Conversion Shares" means, in respect of any Notes, the Class B Common Shares that would result from the conversion of such Notes in accordance with their terms and the relevant provisions of this Agreement and as calculated in accordance with the provisions of Condition 13.1;

"Converting Noteholder" shall have the meaning ascribed to such term in Condition 10.2;

"Corporate Articles" means the articles of incorporation of the Company in the Agreed Form;

"Covenants" shall have the meaning ascribed to such term in clause 12;

"CTA" means the *Canada Transportation Act*, as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation;

"Days Cash" means the total cash expenses of the Group for the latest quarterly reporting period divided by the days in such quarterly reporting period multiplied by the relevant number of days;

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“**DBRS**” means Dominion Bond Rating Service Limited, or its successor.

“**Default**” means an Event of Default or any event or circumstance specified in Schedule 12 which would (with the expiry of a grace period, the giving of notice, the making of any determination by the Noteholder that it is entitled to make under any of the Transaction Documents or any combination of the foregoing) be an Event of Default;

“**Default Rate**” means, at any time, the applicable Interest Rate plus 1%;

“**Director**” means a member of the Board;

“**Dollar**”, “**Canadian Dollar**”, “**\$**” and “**CAD**” means the lawful currency of Canada for the time being, unless an explicit reference is made to U.S. or other currency;

“**Equivalent Amount**” means, with respect to any specified amount of currency other than Canadian Dollars, the amount of Canadian Dollars that may be purchased with such amount of other currency at the spot wholesale transactions buying rate of The Royal Bank of Canada for the purchase of Canadian Dollars with such other currency in effect as of 11:00 a.m. on the Business Day with respect to which such computation is required for the purpose of this Agreement or, in the absence of such a buying rate on such date, using such other rate as the Lender may reasonably select.

“**Event of Default**” means any event or circumstance specified in Schedule 12;

“**Exemption**” means the exemption order issued by the Minister of Transport to the Guarantor on December 2, 2016 relating to the CTA;

“**Financial Indebtedness**” means, without double counting, any indebtedness for or in respect of:

- (a) moneys borrowed or raised (including overdrafts);
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, shares or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a finance or capital lease;
- (e) receivables sold, discounted or factored (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised by the issue of redeemable shares if the shares are redeemable automatically or at the relevant shareholder’s option before the Redemption Date;
- (g) any amount of any liability under an advance or deferred purchase agreement if: (i) one of the primary reasons behind entering into the agreement is to raise financing; or (ii) the agreement is in respect of the supply of material assets or services and payment is due more than 60 days after the date of supply;
- (h) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account);

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- (i) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution;
- (j) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing; and
- (k) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (j) above;

"First Anniversary" means the date falling one year after the Completion Date;

"Fourth Anniversary" means the date falling four years after the Completion Date;

"Fully Diluted Share Capital" means, at any time, the aggregate number of Common Shares that would be issued assuming the conversion (in full) of all Notes (whether or not, on their terms, the same are actually convertible into Common Shares at such time);

"GAAP" means in relation to any Person, the generally accepted accounting principles in Canada as in effect from time to time;

"Group" means the Company and its Subsidiaries from time to time;

"Holding Company" means, in relation to a corporation, any other corporation in respect of which it is a Subsidiary;

"Indigo Arrangement Fee" means the US\$1,000,000 arrangement fee payable to Indigo Partners LLC pursuant to clause 10;

"Indigo Note Amount" shall have the meaning set out in clause 2.1;

"Interest Option" shall mean Indigo's rights pursuant to clause 13.1;

"Interest Rate" means 10% per annum;

"Initial Notes" means the convertible promissory notes (substantially in the form set out in Schedule 9) to be issued by the Company to Indigo pursuant to and in accordance with clause 2.1;

"IPO" means an initial public offering, whether on a treasury or secondary basis, resulting in the holding of equity of the Company, directly or indirectly, by the public, or a transaction giving rise to a stock market listing on any Recognised Securities Exchange or over-the-counter quotation of equity of the Company, directly or indirectly, and includes an amalgamation, securities exchange take-over bid or other transaction having a similar result, and an offering of units of an income trust or similar offering where the trust, directly or indirectly, owns equity of the Company

"IPO Conversion Notice" shall have the meaning ascribed to such term in Condition 12.4;

"Lenders" means Indigo (and any Person to whom Indigo has transferred any Notes in accordance with the terms of this Agreement);

"Material Adverse Effect" means, in the reasonable opinion of Indigo, a material adverse effect on:

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- (a) the ability of any member of the Group to pay any amount of principal or interest or other amount (if payable in cash) in respect of the Notes or to perform any of its material obligations under this Agreement; or
- (b) the business, operations, property, condition (financial or otherwise) or prospects of the Group taken as a whole;

“**Moody’s**” means Moody’s Investors Service, Inc.;

“**New Note Funds**” means the money received by the Company pursuant to the sale of Notes in accordance with clause 2;

“**Non-Canadian**” means any Person that does not qualify as Canadian;

“**Non-Indigo Party**” means any Party other than Indigo (and any Person to whom Indigo has transferred any Notes in accordance with the terms of this Agreement);

“**Note Conversion Notice**” shall have the meaning ascribed to such term in Condition 10.3;

“**Noteholder**” means any holder for the time being of Notes;

“**Noteholder Resolution**” shall have the meaning ascribed to such term in paragraph 2.1 of Schedule 8;

“**Noteholders’ and Shareholders’ Agreement**” means the noteholders’ and shareholders’ agreement entered into on or around the date of this Agreement by and between the Company, the Subsidiaries, Indigo, the Noteholders and the Shareholders (in each case, as defined therein);

“**Notes**” means, collectively, the Initial Notes and the Subsequent Notes;

“**Obligor**” means the Company or the Guarantor, and the term “**Obligors**” means the Company and the Guarantor;

“**Obligor Warranties**” the statements set out in Schedule 5;

“**Ordinary Course of Business**” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“**Outstanding Expenses**” shall have the meaning ascribed to such term in clause 10.5(B);

“**Ownership and Control Requirements**” means the rules or regulations governing the ownership and control of Canadian airlines constituted pursuant to the federal laws of Canada including (without limitation) the CTA, as supplemented by the Exemption;

“**Party**” means a party to this Agreement;

“**Permitted Transferee**” means, in respect of a Lender:

- (a) any Subsidiary or Holding Company of such Lender;
- (b) any company, fund (including any unit trust or investment trust), partnership or other entity which is Controlled by any entity falling within (a) above (or by any two or more such entities);

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- (c) any company, fund (including any unit trust or investment trust), partnership or other entity the major part of the assets of which are managed (whether solely or jointly with others) from time to time by any entity falling within (a) and/or (b) above (or by any two or more such entities); or
- (d) any company, fund (including any unit trust or investment trust), partnership or other entity that is managed by or Controlled by the same Person or Persons who manage or Control the Lender at the date of this Agreement;

"Person" includes any natural person, corporation, company, limited liability company, trust, joint venture, association, incorporated organization, partnership, governmental authority or other entity;

"Pre-Completion Expenses" shall have the meaning ascribed to such term in clause 10.3(B);

"Proposed Conversion Date" shall have the meaning ascribed to such term in Condition 10.2;

"Qualifying Takeover Offer" shall have the meaning ascribed to such term in the Noteholders' and Shareholders' Agreement;

"Required New Cash" shall have the meaning ascribed to such term in paragraph 2.1 of Schedule 2;

"Recognised Securities Exchange" means the Toronto Stock Exchange or any other recognized securities exchange in Canada or the United States of America;

"Redemption Date" shall mean the fifth anniversary of the Completion Date (or, if such fifth anniversary is not a Business Day, the next Business Day thereafter), or such other date as may be determined pursuant to clause 18.3 or Condition 3.6 of Schedule 11;

"Register" means the register of the Notes required to be maintained by the Company pursuant to clause 9 of this Agreement;

"Relevant Conversion Price" means \$1.00, subject to adjustment on a pro-rata basis in the event that the Company effects any share split, consolidation, sub-division or other reorganization of any part of its share capital after the date of this Agreement, which such price shall be equal to the price of the Common Shares on the date of this Agreement;

"S&P" means Standard & Poor's Ratings Services, a division of the McGraw-Hill Companies, Inc.

"Sanctions" means, at any time, economic or financial sanctions or trade embargoes imposed, administered or enforced by (a) the Office of Foreign Assets Control of the U.S. Department of Treasury; or (b) any other governmental authority that are applicable to any party at such time.

"Sanctioned Person" means, at any time, any Person with whom any party is prohibited or restricted from transacting or otherwise dealing under any Sanction, whether by reason of designation under such Sanction or otherwise.

"Second Anniversary" means the date falling two years after the Completion Date;

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“Security” means, (a) with respect to any asset, any mortgage, deed of trust, lien (statutory or otherwise), deemed trust, pledge, hypothec, hypothecation, encumbrance, charge, security interest, royalty interest, adverse claim, defect of title or right of set off in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, title retention agreement or consignment agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to any asset, (c) any purchase option, call or similar right of a third party with respect to such assets, (d) any netting arrangement, defeasance arrangement or reciprocal fee arrangement, and (e) any other arrangement having the effect of providing security;

“Security Documents” means the documents that constitute the Security required to be granted or put in place pursuant to clause 14 and Schedule 6;

“Shareholder” means a shareholder of the Company;

“Specified Percentage” shall have the meaning ascribed to such term in Condition 13.2;

“Subsequent Notes” means the convertible promissory notes (substantially in the form set out in Schedule 9) to be issued by the Company to Indigo pursuant to and in accordance with clause 2.2;

“Subsidiary” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“Takeover Conversion Notice” shall have the meaning ascribed to such term in Condition 11.3;

“Takeover Offer” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“Tax” means all taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, harmonized sales, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, real property and personal property taxes, and any other taxes, customs duties, fees, assessments, or similar charges in the nature of a tax, including *Canada Pension Plan* and provincial pension plan contributions, employment insurance payments and workers’ compensation premiums, together with any instalments with respect thereto, and any interest, fines and penalties with respect thereto, imposed by any governmental authority (including federal, state, provincial, municipal and foreign governmental authorities), and whether disputed or not;

“Third Anniversary” means the date falling three years after the Completion Date;

“Transaction Documents” means this Agreement, the Noteholders’ and Shareholders’ Agreement, the Security Documents, and each other agreement or document entered into or executed pursuant to any of the foregoing;

“Transferring Noteholder” shall have the meaning ascribed to such term in Condition 6.1 of the Conditions;

“Unrestricted Cash Balance” means, at any time, the aggregate amount of unrestricted cash and Cash Equivalents held by an Obligor at such time, in accounts maintained with a financial institution that has executed an account control agreement, blocked account

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agreement or other similar agreement (in each case, in form and substance satisfactory to Indigo, acting reasonably) in favour of Indigo;

“**Winding-Up**” means, in respect of any Person,

- (a) that such Person:
 - (i) admits in writing that it is insolvent as they generally become due;
 - (ii) commits an act of bankruptcy under the BIA, files a voluntary assignment in bankruptcy under the BIA, makes a proposal (or files a notice of its intention to do so) under the BIA or seeks any other relief in respect of itself under the BIA;
 - (iii) institutes any proceedings seeking relief in respect of itself under the CCAA;
 - (iv) institutes any proceeding seeking relief in respect of itself under the WURA;
 - (v) in addition to the forgoing, institutes any other proceeding seeking: (a) to adjudicate itself an insolvent person or a bankrupt; (b) to liquidate, dissolve or wind-up its business or assets; (c) to compromise, arrange, adjust or declare a moratorium in respect of the payment of, its debts; (d) to stay the rights of creditors generally (or any class of creditors); (e) any other relief in respect of itself under any federal, provincial or foreign applicable Law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, receivership, restructuring of business, assets or debt, reorganization of business, assets or debt or protection of debtors from their creditors (such applicable Law includes any applicable corporations legislation to the extent the relief sought under such corporations legislation relates to or involves the compromise, settlement, adjustment or arrangement of debt); or (f) any other relief which provides for plans or schemes of reorganization, plans or schemes of arrangement or plans or schemes of compromise, in respect of itself, to be submitted or presented to creditors (or any class of creditors);
 - (vi) applies for the appointment of, or has a receiver (either court or privately appointed), interim receiver, receiver/manager (either court or privately appointed), sequestrator, conservator, custodian, administrator, trustee, liquidator or other similar official appointed in respect of it, or any substantial part of its property; or
 - (vii) threatens to do any of the foregoing, or takes any action, corporate or otherwise, to approve, effect, consent to or authorize any of the actions described in (i) to (vi) above; or
- (b) that any petition is filed, application made or other proceeding instituted against or in respect of any Person:
 - (i) seeking to adjudicate it an insolvent person;
 - (ii) seeking a bankruptcy order against it under the BIA;
 - (iii) seeking to institute proceedings against it under the CCAA;
 - (iv) seeking to institute proceedings against it under the WURA;

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- (v) seeking, in addition to the forgoing: (a) to adjudicate it an insolvent person or a bankrupt; (b) to liquidate, dissolve or wind-up its business or assets; (c) to compromise, arrange, adjust or declare a moratorium in respect of the payment of, its debts; (d) to stay the rights of creditors generally (or any class of creditors); (e) any other relief in respect of it under any federal, provincial or foreign applicable Law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, receivership, restructuring of business, assets or debt, reorganization of business, assets or debt, or protection of debtors from their creditors (such applicable Law includes any applicable corporations legislation to the extent the relief sought under such corporations legislation relates to or involves the compromise, settlement, adjustment or arrangement of debt); or (f) any other relief which provides plans or schemes of reorganization, plans or schemes of arrangement or plans or schemes of compromise in respect of it, to be submitted or presented to creditors (or any class of creditors); or
- (vi) seeking the issuance of an order for the appointment of a receiver, interim receiver, receiver/manager, sequestrator, conservator, custodian, administrator, trustee, liquidator or other similar official in respect of it or any substantial part of its property; and

“**WURA**” means the *Winding Up and Restructuring Act* (Canada), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

1.2 In this Agreement, unless a contrary indication appears:

- (a) references to “**clauses**” and “**Schedules**” are references to clauses of and schedules to this Agreement, references to “**paragraphs**” are references to paragraphs of the Schedule (or clause) in which the reference appears and references to this Agreement include the Schedules;
- (b) reference to any gender shall include every other gender;
- (c) the singular shall include the plural and vice versa;
- (d) the headings and sub-headings are inserted for convenience only and shall not affect the construction of this Agreement;
- (e) references to dollars means Canadian Dollars unless an explicit reference is made to U.S. or other currency;
- (f) references to “**indebtedness**” include any obligation (whether incurred as principal, as guarantor or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (g) references to a “**regulation**” include any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or reorganisation;
- (h) references to “**Indigo**”, any “**Noteholder**”, any “**Shareholder**”, any “**Lender**”, and/or any “**Party**” shall be construed so as to include its successors, permitted assigns and permitted transferees;

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- (i) references to any document being in “**Agreed Form**” are to that document in the form signed by or on behalf of each of the Lenders, the Company and the Guarantor for the purposes of identification;
- (j) references to “**assets**” include present and future properties, revenues and rights of every description;
- (k) references to any agreement or instrument is a reference to that agreement or instrument as amended, varied, supplemented or novated (however fundamentally) from time to time but excluding for these purposes any amendment, variations, supplement or novation which is contrary to the provisions of any such agreement or instrument;
- (l) references to “**guarantee**” mean any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assure any indebtedness of any Person or to make an investment in or loan to any Person or to purchase assets of any Person where, in each case, such obligation is assumed in order to maintain or assist the ability of such Person to meet its indebtedness (and “guaranteed” and “guarantor” shall be construed accordingly); and
- (m) references to a provision of law are references to that provision as amended or re-enacted and include any subordinate legislation.

2. SALE OF NOTES

- 2.1 Indigo hereby agrees to purchase Initial Notes at Completion for \$12,179,529 (the “**Indigo Note Amount**”) on the terms and subject to the conditions set out in this Agreement.
- 2.2 Upon the conditions being set out in Schedule 2 being met, Indigo hereby agrees to purchase Subsequent Notes.

3. INTEREST

The Notes shall each bear interest at the rate and in accordance with the provisions set forth in Condition 4 of the Conditions.

4. COMPLETION

- 4.1 Subject to the terms of this Agreement, completion shall take place as soon as reasonably possible after the last of the conditions in clause 5 has been satisfied (or waived in accordance with clause 5.2) provided that this Agreement shall lapse and be of no further force and effect if Completion shall not have occurred by the earlier of:
 - (A) June 30, 2019; and
 - (B) the Winding-Up of the Company or any Subsidiary of the Company, or such later date as Indigo may agree in writing.
- 4.2 Subject to clause 4.3, at Completion:
 - (A) Indigo will transfer the Indigo Note Amount (less the Indigo Arrangement Fee and the Pre-Completion Expenses) to the Company Bank Account by direct credit transfer; and

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(B) the Company shall execute and deliver to Indigo the Initial Notes required to be issued pursuant to clause 2.1 of this Agreement, each of which will be issued in Indigo's name and dated as of the Completion Date.

4.3 For all purposes under this Agreement, Completion shall not be deemed to have occurred unless and until all of the obligations set forth in this clause 4 shall have been performed in full in accordance with the provisions set forth herein and the Indigo Note Amount (less the Arrangement Fees and the Pre-Completion Expenses) shall have been received in the Company Bank Account for value in immediately available funds.

5. CONDITIONS PRECEDENT

5.1 Completion is conditional on:

(A) the Company having delivered (or procured the delivery) to Indigo (or its solicitors on its behalf) the following documents:

(i) counterparts of the Noteholders' and Shareholders' Agreement duly executed by:

(1) each Shareholder; and

(2) each Noteholder;

(B) confirmation by the Company to Indigo that (i) the Guarantor's shareholders are Canadian and (ii) the Shareholders, other than Indigo, are Canadian and that such Shareholders, as of the date of this Agreement, hold 75% of the issued share capital of the Company;

(C) receipt by Indigo of an advance ruling by the Agency confirming the continued Canadian status of the Guarantor immediately following the entering into of the Transaction Documents;

(D) confirmation by the Company, to the satisfaction of Indigo, that the Guarantor's tax operating loss carryforwards and temporary differences existing at the date of this Agreement will be available to the Company upon Completion and applied against future gains of the Guarantor;

(E) receipt by Indigo of copies of the Guarantor's domestic and international air transport licenses and air operator's certificate listing the type of aircraft operated or to be operated by the Guarantor, certified to be true, complete and up to date by a duly authorised officer of the Guarantor;

(F) confirmation by the Company, to the satisfaction of Indigo, that no event or circumstance exists or has occurred which constitutes a default under any agreement or instrument which is binding on it or the Group or to which its or any of the Group's assets are subject which has or might have a Material Adverse Effect;

(G) receipt by Indigo of copies of all of the valid and existing documentation relating to the agreed post-Completion repayment agreement of outstanding loans by any aircraft manufacturer which expressly includes the extinguishment of any purchase commitments for aircraft by any of the Group;

(H) receipt by Indigo of copies of all of the valid and existing employment agreements between the Company and each of T.W. Morgan and Darcy Morgan, which

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supercedes such individual's employment agreements with the Guarantor, outlining such individual's roles and responsibilities, to be mutually acceptable by both parties, acting reasonably;

- (I) confirmation by the Company, to the satisfaction of Indigo, that none of the Group's debt (including, without limitation, any debt payable to any Shareholder) which exists as of the date hereof, will be repaid, rescheduled or modified in any way (other than the payments of any accounts payable in the ordinary course of business or any interest and principal scheduled under existing terms) unless approved by Indigo in writing;
- (J) receipt by Indigo of copies of executed documents confirming the Guarantor's settlement and payment terms for obligations owed by any of the Group to any of T.W. Morgan, Darcy Morgan, David Lancelot, Curtis Berchtold, and Cameron Trant or any Person or entity presently or formerly owned by, related to, or affiliated or associated with these individuals or otherwise establish current liabilities for any such obligation of such member of the Group. Any obligation of the Guarantor to provide the Company with common equity, options or restricted stock to these or other current or former Guarantor employees or directors will be extinguished and recast in new employment agreements, to be entered into on terms satisfactory to Indigo; and
- (K) confirmation by the Company, to the satisfaction of Indigo, that the Company has made full and fair disclosure of the circumstances surrounding, and the terms and conditions of, all agreements between the Company and any Person or entity presently or formerly owned by, related to or affiliated or associated with T.W. Morgan or Darcy Morgan (including without limitation any member of the board of directors and any shareholder of the Guarantor), and the determination by Indigo, in its sole discretion, that each of those agreements reflects market conditions and "arm's length" terms.

5.2 Indigo may agree to waive all or any part of the conditions in clause 5.1 or to modify such conditions.

6. POST-COMPLETION OBLIGATIONS

6.1 As soon as reasonably practicable following Completion, the Company shall comply with its obligations under clause 14.

7. PURPOSE

7.1 Subject to clause 7.3, the Company shall apply the New Note Funds towards:

- (A) making intra-group loans to, or equity investments in, the Subsidiary to enable such Subsidiary to discharge amounts referred to in clause 7.2;
- (B) payment and discharge of all amounts due to airports and air navigation authorities (including, without limitation, NAV Canada) or amounts owed relating to emission schemes now and from time to time arising;
- (C) payment and discharge of all amounts due to any repairer, servicer or hangarkeeper to the extent that any such amount may give rise or create an encumbrance or lien on any aircraft or engine operated by the Company; and/or

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(D) general working capital purposes,

but not towards the making of acquisitions of or investments in companies, businesses or undertakings other than as contemplated in clause 7.1(A) above.

7.2 For so long as any Notes remain outstanding, the Company shall procure that the New Note Funds are applied as follows:

(A) first, immediate payment and discharge of all amounts due to airports and air navigation authorities (including, without limitation, NAV Canada) and amounts owed relating to emission schemes now and from time to time arising;

(B) second, immediate payment and discharge of all amounts due to any repairer, servicer or hangarkeeper to the extent any such amount may give rise or create an encumbrance or lien on any aircraft or engine operated by the Company;

(C) thirdly, general working capital purposes; or

(D) fourthly, any other purpose approved by the Lenders in writing.

7.3 Notwithstanding any other provision contained in this Agreement, (A) the Guarantor will not engage, and will not use the New Note Funds to engage, to any material extent, in any material business other than business of providing a low fare, low cost airline, and (B) the Company will not, and will not use the New Note Funds to, (i) engage in any business (other than non-operating business and management services, in each case typically conducted by a holding company), (ii) own any assets (other than bank accounts and shares in the Guarantor), (iii) incur any indebtedness (other than that as approved by the Lenders), or (iv) incur any expenses other than customary and reasonable administrative expenses associated with maintaining its corporate existence.

7.4 The Lenders are not bound to monitor or verify the application of any amount borrowed pursuant to this Agreement and the Lenders will not be responsible for, or for the consequences of, any such borrowing.

8. CERTIFICATES

8.1 Every certificate for Notes shall be in the form or substantially in the form set out in Schedule 9 and shall have endorsed thereon or attached thereto:

(A) a conversion notice in the form or substantially in the form set out in Schedule 10; and

(B) a copy of the Conditions.

8.2 Every Noteholder shall be entitled, without charge, to one certificate for the Notes held by it save that joint holders shall be entitled to one certificate only in respect of the Notes held by them jointly which certificate shall be delivered to the holder whose name stands first in the Register in respect of such joint holding. The Company shall not be bound to register more than four Persons as joint holders of any Notes.

8.3 Where some but not all of the Notes comprised in any certificate are transferred or repaid, the Company shall forthwith issue free of charge to the relevant Noteholder a fresh certificate in accordance with the other provisions of this Agreement for the balance of the Notes retained by such Noteholder.

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8.4 The Company hereby undertakes and covenants that for such time as any of the Notes remain outstanding, the Company shall carry on and conduct its affairs so as to comply with:

- (A) the provisions contained in the certificates for the Notes;
- (B) the Conditions;
- (C) the provisions of this Agreement, including (without limitation) the provisions of:
 - (i) Schedule 6;
 - (ii) Schedule 12; and
 - (iii) Schedule 13,

and the Notes shall be held subject to and with the benefit of such provisions and Conditions all of which shall be deemed to be incorporated in this Agreement and which shall be binding upon the Company and the Noteholders and all Persons claiming through or under them respectively with the intent that the Notes shall enure for the benefit of each Noteholder who shall, for the avoidance of doubt, be entitled to sue for the performance and observance of such provisions and Conditions in respect of any Notes held by such Noteholder.

9. REGISTER

9.1 The Company shall keep an accurate register of the Notes at its registered office or at such other place as the Directors may determine from time to time and there shall be entered in the Register:

- (A) the names, addresses and nationality for the purposes of the Ownership and Control Requirements of the holders for the time being of the Notes;
- (B) the nominal amount of the Notes held by every registered holder;
- (C) the date upon which the name of every such registered holder is entered in respect of the Notes standing in its name;
- (D) the serial number of each Note; and
- (E) details of any account designated by any Noteholder for the purpose of receiving payments pursuant to the terms of the Notes.

9.2 Any change of name, address or nationality on the part of any Noteholder shall be notified as soon as is reasonably practicable to the Company and the Company shall amend the Register accordingly.

9.3 Any Noteholder and any Person authorized by any Noteholder shall be at liberty at all reasonable times during office hours to inspect the Register and to take copies of or extracts from the Register or any part thereof and shall be entitled to obtain from the Company by telephone or by facsimile confirmation of its registered address and the aggregate nominal amount of the Notes in issue from time to time.

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10. FEES AND EXPENSES

- 10.1 In consideration for Indigo agreeing to enter into this Agreement and for other valuable consideration, the Company will pay (for and on behalf of itself and the Subsidiaries) the following fees and expenses:
- (A) the Indigo Arrangement Fee to Indigo Partners LLC, in accordance with clause 10.2 below; and
 - (B) the Authorised Expenses, in accordance with clauses 10.2 to 10.6 below.
- 10.2 Indigo shall deduct the Indigo Arrangement Fee from the Indigo Note Amount prior to the transfer of the same to the Company pursuant to clause 2.1 above.
- 10.3 Prior to Completion, Indigo shall deliver to the Company a statement containing an itemised list of the Authorised Expenses as follows:
- (A) those Authorised Expenses actually incurred by Indigo in respect of the period up to Completion (together with invoices or other supporting evidence of the same, which may include a letter from the relevant law firm setting out the amounts due to it by Indigo);
 - (B) a reasonable estimate (if necessary) of any Authorised Expenses that remain to be incurred by Indigo in respect of the period up to Completion;
- (the Authorised Expenses referred to in clauses 10.3(A) and 10.3(B) being the “**Pre-Completion Expenses**”).
- 10.4 Indigo will deduct the Pre-Completion Expenses from the Indigo Note Amount prior to the transfer of the same to the Company pursuant to clause 2.1 above.
- 10.5 Within 15 Business Days after the execution of the last document required to be executed in connection with the Security, Indigo will submit a final statement to the Company setting out the following:
- (A) the aggregate amount of the Lenders' Authorised Expenses incurred by the Lender; and
 - (B) the amount of Lenders' Authorised Expenses (if any) that remains due to such Lender (the “**Outstanding Expenses**”), being the amount referred to in clause 10.5(A).
- 10.6 If there are Outstanding Expenses, Indigo shall deliver copies of invoices in respect of the outstanding amount and the Company shall settle such invoices within 5 Business Days of receipt of the same.
- 10.7 Any fees, costs and expenses required to be paid or reimbursed to Indigo or any other Affiliates of Indigo by the Company or a Subsidiary pursuant to any of the Transaction Documents shall be paid by the Company to the maximum extent permissible by law or otherwise by the Guarantor.

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11. WARRANTIES

- 11.1 The Obligors jointly and severally warrant to each of the Lenders that each of the Obligor Warranties is true and correct on the date of this Agreement in respect of each of the Obligors.
- 11.2 The Obligors each acknowledge to the Lenders that:
- (A) they have agreed to give the Obligor Warranties in respect of itself in consideration of the execution by Indigo of this Agreement and the performance of the obligations contained herein; and
 - (B) Indigo has entered into this Agreement, and the Lenders will perform their obligations in accordance with the provisions of this Agreement, in reliance, inter alia, on the Obligor Warranties.
- 11.3 The Obligors each hereby acknowledge and agree that each of the Obligor Warranties shall be separate and independent and save as expressly provided shall not be limited by reference to any other of the Obligor Warranties or anything in this Agreement.

12. COVENANTS

- 12.1 Each of the Company and the Subsidiary give the covenants set forth in Schedule 13 (the “**Covenants**”) to the Lenders and agree the same will remain in force from the date of this Agreement for so long as the Notes remain outstanding, provided that it shall not be a breach of any covenant under this Agreement arising from the Company or any Subsidiary complying with any other specific obligation under any of the Transaction Documents apart from the Covenants.

13. INTEREST OPTION

- 13.1 At any time prior to the Third Anniversary, upon the request of the Company, Indigo, in its absolute discretion and by notice in writing delivered to the Company and each Noteholder, may agree that any of the first three interest payments prescribed by the Initial Notes shall be deferred and become due and payable by the Company on the Fourth Anniversary. For greater certainty, interest shall continue to accrue on the outstanding amount of the Notes until such interest payment is received by Indigo.

14. SECURITY

- 14.1 The Company and the Subsidiary undertake to grant, as soon as reasonably practicable following Completion, Security in favour of the Lenders substantially on the terms set out in and otherwise in accordance with the provisions of Schedule 6.

15. TRANSFERS AND ADHERENCE AGREEMENT REQUIREMENTS

- 15.1 All transfers of Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) shall be regulated in accordance with Conditions 6 to 9 (inclusive).
- 15.2 Notwithstanding any other provision contained in this Agreement, no transfer of any Note shall be made by any Person unless the transferee shall have first executed an Adherence Agreement, pursuant to which the transferee agrees to adhere to and be bound by the provisions of this Agreement (including this clause) so far as it binds the transferor of the relevant Note(s).

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- 15.3 Upon the execution of an Adherence Agreement pursuant to clause 15.2 above, the Parties (other than the transferor if the transferor retains no Notes after the relevant transfer) agree to adhere to and be bound by the provisions of this Agreement (including this clause) as if the transferee were an original party to the Agreement in place of the transferor.
- 15.4 This Agreement shall have effect accordingly, provided that no Adherence Agreement need be executed where the transferee is already a Party in the same capacity.
- 15.5 Any Party proposing to transfer any Notes in accordance with Conditions 6 to 9 (inclusive) or to direct its nominees to do so, shall procure that the transferee or the Person who will become the beneficial owner of the Notes to be transferred shall enter into an Adherence Agreement before the completion of the transfer.
- 15.6 The Company undertakes to procure, insofar as they are able to procure by the exercise of the voting rights of themselves and their nominees as shareholders of the Company and of their appointed Directors (subject to the fiduciary duties of such Directors) that:
- (A) no transfer of any Notes shall be registered unless any Adherence Agreement required by this clause 15.6 has been duly executed and delivered; and
 - (B) all necessary resolutions required to be passed to effect conversion of any Notes in accordance with the Corporate Articles are duly passed.
- 15.7 The obligations contained in this Agreement shall be binding upon the personal representatives and successors in title of the Parties but none of them shall be entitled to the benefit of this Agreement unless and until they have entered into an Adherence Agreement.

16. CONFIDENTIALITY

16.1 Obligations of Confidentiality

- (A) Each Party shall keep all Confidential Information strictly confidential and secret (and to ensure that each of its Affiliates, and its and their officers, employees, agents and professional and other advisers shall keep all Confidential Information strictly confidential and secret);
- (B) Without limitation to its general obligation of confidentiality:
 - (i) no Party shall disclose to any third party any Confidential Information;
 - (ii) no Party shall use or permit the use of any Confidential Information for any purpose other than assessing its investment in the Group and making decisions in relation to that investment;
 - (iii) each Party shall use its reasonable endeavours to alert the Company and the Lenders as soon as is reasonably practical after it becomes aware of any request from a third party for disclosure of any Confidential Information and upon the Company's reasonable request will join it in asserting against any third party that the Confidential Information and its contents are protected by privilege and that, as against such third party, that privilege has not been waived.

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16.2 General Exceptions from Confidentiality Obligations

- (A) The obligations of confidentiality under clauses 16.1(A) and 16.1(B) do not apply to:
- (i) the disclosure of information solely to the extent required to be disclosed by law, legal process, regulation or any regulatory authority provided always that prior to such disclosure, the Party proposing to disclose information pursuant to this clause 16.2(A)(i) shall immediately inform each of the Lenders and shall co-operate in good faith with the Lenders about the timing and content of such disclosure to the extent reasonably practicable;
 - (ii) the disclosure in confidence to professional advisers, or any Affiliate of a Party, as the case may be, or their respective professional advisers, in each case where the disclosure is for a purpose reasonably incidental to this Agreement or for the purpose of assessing such Person's investment in the Group or any member of it (and only to the extent the disclosed information is reasonably required for such purpose);
 - (iii) any bona fide potential purchaser of any Note or Common Shares from any Lender provided such purchaser shall have entered into a confidentiality undertaking in favour of the seller on substantially the same terms as clause 16.1;
 - (iv) any shareholder or investor (or potential shareholder or investor) in or of any of the Lenders;
 - (v) any present or future financier of any of the Lenders;
 - (vi) the disclosure of information to any tax authority to the extent reasonably required for the purposes of the tax affairs of the Person disclosing the information or any Affiliate of such Person, as the case may be;
 - (vii) the disclosure by any Director, officer, employee, representative or consultant to the Group in the proper performance of their duties or by any employee of the Group making a protected disclosure relating to employment in accordance with applicable law; and
 - (viii) the disclosure by any Lender of Confidential Information to any Affiliate of such Lender.
- (B) Other than in respect of disclosure pursuant to clause 16.2(A)(iv), each Party shall inform (and shall ensure that any Affiliates shall inform) any Person to whom it provides Confidential Information pursuant to clause 16.2(A), that such information is confidential and, in the case of disclosure pursuant to clauses 16.2(A)(ii) shall only provide such Confidential Information to such Person if they agree:
- (i) to keep it confidential on the terms of and otherwise to comply with, this clause; and
 - (ii) not to disclose it to any third party (other than those Persons to whom it has already been disclosed in accordance with the terms of this Agreement).
- (C) A Party may only disclose Confidential Information pursuant to clauses 16.2(A)(iv) and 16.2(A)(v) on the basis that the recipient of such Confidential Information shall

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have entered into a confidentiality agreement with the disclosing Party on substantially the same terms as clause 16.1.

16.3 Breaches of Confidentiality restrictions

Each Party shall procure that promptly upon becoming aware of any breach (by any Person) of this clause 16, such Party shall promptly notify each of the Lenders of such fact and shall provide such information relating to the breach as any Lender may reasonably request.

17. GENERAL

- 17.1 The provisions of this Agreement shall be enforceable by and enure for the benefit of the Parties and their respective successors and permitted assigns.
- 17.2 Any release, waiver or compromise or any other arrangement of any kind by any Party shall not affect the rights and remedies of the Party concerned as regards any other Party or its rights and remedies against the Party in whose favour the release, waiver, compromise or other arrangement is granted or made, except (in any event) to the express extent of the release, waiver, compromise or other arrangement, and no such release, waiver, compromise or other arrangement shall have effect unless granted or made in writing.
- 17.3 If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.
- 17.4 No failure to exercise, nor any delay in exercising, on the part of a Party, any right or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.
- 17.5 The Parties hereto confirm that it is their wish that this Agreement and any other document executed in connection with the transactions contemplated herein be drawn up in the English language only and that all other documents contemplated thereunder or relating thereto, including notices, may also be drawn up in the English language only. *Les Parties aux présentes confirment que c'est leur volonté que cette convention et les autres documents de crédit soient rédigés en langue anglaise seulement et que tous les documents, y compris tous avis, envisagés par cette convention et les autres documents peuvent être rédigés en langue anglaise seulement.*
- 17.6 All payments to be made by the Company under this Agreement shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.
- 17.7 Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- 17.8 During any extension of the due date for payment of any principal or unpaid sum under this Agreement interest is payable on the principal or unpaid sum at the rate payable on the original due date.
- 17.9 Any interest, conversion or fee or compounded return accruing under this Agreement will accrue from day to day and is calculated on the basis of the actual number of days elapsed

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and a year of 365 days or 366 days, as applicable. For the purposes of the *Interest Act* (Canada) and disclosure thereunder, whenever any interest or any fee to be paid hereunder or in connection herewith is to be calculated on the basis of a 365-day or 366-day year, the yearly rate of interest to which the rate used in such calculation is equivalent is the rate so used multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 365 or 366, as applicable, computed on the basis of the actual number of days elapsed over a year of 365 days or 366 days, as the case may be. The rates of interest under this Agreement are nominal rates, and not effective rates or yields. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement.

- 17.10 No amendment to, or waiver of, any provision of this Agreement shall be effective unless it is in writing and signed by each of the Parties hereto.
- 17.11 The obligations of the Parties contained in this Agreement shall be several save that the obligations of the Obligor shall be joint and several among the Obligor.
- 17.12 If any provision of this Agreement would oblige the Company to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate which would be prohibited by applicable Law or would result in a receipt by that Lender of "interest" at a "criminal rate" (as such terms are construed under the *Criminal Code* (Canada)), then, notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law or so result in a receipt by that Lender of "interest" at a "criminal rate", such adjustment to be effected, to the extent necessary (but only to the extent necessary), by reducing any fees, commissions, costs, expenses, premiums and other amounts required to be paid to the affected Lender which would constitute interest for purposes of section 347 of the *Criminal Code* (Canada).

18. REGULATORY PROVISIONS

- 18.1 The Company undertakes to procure, insofar as they are able to procure, that no Non-Canadian Person or entity shall acquire or exercise control over the Company, either alone or in combination with others if, and for so long, as such control would constitute a breach of the Ownership and Control Requirements.
- 18.2 If at any time it is determined by the Agency, a court or a competent regulatory authority that a non-Canadian Person or entity may exercise effective control over the Company, that Person or entity, to the extent that it is a Party, will take immediate steps to ensure that control is no longer effective (provided that this clause 18.2 shall not require any such Non-Canadian Party to convert any Notes or divest itself of any Common Shares, other than pursuant to and on the basis set forth in Section 3 of the Corporate Articles or the Notes). For purposes of this clause 18.2 and clause 18.3, "effective control" shall mean "controlled in fact" as defined in the CTA and interpreted, in practice, by the Agency.
- 18.3 The provisions of this Agreement take effect subject always to this clause 18.3. This Agreement shall not confer on Indigo any rights, and Indigo shall not do or omit to do anything, which would result in Indigo acquiring or exercising Control or effective control, or being deemed to acquire or exercise Control or effective control of the Company. References in this Agreement to "complying with", "not breaching", "acting in accordance with" and "for the purposes of" the Ownership and Control Requirements, or any wording similar to or deriving from such phrases, shall include an obligation on Indigo to ensure that Indigo is not required to file a submission under: (i) any regulations governing the ownership and control of Canadian airlines; or (ii) the *Competition Act* (Canada). To the extent that

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Notes have been issued and, subsequently, the Agency determines that there is a breach of the Ownership and Control Requirements as a result of such Notes and/or other arrangements between Indigo and any of the Group, the affected Noteholders shall be entitled to redeem their Notes as if it was the Redemption Date.

19. COUNTERPARTS

This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same agreement.

20. ENTIRE AGREEMENT

- 20.1 This Agreement, the Noteholders' and Shareholders' Agreement, the Corporate Articles, and the Security Documents constitute the entire agreement of the Parties with respect to the subject matter of this Agreement.

21. FURTHER ASSURANCES

The Parties shall (and shall procure that their respective nominees shall) do and execute and perform all further deeds, documents, assurances, acts and things that may reasonably be required to give effect to the terms of this Agreement and the Parties (other than the Company) shall at all times use and exercise the votes that they control (which shall be deemed to include all votes held by their respective nominees and board appointees) at both general meetings and/or Board meetings and/or any meetings of any committee of the Company to ensure, in so far as each is reasonably able to, the maintenance and observance of the terms of this Agreement and the Corporate Articles as may be amended from time to time with the agreement of the Lenders.

22. GOVERNING LAW AND JURISDICTION

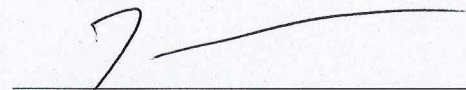
- 22.1 This Agreement is governed by, and to be construed in accordance with the laws of Province of Ontario and the laws of Canada applicable in such Province.
- 22.2 Each Party hereto agrees (i) that any action or proceeding relating to this Agreement may (but need not) be brought in any court of competent jurisdiction in the Province of Ontario, and for that purpose now irrevocably and unconditionally attorns and submits to the jurisdiction of such Ontario court; (ii) that it irrevocably waives any right to, and shall not, oppose any such Ontario action or proceeding on any jurisdictional basis, including forum non conveniens; and (iii) not to oppose the enforcement against it in any other jurisdiction of any judgment or order duly obtained from an Ontario court as contemplated by this clause 22.2.

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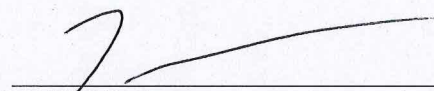
[Signature blocks follow on the next page]

IN WITNESS WHEREOF THE Parties hereto have executed this Agreement as of the date first set forth above.

ENERJET HOLDCO INC.

By: 
Name: T.W. Morgan
Title: President

1263343 ALBERTA INC.

By: 
Name: T.W. Morgan
Title: Chief Executive Officer

INDIGO NORTHERN VENTURES LP by its
general partner **INDIGO NORTHERN VENTURES
GP, LLC**

By: _____
Name: William A. Franke
Title: President

IN WITNESS WHEREOF THE Parties hereto have executed this Agreement as of the date first set forth above.


ENERJET HOLDCO INC.

By: _____
Name: T.W. Morgan
Title: President

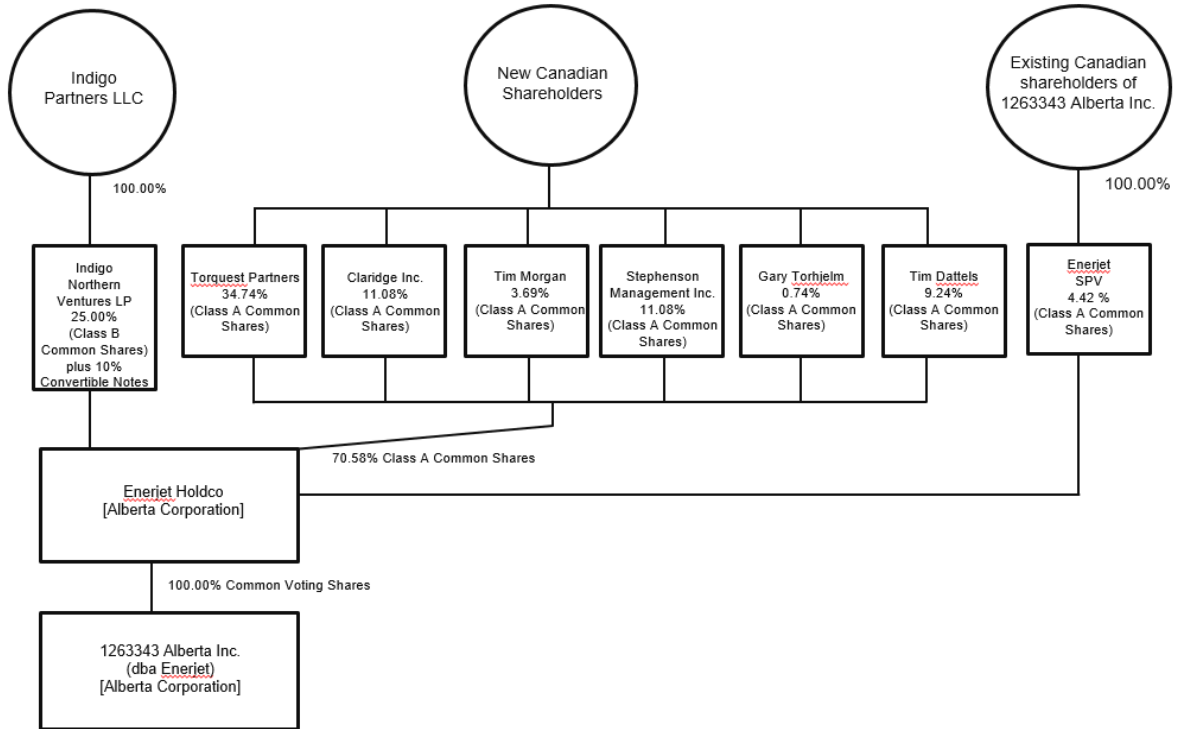
1263343 ALBERTA INC.

By: _____
Name: T.W. Morgan
Title: Chief Executive Officer

INDIGO NORTHERN VENTURES LP by its
general partner **INDIGO NORTHERN VENTURES
GP, LLC**

By:  _____
Name: William A. Franke
Title: President

Schedule 1 Corporate Structure



Note

1. Indigo holds Class B Common Shares and the remaining Canadian shareholders hold Class A Common Shares.
2. Percentages referenced reflect the percentage ownership of the total number of Class A and Class B Common Shares outstanding.
3. Upon conversion by Indigo of its Convertible Notes in Holdco, the equity will be distributed as follows: Indigo 75% (votes capped at 25%), New Canadian Shareholders 23.5% and Enerjet SPV 1.5% (all numbers rounded)

12965679.1

Schedule 2 Subsequent Sales of Notes and Shares

1. Additional Notes

- 1.1 The Noteholders acknowledge that, in addition to the Initial Notes to be purchased on the Completion Date, the Company may, from time to time, request that the Noteholders purchase additional Subsequent Notes on the terms and conditions set out in this Schedule 2.

2. Noteholder Financing

- 2.1 Subject to the conditions set out in paragraph 3 of this Schedule 2, if at any time, the sum of the Company's unrestricted cash and cash equivalents, for ten (10) consecutive days, is less than the greater of (i) \$1,000,000 and (ii) thirty (30) Days Cash, then the Board shall deliver a notice (the "**Cash Shortfall Notice**") to each of the Shareholders and Noteholders. The Cash Shortfall Notice shall advise the Shareholders and Noteholders that there is a cash shortfall and set out a statement of the Board as to the amount of cash required by the Company (such amount, the "**Required New Cash**") so that, after the receipt of the Required New Cash, the Company's unrestricted cash and cash equivalents will be equal to or greater than (x) and less than or equal to (y)

where:

(x) = the greater of \$2,000,000 and thirty (30) Days Cash; and

(y) = ninety (90) Days Cash provided that where ninety (90) Days Cash is less than \$5,000,000 (y) shall be \$5,000,000.

In the event the Board is unable to agree on the amount of the Required New Cash, the Required New Cash shall automatically be deemed to be \$5,000,000.

- 2.2 On the day falling fifteen (15) Business Days after service of the Cash Shortfall Notice, (a) the Noteholders shall purchase such number of Subsequent Notes and Class B Common Shares that are required to be purchased, and (b) the Canadian Shareholders shall subscribe and pay for, and the Company shall issue and allot, such number of new Class A Common Shares such that are required to be issued and in the amounts as required (with the form to be provided by the Company to the Noteholders reflecting the details of such Additional Financings set out in Schedule 3 hereto), so that upon such purchase of Subsequent Notes and subscription for the Class A Common Shares and Class B Common Shares (taking into account all amounts received by the Company in payment of such purchase and subscription), the Company will receive the Required New Cash (the specific cash amounts thereof being "**Additional Financings**").
- 2.3 In the case of each of the Additional Financings, the number of such Common Shares to be issued and allotted, including the Conversion Shares, shall be such number of Class A Common Shares and Class B Common Shares as, in each case, maintain immediately following such Additional Financings the same ratio of issued and outstanding Class A Common Shares to issued and outstanding Class B Common Shares as existed on the Completion Date.
- 2.4 Without, for the avoidance of doubt, prejudice to any other liability the Noteholder may have under or pursuant to this Agreement, no Noteholder shall be obliged or requested to make additional contributions or financing available to the Group in excess of its Additional Financings.

3. Conditions

3.1 Additional Financings are conditional on:

- (A) the completion of the conditions, to the satisfaction of the Noteholders, set out clause 5.1(A), (C), (D), (E) and (F) of the Agreement;
- (B) confirmation by the Obligors to the Noteholders, that each of the Obligor Warranties is true and correct on the date of such Additional Financing in respect of each of the Obligors;
- (C) no Event of Default has occurred and is continuing.

Schedule 3 Form of Additional Financings Chart

-1-	-2-	-3-	-4-	-5-	-6-	-7-	-8-
Name	Aggregate principal Amount of Notes	Applicable Conversion Price(s)	Aggregate Principal Amount of Common (CA\$)	Number of Common Shares	Percentage of the Issued Share Capital	Number of Fully Diluted Shares	Percentage of the Fully Diluted Share Capital
<u>TOTALS</u>							

Schedule 4 Post-Closing Holdings

-1-	-2-	-3-	-4-	-5-	-6-	-7-
Name	Aggregate principal amount of Notes	Applicable Conversion Price(s)	Number of Class A Common Shares (except otherwise specified)	Percentage of the Issued Share Capital	Number of Fully Diluted Shares	Percentage of the Fully Diluted Share Capital
Indigo Northern Ventures LP	\$12,179,529	1.00	1,522,441 Class B Shares	25.00%	13,701,970	75.00%
Tim Dattels			426,136	7.00%	426,136	2.33%
Gary Torhjelm			46,643	0.77%	46,643	0.26%
T.W. Morgan			233,213	3.83%	233,213	1.28%
Stephenson Management Inc.			699,640	11.49%	699,640	3.83%
Torquest Partners Fund IV, L.P.			958,521	15.74%	958,521	5.2466%
Torquest Partners Fund (U.S.) IV, L.P.			1,174,972	19.29%	1,174,972	6.4314%
Torquest Capital Fund IV, L.P.			59,264	0.97%	59,264	0.3244%
Stepworth Holdings Inc.			699,640	11.49%	699,640	3.83%
Enerjet SPV Inc.			269,294	4.42%	269,294	1.47%
<u>TOTALS</u>	<u>\$12,179,529</u>		<u>6,089,764</u>	<u>100.00%</u>	<u>18,269,294</u>	<u>100.00%</u>

Schedule 5 Obligor Warranties

1. Status

- (A) It is a company, duly incorporated, validly existing and in good standing under
 - (i) the laws of the Province of Alberta in the case of the Company, and
 - (ii) the laws of the Province of Alberta in the case of the Guarantor.
- (B) It has the power to own its property and assets and carry on its business as it is being conducted.
- (C) It is in compliance with all applicable laws and regulations (including, without limitation, the laws of the provinces of Alberta and Ontario and the federal laws of Canada).

2. Binding Obligations

This Agreement has been duly authorized, executed and delivered by it and is a valid and binding obligation of it enforceable against it in accordance with its terms, subject only to bankruptcy, insolvency, liquidation, reorganization, moratorium and other similar laws generally affecting the enforcement of creditors' rights, and to the fact that equitable remedies (such as specific performance and injunction) are discretionary remedies.

3. Non-Conflict with Other Obligations

The entry into and performance by it of, and the transactions contemplated by, this Agreement, do not and will not conflict with:

- (A) any law or regulation applicable to it;
- (B) its constitutional documents; or
- (C) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (howsoever described) under any such agreement or instrument.

4. Power and Authority

- (A) It has the corporate power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Agreement and the transactions contemplated herein.
- (B) No limit on its corporate powers will be exceeded as a result of the borrowing or the issue of the Notes contemplated pursuant to the terms of this Agreement.

5. Authorisations

All Authorisations, consents, approvals, permits and license of, and registrations or filings with, any governmental agency or authority required:

- (A) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Agreement;

- (B) to ensure that the obligations expressed to be assumed by it in this Agreement are legal, valid, binding and enforceable;
- (C) to make this Agreement admissible in evidence in its jurisdiction of incorporation; and
- (D) for the conduct of its business, trade and ordinary activities in all material respects, have been obtained or effected and are in full force and effect.

6. Governing Law and Enforcement

- (A) The choice of Ontario law as the governing law of this Agreement will be recognised and enforced in its jurisdiction of incorporation.
- (B) Any judgment obtained in Ontario in relation to this Agreement will be recognised and enforced in its jurisdiction of incorporation.

7. No filing or Stamp Taxes

It is not necessary that this Agreement be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar Taxes or fees be paid on or in relation to this Agreement or the transactions contemplated herein.

8. Taxes

- 8.1 It has filed or caused to be filed when due all Tax returns and reports required to have been filed and has paid or caused to be paid when due all Taxes required to have been paid by it (including all instalments with respect to the current period) and has made adequate provision for Taxes for the current period, except Taxes that are being contested in good faith by appropriate proceedings and for which it has set aside on its books adequate reserves.

9. No Default

- (A) No Default has occurred and is continuing or reasonably might be expected to occur as a result of the execution or performance of this Agreement by the Parties.
- (B) No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (howsoever described) under any other agreement or instrument which is binding on it or to which its assets are subject which might have a Material Adverse Effect, save as specifically contemplated or specifically permitted by or specifically required to comply with this Agreement.

10. Pari Passu Ranking

Its payment obligations under this Agreement rank at least *pari passu* with (to the fullest extent permitted by law) with all other senior secured creditors of it.

11. No Proceedings Pending or Threatened

No dispute, litigation, arbitration, expert determination, alternative dispute resolution, regulatory or administrative proceedings or investigations of, or before, any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a

Material Adverse Effect or which involve a potential liability of any member of the Group exceeding U.S.\$20,000 have been started or (to the best of its knowledge and belief having made due and careful enquiry) threatened in writing (and not withdrawn) against it nor are there any circumstances reasonably likely to give rise to any such dispute, litigation, arbitration, expert determination, alternative dispute resolution, regulatory or administrative proceedings or investigations. However, it is noted that a judgment in the amount of U.S.\$591,919 has been awarded against Guarantor in the United States District Court Southern District of Florida in favour of three former employees of the Guarantor (Curtis J. Berchtold, David W. Lancelot and Cameron S. Trant).

12. No Undisclosed Liabilities

Neither the Company nor any of its Subsidiaries have any Financial Indebtedness, other than arising (i) under this Agreement and the Notes; (ii) pursuant to an airplane lease with Wells Fargo Bank Northwest, N.A. as trustee, and (iii) pursuant to various loans provided to the Guarantor by Morgan 66 Ltd., 1756370 Alberta Ltd. and Air Partners Corp. (all being companies controlled by T.W. Morgan).

13. Security

Save with regard to the rights of Indigo in respect of the Security and a security interest granted by the Guarantor to Morgan 66 Ltd., there does not exist any Security over any of its assets or properties.

14. Ownership of Assets

(A) It has title to its owned personal properties, and with respect to leased personal properties, title to the leasehold estate with respect thereto, pursuant to valid and enforceable leases, free and clear of all Security, other than the Security provided pursuant to the Security Documents and a security interest granted by the Guarantor to Morgan 66 Ltd.

(B) It has indefeasible fee simple title to its owned real properties, and with respect to leased real properties, indefeasible title to the leasehold estate with respect thereto, pursuant to valid and enforceable leases, free and clear of all Security, other than the Security provided pursuant to the Security Documents and a security interest granted by the Guarantor to Morgan 66 Ltd.

15. Post-Completion Holdings

(A) Schedule 4 lists all of the Common Shares and Notes that will be outstanding immediately after Completion.

(B) The information contained in Schedule 4 is complete and accurate in all respects.

16. Financial Condition

(A) It has furnished to the Noteholder its consolidated balance sheets and statements of income, retained earnings and changes in its financial position (i) as of and for the fiscal year ended September 30, 2018. Such financial statements, present fairly, in all material respects, its consolidated financial position and results of operations and cash flows as of the applicable dates and for the applicable periods in accordance with GAAP.

(B) Since September 30, 2018, there has been no event, development or circumstance that has had or could reasonably be expected to have a Material Adverse Effect.

- (C) All information (including that disclosed in all financial statements) pertaining to the Group (other than projections) that has been or will be made available to the Noteholder by the Company, taken as a whole, is or will be, when furnished, complete and correct in all material respects and does not or will not, when furnished, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements are made. The projections that have been or will be made available to the Noteholders by the Company have been or will be prepared in good faith based upon reasonable assumptions.

17. Pension Plan

It does not maintain or contribute to any Canadian Benefit Plan or Canadian Pension Plans.

18. Subsidiaries

As of the date hereof, the Company owns 1 common voting share in the capital of Guarantor and, immediately subsequent to the purchase by Indigo of the Initial Notes and Class B Common Shares provided herein and the subscription for Class A Common Shares by the Canadian Investors (as defined in the Noteholders' and Shareholders' Agreement), Schedule 1 correctly sets forth:

- (A) the legal name of each member of the Group and its form of legal entity and jurisdiction of organization;
- (B) the equity securities issued and outstanding by each member of the Group, and the registered and beneficial owners thereof;
- (C) the equity securities owned by each member of the Group; and
- (D) a corporate organizational chart of the Group.

19. Insurance

It maintains insurance policies and coverage in compliance with Schedule 13. Such insurance coverage (a) is sufficient for compliance with all requirements of applicable law and of all agreements to which any member of the Group is a party, (b) is provided under valid, outstanding and enforceable policies, (c) provides adequate insurance coverage in at least such amounts and against at least such risks (but including in any event public liability) as are usually insured against in the same general area by Persons engaged in the same or a similar business to the assets and operations of the Group, and (d) will not in any way be affected by, or terminate or lapse by reason of, the entering into of, and the performance of the transactions contemplated by, this Agreement. All such material policies are in full force and effect, all premiums with respect thereto have been paid in accordance with their respective terms, and no notice of cancellation or termination has been received with respect to any such policy.

20. Solvency

No member of the Group is an "insolvent person" within the meaning of the BIA.

21. Tax

It is a resident of Canada for the purposes of the *Income Tax Act* (Canada).

22. Fiscal Year.

Its fiscal year ends on September 30 of each calendar year, and the fiscal quarters end on the last day of each of December, March, June and September of each calendar year.

23. Anti-Corruption Laws and Sanctions.

Each member of the Group has implemented and maintains in effect policies and procedures designed to ensure compliance by such member and its directors, officers, employees and relevant agents with Anti-Corruption Laws and Sanctions. Each member of the Group and its directors, officers, employees and relevant agents is in compliance with Anti-Corruption Laws and Sanctions. No member of the Group or any of its directors, officers or employees or relevant agents is a Sanctioned Person or is engaged in any activity that would reasonably be expected to result in such member being designated as a Sanctioned Person. No use of proceeds or other transaction contemplated by this Agreement will violate Anti-Corruption Laws or Sanctions.

24. Canadian Ownership.

No breach of the Ownership and Control Requirements has occurred or is reasonably expected to occur as a result of the execution or performance of this Agreement by the Parties.

Schedule 6 Security

1. Definitions

1.1 In this Schedule 6:

“Enforcement Action” means, in relation to any Secured Indebtedness, any action whatsoever to: (a) demand payment, declare prematurely due and payable or otherwise seek to accelerate payment of or place on demand all or any part of the Secured Indebtedness; (b) recover all or any part of the Secured Indebtedness (including by exercising any right of set-off or combination of accounts); (c) exercise or enforce any security rights against sureties or any other rights under any other document or agreement against any Security Provider in relation to (or given in support of) all or any part of the Secured Indebtedness (including under any security document); (d) petition for (or take any other steps which may lead to) an insolvency event in relation to any Security Provider; or (e) commence legal proceedings against any Security Provider (but excluding, any action whatsoever in respect of any other document or agreement);

“Note Documents” means this Agreement, the Notes and any document entered into in connection herewith or therewith;

“Secured Indebtedness” means all money and liabilities now or in the future due, owing or incurred to the Noteholders by any member of the Group in respect of the Note Documents in any currency, whether actual or contingent, whether incurred solely or jointly with any other Person and whether as principal or surety, together with all accruing interest and all related costs, charges and expenses; and

“Security Provider” means any member of the Group or any other Person that grants any security or guarantee in respect of, or otherwise becomes liable for, any Secured Indebtedness (being initially each member of the Group as at the date of this Agreement).

2. Guarantees – General

2.1 Guarantees of the Secured Indebtedness are to be provided by each Security Provider in accordance with the agreed principles set out in this Schedule 6.

2.2 The Company will use its best efforts to procure that each guarantee will be provided as soon as reasonably practicable after the date of this Agreement and in any event within 60 days hereof.

3. Security – General

3.1 Security for the Secured Indebtedness is to be provided by each Security Provider in accordance with the agreed security principles set out in this Schedule 6.

3.2 The Company will use its best efforts to procure that the creation of all agreed security will be completed as soon as reasonably practicable after the date of this Agreement and in any event within 60 days of the Completion Date.

4. Guarantees And Security – Agreed Principles

4.1 This Schedule 6 addresses (among other things) the manner in which the agreed principles will impact on the guarantees and security proposed to be taken in relation to the Secured Indebtedness.

- 4.2 In determining the extent of the security, the form of each security document and the extent of the perfection of the security, Indigo agrees to take into account the costs to the relevant Security Provider of providing such security and the proportionate benefit accruing to Indigo and the impact, if any, of the grant of such security and any restrictions therein on the operations of the grantor of such security.
- 4.3 The extent of the security from each member of the Group will be determined by Indigo (acting reasonably). It is the current intention of Indigo that security will be taken over all material assets of each member of the Group from time to time, according to the principles set out herein, including (without limitation) over all land and buildings, shares, receivables, insurance policies, material contracts and claims, intellectual property and bank accounts of each member of the Group.
- 4.4 The Obligors and Indigo agree to negotiate the form of each security document in good faith. Each security document will be drafted by counsel to Indigo and will be in the form customary for the relevant security and jurisdiction.
- 4.5 It will be the Company's responsibility to ensure that any security interest created under any security document is duly created and perfected in favour of Indigo from time to time within applicable time limits. Costs incurred in respect of the execution of any such security document, or any updating, registration or re-registration to be made for the purpose of complying with such obligations, shall be borne by the Company.
- 4.6 Where a member of the Group which is a Security Provider acquires assets of material value or significance (in the opinion of the Lenders (acting reasonably) or, absent agreement between the Lenders, by Indigo (acting reasonably)) after the date on which it initially grants security, such Security Provider shall grant security in accordance with these agreed principles in respect of such assets if they are of a type which if owned on the date on which it initially grants security would have been secured in accordance with these agreed principles.
- 4.7 All security will be granted to Indigo from time to time or to any security agent or trustee appointed by Indigo to act for them.

5. Enforcement of Debts

Notwithstanding any other provision or principle in this Schedule 6, Indigo shall be entitled to enforce any rights against the Company or member of the Group under this Agreement or relating to the Notes to the extent such rights relate to monies due and owing to Indigo provided that such amounts outstanding and owing to Indigo exceed \$100,000 in aggregate and provided further that such amounts have been outstanding and owing to Indigo for more than 60 days following written notice of the failure to pay such amounts due and owing served on the Company with a copy to Indigo.

Schedule 7 Form of Adherence Agreement

THIS ADHERENCE AGREEMENT is made on the _____ of _____ 20__ by [•] (the “**Transferee**”).

THE PARTIES AGREE as follows:

1. The Transferee confirms that it has read a copy of a note purchase agreement dated December 20, 2018 made between: the Company, the Guarantor and Indigo (which agreement is herein referred to as the “**Note Purchase Agreement**”) and the services agreement dated December 20, 2018 made between the Company, Indigo and the Shareholders (other than Enerjet SPV Inc.) (the “**Management Services Agreement**”) and hereby covenants to each of the Persons referred to in clause 2(a) and clause 2(b) to be bound by the Note Purchase Agreement and the Management Services Agreement in all respects as if the Transferee were a party to the Note Purchase Agreement and the Management Services Agreement as one of the *[delete as appropriate]* and to perform all the obligations imposed on such a party to the Note Purchase Agreement and the Management Services Agreement, to be performed on, as on, or after the date hereof.
2. This Agreement is made for the benefit of:
 - (a) the parties to the Note Purchase Agreement and the Management Services Agreement, as the case may be, as at the date of the Note Purchase Agreement and the Management Services Agreement, as the case may be; and
 - (b) any other Person or Persons who may after the date of the Note Purchase Agreement (and whether prior to or after the date hereof) assume any rights or obligations under the Note Purchase Agreement and the Management Services Agreement, as the case may be, and be permitted to do so by the terms thereof.
3. Save as expressly set out in the Note Purchase Agreement in favour in the Transferee, the Company does not:
 - (a) make any representations or warranty or assumes any responsibility with respect to the legality, validity, effectiveness, adequacy or enforceability of the Note Purchase Agreement and the Management Services Agreement or any agreement entered into pursuant thereto;
 - (b) make any representation or warranty or assumes any responsibility with respect to the content of any information regarding the Company or any member of the Group or otherwise related to the acquisition of shares in the Company;
 - (c) assume any responsibility for the financial condition of the Company or any member of the Group or any other party to the Note Purchase Agreement and the Management Services Agreement or any other document; or
 - (d) assume any responsibility for the performance and observance by the Company or any other party to the Note Purchase Agreement and the Management Services Agreement or any other document (save as expressly provided therein),

and any and all conditions and warranties, whether express or implied by law or otherwise, are to the extent legally possible excluded.

For the purposes of the Note Purchase Agreement and the Management Services Agreement, the Transferee’s address and other details for notices shall be:

Address:

Email address:

For the attention of:

4. Words and expressions defined in the Note Purchase Agreement shall bear the same meanings herein.
5. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereon.

DULY DELIVERED as on the date and year first above written.

EXECUTED)
and **DELIVERED** by)
[Insert name of Transferee])
)

Schedule 8 Noteholders' Resolutions

1. Powers of Noteholders

1.1 Noteholders may, by Noteholder Resolution:

- (A) at the request of the Board, authorize the Company to amalgamate or consolidate with any other Person, or permit any other Person to merge into or amalgamate or consolidate with it, or liquidate or dissolve;
- (B) at the request of the Board, authorize the exchange of the Notes for, or the conversion of the Notes into, any Common Shares, stock, debentures, debenture stock or other obligations or securities of the Company or any other company formed or to be formed;
- (C) at the request of the Board, authorize any modification, abrogation or compromise of or arrangement in respect of the rights that arise under this Agreement or the certificates for the Notes or otherwise;
- (D) assent to any modification or abrogation of the Conditions to which the Notes are subject and/or of the provisions contained in this Agreement and authorise the execution of any supplemental deed embodying any such modification or abrogation; and
- (E) appoint any Persons (whether Noteholders or not) as a committee to represent the interests of the Noteholders and confer upon such committee any powers or discretions which the Noteholders could themselves exercise.

2. Noteholders' Resolutions

2.1 The expression "**Noteholder Resolution**" where used in this Schedule 8 shall mean a written resolution duly executed by or on behalf of Noteholders holding at least 15% of the fully diluted share capital or such higher percentage as may be approved in writing by Indigo.

Schedule 9 Form of Certificate for the Notes

ENERJET HOLDCO INC.

(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

<u>Certificate No.</u>	<u>Principal Amount</u>
[•]	\$(•)

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 201[•]

THIS IS TO CERTIFY THAT [NAME]

Of [address]

is/are the registered holder(s) of \$(•) in nominal amount of the secured convertible loan notes which are constituted by an agreement dated December [•], 2018 made between Enerjet Holdco Inc. (the "Company"), 1263343 Alberta Inc. (the "Guarantor") and Indigo Northern Ventures LP (the "Agreement") and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.

Interest is payable on the Notes represented by this certificate annually in arrears on [] in each year.

The Notes shall be redeemed in accordance with Condition 3 on December •, 2023, subject to such other redemption date or conversion in accordance with the Conditions.

ENERJET HOLDCO INC.

By _____
Name:
Title:

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.
- (B) No transfer of the whole or any part of the Notes represented by this certificate will be registered without the production of this certificate at the registered office of the Company or at such other place as the Company may from time to time designate.

- (C) Each transfer in point of time of the whole or any part of the Notes represented by this certificate will be registered free of charge.
- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.
- (E) The Notes represented by this certificate are subject to the Interest Option, as such term is defined in the Agreement.

Schedule 10 Form of Conversion Notice

To: The Directors of [●]

Notes

I/We, the registered holder(s) of \$[●] in principal nominal amount of Notes, hereby give notice of my/our desire that:

- the Company convert []* principal nominal amount of such Notes held by me/us;
- that such conversion be effected on [or prior] to []*

and that such conversion be effected in accordance with the Conditions, at the price and on the terms set out in the Conditions.

[Include any further information required to be specified in the relevant notice.]

(Name)

(Address)

Signature(s) of
Noteholders(s)

.....
In the case of joint holdings, all Noteholder(s) must sign. In the case of a corporation this form must be signed by a duly authorised officer of the corporation.

DATED

Schedule 11 Conditions

1. Form and Status

- 1.1 The Notes are issued in amounts or multiples of \$1 in nominal value and constitute secured obligations of the Company.
- 1.2 The aggregate principal amount of the Notes is limited to the Equivalent Amount of US\$54,100,000, calculated on the basis of the aggregate of (i) the Equivalent Amount of the Indigo Note Amount (determined as of the date of Completion) plus (ii) the Equivalent Amount of each Additional Financing (determined as of the date of each such Additional Financing).
- 1.3 The Notes shall be issued in denominations and integral amounts of \$1 in principal amount subject to and with the benefit of the provisions of this Agreement.
- 1.4 The Notes, when issued, shall rank *pari passu* equally and rateably without discrimination or preference in all respects.
- 1.5 Upon execution of the Security Documents, the Notes will have the benefit of the Security (subject to the provisions of the Security Documents).
- 1.6 Any Notes which have been repaid or otherwise satisfied in accordance with the terms of this Agreement shall be cancelled and shall not be available for re-issue by the Company.

2. Interpretation

- 2.1 In these Conditions, the “**Agreement**” means the agreement constituting the Notes between the Company, and Indigo (in each case, as such terms are defined therein).
- 2.2 Capitalised terms not otherwise defined in these Conditions shall have the meaning given in the Agreement.

3. Redemption

- 3.1 Unless previously converted into Class B Common Shares, repaid or purchased in accordance with these Conditions and the Agreement, including, without limiting, clause 18.3, or extended pursuant to Condition 3.6, the Company shall redeem all outstanding Notes in full on the Redemption Date.
- 3.2 Upon any redemption of Notes the Company shall pay to each Noteholder an amount equal to the greater of:
 - (A) the fair market value of the corresponding Conversion Shares; and
 - (B) the aggregate of (i) the principal nominal amount of the Notes held by such Noteholder; and (ii) the accrued and unpaid interest on the Notes held by such Noteholder (calculated in accordance with Condition 4) from (and including) the date of issue of such Notes to (and including) the date of redemption of such Notes.
- 3.3 All amounts payable on redemption of any Notes shall be paid subject to any deduction or withholding required by law in respect of any Tax, duty or charge. The Company’s payment obligations pursuant to the Agreement and the Notes are absolute, irrevocable and unconditional and irrespective of any contingency (including, without limitation, rights of set-off or counterclaim).

- 3.4 Subject to the provisions of clause 14 and Schedule 6 of the Agreement and to the provisions of the Security Documents (once the same have been entered into), at any time after the Notes shall have become redeemable in accordance with the terms of this Agreement, the Noteholders or any of them may, without further notice, institute such proceedings as they or any of them may think fit to enforce payment of the monies due in respect of the Notes and the performance of the Company's other obligations contained in these Conditions or the Agreement.
- 3.5 Save as otherwise expressly provided in these Conditions or the Noteholders' and Shareholders' Agreement, the Company may not pre-pay the Notes or redeem the same prior to the Redemption Date.
- 3.6 No earlier than 90 days and no later than 60 days prior to the Redemption Date (the unextended Redemption Date being referred to in this Condition 3.6 as an "**Extension Date**"), the Company may deliver to the Noteholders, a request for an extension of the Extension Date for a period of up to two (2) years after the then Extension Date (the "**Extension Request**"). Within 30 days after receipt of such Extension Request by the Noteholders, such Noteholders shall notify the Company of its election to extend or not extend the Extension Date as requested in such Extension Request (which election to extend or not extend shall be made by each such Noteholder in its sole and absolute discretion). Any failure by any Noteholder to notify the Company of its election to extend or not extend the Extension Date as requested in such Extension Request shall be deemed to be a refusal to extend the Extension Date. If the Noteholders approve in writing the extension of the Extension Date requested in such Extension Request, the Extension Date shall automatically and without any further action by any Person be extended for the period specified in such Extension Request.

4. Interest

- 4.1 Subject to Condition 19, interest on the principal amount outstanding in respect of the Notes shall accrue at the Interest Rate on the basis of the actual number of days elapsed and a year of 365 days or 366 days, as applicable, and shall be payable annually in arrears on the anniversary of the Completion Date or the date of Additional Financings, as applicable, in each calendar year.

5. Title

- 5.1 The Company shall:
- (A) recognise the registered holder of any Notes as the absolute owner thereof; and
 - (B) not be bound (unless ordered to do so by a court of competent jurisdiction) to take notice of, or see to the execution of, any trust whether express, implied or constructive to which any Notes may be subject.
- 5.2 The receipt by the registered holder of any Notes or, if two or more Persons are registered as joint holders of any Notes or are entitled jointly to any Notes in consequence of the death or bankruptcy of the Noteholder, the receipt by any of them, of the principal, any interest or other monies payable on or in respect of such Notes or payment of a cheque sent in accordance with the Conditions or any instructions contained in the relative Notice of Repayment shall be a valid receipt and a good discharge to the Company notwithstanding any notice (whether express or implied) which any of them may have of any right, title, interest or claim of any other Person to or in respect of such Notes, interest or monies.
- 5.3 No notice of any trust, express, implied or constructive, shall (except as aforesaid) be entered in the Register in respect of any Notes.

- 5.4 Every Noteholder will be recognised by the Company as entitled to its Notes free from any equity set-off or cross-claim on the part of the Company against the original or any intermediate holder of the Notes.
- 5.5 As applicable, in the case of the death of a Noteholder (if applicable), the survivors or survivor, where the deceased was a joint holder, and the executors or administrators of the deceased, where they were a sole or only surviving holder, shall be the only Persons recognised by the Company as having any title to the interest in the Notes.

6. Transfer of Notes

All transfers of Notes shall be regulated in accordance with this Agreement and clause 5 of the Noteholders' and Shareholders' Agreement.

7. Transfer of Notes Pursuant to a Takeover Offer

There shall be no restriction on any transfer of Notes made pursuant to and in accordance with clause 9 of the Noteholders' and Shareholders' Agreement in connection with (and pursuant to and in accordance with the terms of) a Takeover Offer provided that such Takeover Offer constitutes a "Qualifying Takeover Offer", as such term is defined in the Noteholders' and Shareholders' Agreement.

8. Permitted Transfers of Notes

- 8.1 Notwithstanding the provisions of clause 6 above, a Noteholder may at any time transfer any of the Notes held by it:
- (A) to any Affiliate of such Noteholder;
 - (B) to its limited partners, in the case of a limited partnership;
 - (C) to any Person in connection with the sale of all or substantially all of the assets of the Noteholder;
 - (D) to any Person or Persons in connection with the dissolution or Winding-up of the Noteholder, or the liquidation of its assets;
 - (E) to a financial institution which carries on the business of providing equity financing as part of a sale of a portfolio of equity interests; or
 - (F) to any Person if it is required by law to do so.
- 8.2 Any Person to whom Notes have been validly transferred pursuant to Condition 8.1 may, at any time, transfer all or any Notes back to the original transferor or to any other Person to whom the original transferor, if it still held such Notes, would have been able to transfer them pursuant to Condition 8.1.
- 8.3 In the event that any Person to whom Notes are transferred pursuant to Condition 8.1 ceases to be within the required relationship to the original holder of such Notes, the holder of such Notes shall without delay notify the Company that such change of relationship has occurred and within ten (10) Business Days of such change of relationship transfer such Notes back to the member who originally held them or to such other Person if any (designated by such original member) to whom such original member, if it still held such Notes, would have been able to transfer pursuant to Condition 8.1.

8.4 In the event that any Noteholder which is a corporation holding Notes transferred to it pursuant to Condition 8.1 passes a resolution to commence a liquidation or winding up or has a winding up petition presented which is not discharged or contested in good faith within sixty (60) Business Days or has a receiver or administrator appointed to it (or any analogous proceedings in any jurisdiction), the holder of such Notes shall without delay notify the Company of such event and within ten (10) Business Days of such event shall transfer such Notes back to the member who originally held such Notes or to such other Person if any (designated by such member) to whom such original Noteholder, if it still held such Notes, could transfer such Notes pursuant to Condition 8.1.

9. Transfers of Notes: Mechanics and Other Provisions

9.1 The Notes shall be transferable by instrument in writing in any usual or common form (or in any other form acceptable to the Board) and need not be executed as a deed.

9.2 Every instrument of transfer must be signed by or on behalf of the transferor but need not be signed by or on behalf of the transferee. The transferor shall remain the holder of the Notes concerned until the name of the transferee is entered in the Register in respect thereof.

9.3 Every instrument of transfer must be delivered for registration to the registered office of the Company or to such other place as the Company may appoint from time to time (or which it may notify to a Noteholder for the purposes of any specific transfer) accompanied by the certificate for the Notes to be transferred and, if the transferor is not the registered holder of such Notes, such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer and, if the instrument of transfer is executed by some other Person on behalf of the transferor, the authority of that Person so to do.

9.4 All instruments of transfer which are registered may be retained by the Company for so long as it thinks fit together with the cancelled certificates for the Notes.

9.5 No fee shall be charged by the Company in respect of the registration of any transfer in point of time of the whole or part of any Notes issued by the Company to any Noteholder or any probate or letters of administration or certificate of marriage or death, or power of attorney or other document relating to or affecting the title to any Notes at any time.

10. General Conversion Rights

10.1 Notwithstanding any other provision of these Conditions, no Notes shall be converted into Class B Common Shares (or any other shares in the Company) to the extent that such conversion would result in any breach of Section 3 of the Corporate Articles.

10.2 Subject to Condition 10.1 above, a holder of the Notes (a **"Converting Noteholder"**) may, at any time, require the Company to convert all (or some only) of its Notes into fully paid and non-assessable Class B Common Shares. All accrued and unpaid interest thereon shall be satisfied by a payment in cash by the Company to Indigo.

10.3 In order to exercise the conversion rights pursuant to Condition 10.2, a holder of Notes shall serve a notice (substantially in the form set out in Schedule 10) (a **"Note Conversion Notice"**) on the Company and all other Noteholders not less than 10 Business Days (nor more than 60 Business Days) prior to the date on which the Company is required to convert the Notes specified in the Note Conversion Notice (the **"Proposed Conversion Date"**).

10.4 A Note Conversion Notice shall specify:

(A) the Proposed Conversion Date; and

- (B) the percentage of the Notes then held by the Converting Noteholder required to be converted pursuant to this Condition 10 (the “**Specified Percentage**”).
- 10.5 Subject to Condition 10.1 above, on the proposed Conversion Date, the Company shall simultaneously convert all of the Notes specified in the Note Conversion Notice.
- 11. Conversion Rights in Relation to a Takeover Offer**
- 11.1 If, at any time prior to the conversion or redemption of the Notes and payment of all accrued and unpaid interest thereon (in full in accordance with the terms of these Conditions and the Agreement), a Qualifying Takeover Offer is made:
 - (A) the Company shall notify all Noteholders of such Qualifying Takeover Offer in accordance with the relevant provisions of the Noteholders’ and Shareholders’ Agreement; and
 - (B) the provisions of this Condition 11 shall apply (subject always to Condition 10.1).
- 11.2 A Noteholder may, at its option (exercisable in its absolute discretion) at any time after receiving a notification pursuant to Condition 11.1 require the conversion of all (or some only) of its Notes into fully paid and non-assessable Class B Common Shares in the capital of the Company in accordance with (but subject to any restrictions contained in) this Condition 11. All accrued and unpaid interest thereon shall be satisfied by a payment in cash by the Company to Indigo.
- 11.3 In order to effect a conversion of the Notes pursuant to Conditions 11.1 and 11.2, the Noteholder shall serve a notice on the Company (substantially in the form set out in Schedule 10) (a “**Takeover Conversion Notice**”).
- 11.4 A Takeover Conversion Notice:
 - (A) must be served by the Noteholder not less than 5 Business Days prior to the proposed completion date for first acquisition of Common Shares pursuant to the Qualifying Takeover Offer (as notified to the Noteholder by the Company in accordance with the provisions of the Noteholders’ and Shareholders’ Agreement);
 - (B) shall be irrevocable save that the Noteholder may specify that such Takeover Conversion Notice is conditional upon a transfer of shares that together constitute a Controlling Interest occurring pursuant to and in the terms of such Qualifying Takeover Offer; and
 - (C) shall specify the principal amount of Notes that the Company is required to convert and that the Company is required to convert such Notes (and all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to this Condition 11.
- 11.5 The Company shall:
 - (A) procure that each Noteholder is given the opportunity to convert its Notes (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to this Condition 11 prior to the occurrence of any transfer of Common Shares pursuant to a Qualifying Takeover Offer; and

- (B) procure that in the event of any Qualifying Takeover Offer being accepted in accordance with the relevant provisions of the Noteholders and Shareholders' Agreement:
 - (i) the Conversion Shares resulting from any conversion of Notes pursuant to this Condition 11 are sold or transferred pursuant to such Qualifying Takeover Offer (at the same price and, save as set out below, on the same terms as the Common Shares held by the Shareholders);
 - (ii) the Noteholders shall not be required to give any representations or warranties pursuant to such Qualifying Takeover Offer (save with respect to title, absence of encumbrances on any shares to be sold or transferred and capacity); and
 - (iii) the Company shall refuse to register any transfer of shares pursuant to such Qualifying Takeover Offer) unless the Company has fully adhered to its obligations under Condition 11.5(B).
- 11.6 Upon completion of any transfer of Common Shares pursuant to (and on the terms of) a Qualifying Takeover Offer:
- (A) any Notes not converted pursuant to the foregoing provisions of this Condition 11, shall cease to be capable of conversion into Class B Common Shares (or any other class of shares in the capital of the Company or securities of the Company); and
 - (B) the Company shall be entitled to pre-pay the Notes (together with all accrued and unpaid interest calculated in accordance with Condition 4.1 thereon which shall be satisfied by a payment in cash by the Company to Indigo) at any time after the completion of any transfer of Common Shares pursuant to a Qualifying Takeover Offer on not less than 5 Business Days written notice to the relevant Noteholder(s).

12. Conversion Rights in Relation to an IPO

- 12.1 If, at any time prior to the conversion or redemption of the Notes (and all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) (in full in accordance with the terms of these Conditions and the Agreement), the Board passes any resolution to facilitate an IPO or that may result in an IPO occurring, the provisions of this Condition 12 shall apply.
- 12.2 The Company shall give each Noteholder not less than 20 Business Days' notice of any proposed IPO.
- 12.3 Each holder of the Notes (in respect of the maximum amount of Notes capable of being converted under the Ownership and Control Requirements) may, at its option (exercisable in its absolute discretion) require the conversion of all (or some only) of its Notes, (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo), into fully paid and non-assessable Class B Common Shares in the capital of the Company in accordance with this Condition 12:
- (A) at any time during the period from the notification pursuant to Condition 12.2 above up to the 3:00pm (Mountain time) on the Business Day prior to the occurrence of the IPO (such that the relevant Conversion Shares issued to each such Noteholder are listed pursuant to such IPO); or
 - (B) at any time after the occurrence of such IPO, by notice served in accordance with Condition 12.5.

12.4 In order to effect a conversion of Notes (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to Condition 12.3, a Noteholder shall serve a notice on the Company (substantially in the form set out in 10) (an “**IPO Conversion Notice**”).

12.5 An IPO Conversion Notice:

- (A) must be served by the Noteholder:
 - (i) not less than 5 Business Days prior to the proposed date for the IPO (as notified to the Noteholder pursuant to Condition 12.2), if the Noteholder requires the Note(s) to be converted on or immediately prior to the completion of the IPO; or
 - (ii) not less than 10 Business Days prior to the date on which the Noteholder requires the Note(s) to be converted, if the Noteholder requires the Note(s) to be converted after the occurrence of the IPO;
- (B) shall be irrevocable (unless the Noteholder serves such IPO Conversion Notice at least 5 Business Day prior to the proposed completion date of the IPO, as notified to the Noteholder by the Company in the notice required to be served by it pursuant to Condition 12.2, in which case, the Noteholder may specify that such IPO Conversion Notice is conditional upon the IPO occurring);
- (C) shall specify:
 - (i) the principal amount of Notes that such Noteholder requires to be converted;
 - (ii) that the Noteholder requires the Company to convert the Notes (and all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to Condition 12.3; and
 - (iii) the date on or by which such conversion is to be effected (provided that the Noteholder shall comply with the provisions of Condition 12.5(A) above).

12.6 The Company shall:

- (A) procure that the Noteholder is given a reasonable opportunity to convert its Notes (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to this Condition 12 prior to the occurrence of an IPO;
- (B) procure that in the event of an IPO occurring:
 - (i) the Conversion Shares issued to the Noteholder upon a conversion of Notes pursuant to this Condition 12 are listed pursuant to the IPO; and
 - (ii) the Noteholder shall not be required to give any representations or warranties in connection with such IPO or agree to any lock-up period or other orderly marketing arrangements in relation to such IPO.

12.7 The Company shall not permit any of its shares to be listed pursuant to an IPO unless it has fully adhered to its obligations under this Condition 12 prior to the occurrence of such IPO.

12.8 To the extent there are Noteholders who are unable to convert their Notes pursuant to this Condition 12 as a result of the Ownership and Control Requirements, the Board and the Lenders shall each use best efforts to create a path to liquidity for such Noteholders.

12.9 Nothing in these Conditions shall oblige a Noteholder to convert its Notes.

13. Calculation of Conversion Shares

13.1 Upon any conversion of Notes, the number of Class B Common Shares required to be issued by the Company to the relevant Noteholder (the “**Conversion Shares**”) shall be calculated using the following equation:

$$A = \frac{B}{C}$$

where:

A is the number of Conversion Shares;

B is the principal amount of the Notes required to be converted (excluding any accrued and unpaid interest thereon);

C is the Relevant Conversion Price (subject to adjustment in accordance with Condition 15).

14. Mechanics of Conversion

14.1 Each conversion of Notes into Class B Common Shares that is required or permitted to be made pursuant to this Agreement shall be effected by the Company repaying the principal amount of the relevant Notes in full on the Conversion Date and immediately applying such repayment monies to subscribe for the Conversion Shares, or by any such other method as the Board may determine in accordance with all applicable laws and the Corporate Articles. All accrued and unpaid interest thereon shall be satisfied by a payment in cash to Indigo.

14.2 All Conversion Shares shall be credited as fully paid at the time the same are issued to the relevant Noteholder;

14.3 A Conversion Notice must be accompanied by the certificate(s) relating to the Notes to be converted.

14.4 Conversion Shares arising pursuant to a conversion of Notes shall carry the right to participate in full in all dividends and other distributions accruing on such shares from the Conversion Date. In all other respects, Conversion Shares arising on conversion shall rank pari passu and form one class with the shares of that class then in issue.

14.5 A conversion of Notes into Class B Common Shares that is required or permitted to be made pursuant to this Agreement shall not constitute a breach of any prohibition on prepayment of the Notes or any accrued and unpaid interest thereon under any of the Transaction Documents.

14.6 No fractional shares shall be issued upon any conversion of Notes and the number of Class B Common Shares issuable upon such conversion shall be rounded to the nearest whole number of shares.

14.7 The Company shall, as soon as practicable and legally permissible, issue to the relevant Noteholder, or to its nominee(s), a certificate or certificates for the number of Conversion Shares to which it shall be entitled under the Agreement and the Company shall deliver the

same to the relevant Noteholder by post at its address for service of notices determined in accordance with Condition 25.1 (or to such other address as may be specified in the relevant Conversion Notice).

- 14.8 Each conversion of Notes into Class B Common Shares that is required or permitted to be made pursuant to this Agreement shall be deemed to have been made immediately prior to the close of business on the date of issuance of the share certificate(s) for the relevant Conversion Shares and the Person or Persons entitled to receive the Conversion Shares shall be treated for all purposes as the record holders of such shares on such date.

15. Adjustments to the Relevant Conversion Price (share splits, consolidations etc.)

- 15.1 If, at any time after the date of this Agreement, the Class B Common Shares shall be subdivided into a greater number of shares or consolidated into a lesser number of shares or an issue of Class B Common Shares by way of capitalisation of profits or reserves including any share premium account or capital redemption reserve shall be made or the Company effects any purchase of its own shares or any other variation in its issued share capital or any distribution of assets in specie occurs (each, a “**Capital Event**”), each Relevant Conversion Price shall be adjusted by multiplying the Relevant Conversion Price in force immediately before such Capital Event (as the same may previously have been adjusted pursuant to this Condition 15 or otherwise) by the following fraction:

$$\frac{A}{B}$$

where:

A is the number of Class B Common Shares in issue immediately after such subdivision, consolidation or capitalisation issue; and

B is the number of Class B Common Shares in issue immediately before such subdivision, consolidation or capitalisation issue.

- 15.2 The provisions of Condition 15.1 are intended to provide for each Relevant Conversion Price to be adjusted in such a manner as shall place each Noteholder in the same position (as regards the percentage of the equity share capital of the Company which the Noteholder shall be entitled to subscribe pursuant to the conversion on Notes and the aggregate cost of such conversion to the Noteholder) as it would have been in had the relevant Capital Event not taken place.

- 15.3 In the case of any dispute as to the manner of any adjustment pursuant to this Condition 15.3, the auditors of the Company (acting as experts and not arbitrators) shall determine the same at the request of the Company or the Noteholder and at their joint expense.

- 15.4 The Company shall not undertake or (so far as it is able) permit to occur any Capital Event which would have the effect of reducing the Relevant Conversion Price (as so adjusted) below the par value amount of a Conversion Share.

16. Company undertakings in respect of the conversion of the Notes

- 16.1 The Company warrants and undertakes that:

(A) it will maintain sufficient authorised but unissued share capital to enable conversion of Notes in full;

- (B) it will procure that the Directors have at all times the requisite authority to allot and issue Conversion Shares in satisfaction of the conversion rights of all Noteholders; and
- (C) it will procure the waiver of all pre-emption rights in favour of shareholders of the Company whether under the Corporate Articles, any statute or agreement relating to the shares of the Company or otherwise which might otherwise prevent or preclude or delay the full and effective allotment and issue of Conversion Shares; and
- (D) it will procure (so far as it is able) that there is no variation of the rights attaching to shares in the capital of the Company.

17. Noteholder Subscription Rights

- 17.1 Subject to Section 3 of the Corporate Articles, if, at any time after the date of the Agreement, the Company shall make any offer or invitation to its members by way of rights (by reference to a record date) to subscribe for shares in the Company, then each Noteholder shall have the right (exercisable by written notice to the Company) to subscribe for the proportionate number and class of shares in the Company on the same terms and conditions (including as to price) as such offer or invitation as if the Notes held by such Noteholder had been exercised, in the case of a rights issue immediately before such record date or, where the offer or invitation is to a third party immediately before the completion by the third party of the subscription pursuant to such offer or invitation.

18. Events of Default and Accelerated Repayment

- 18.1 Each of the events or circumstances set out in Schedule 12 to the Agreement is an Event of Default.
- 18.2 Subject to the provisions of paragraph 5 of Schedule 6 of the Agreement (and for any corresponding provisions contained in the Security Documents, once the same have been executed), on and at any time after the occurrence of an Event of Default the Noteholder may, by notice to the Company:
- (A) declare that all or some of the Notes:
 - (i) (together with accrued interest, and all other amounts accrued or outstanding under the Transaction Documents) be immediately due and payable, whereupon they shall become immediately due and payable; and/or
 - (ii) be payable on demand, whereupon they shall immediately become payable on demand by the Noteholder; and/or
 - (B) exercise any or all of its rights, remedies, powers or discretions under the Transaction Documents;

19. Default Interest

From the occurrence of an Event of Default, the principal amount due under this Note (together with all accrued and unpaid interest as at the date of the Event of Default) shall bear interest at the Default Rate, compounded quarterly and computed on a 365-day or 366-day year basis on the number of days actually elapsed from the date of the occurrence of such Event of Default until either the cure of such Event of Default by the Company or repayment of the principal amount due under this Note together with accrued interest.

20. No Rights as Shareholder

This Note does not entitle the Noteholder hereof to any voting rights or other rights as a shareholder of the Company prior to the conversion hereof.

21. Surrender of Certificates

- 21.1 If any Noteholder any of whose Notes are liable to be repaid under these Conditions or the Agreement shall fail or refuse to deliver up the certificate or certificates therefor at the time and place fixed for the repayment thereof or shall fail or refuse to accept payment of the redemption monies payable in respect thereof, the monies payable to such Noteholder may be set aside by the Company and paid into a separate interest-bearing bank account and when so paid shall be held by the Company in trust for such Noteholder but without interest (except as hereinafter mentioned), and such setting aside and payment shall be deemed for all purposes of these Conditions to be a payment to such Noteholder and the Company shall thereby be discharged from all obligations in connection with such Notes.
- 21.2 If the Company shall place the monies set aside pursuant to the provisions of Condition 21.1 on deposit at a bank the Company shall not be responsible for the safe custody of such monies or for interest thereon except such interest (if any) as the said monies may earn whilst on deposit less any expenses reasonably incurred by the Company in connection therewith.
- 21.3 Any amount set aside pursuant to the provisions of this Condition 21 which remains unclaimed after a period of twelve years from the time when the same is set aside shall revert to the Company notwithstanding that in the intervening period the obligation to pay the same may have been provided for in the books, accounts and other records of the Company.

22. Damaged Certificates

If any certificate for Notes shall be damaged or defaced or alleged to have been lost, stolen or destroyed, a new certificate representing the same Notes may be issued to the holder upon request subject to delivery up of the old certificate or (if alleged to have been lost, stolen or destroyed) compliance with such conditions as to evidence and indemnity as the Directors may reasonably require. An entry as to the issue of the new certificate and indemnity (if any) shall be made in the Register.

23. Cancellation

All Notes prepaid, repaid or purchased by the Company shall be cancelled and shall not be available for reissue.

24. Payment

- 24.1 Payment of the principal, interest thereon and any other monies payable in respect of any Notes shall be paid by cheque made payable to and sent to the registered holder thereof at its registered address or, in the case of joint registered holders, made payable to and sent to that one of the joint registered holders who is first named on the Register in respect of such Notes at its registered address or made payable to such Person or Persons and sent to such address as the registered holder or all the joint registered holders may in writing direct.
- 24.2 Every such cheque may be sent through the post at the risk of the registered holder or joint registered holders and payment of any such cheque by the banker upon whom it is drawn shall be a satisfaction of the monies represented thereby.

- 24.3 All payments of principal and interest and other monies by the Company under these provisions will be made after any deduction or withholding Tax, duty or charge required to be made by law.
- 24.4 In the event of a failure by the Company to pay any amount when due in respect of the Notes (whether principal, interest or otherwise), the Company shall pay interest compounding annually on such unpaid amount at the Default Rate.

25. Notices

- 25.1 Any notice or document (including a certificate for Notes) may be served on or delivered to any Noteholder by the Company either personally or by sending it by first class post in a prepaid cover addressed to such Noteholder at its registered address or to the address, if any, supplied by the Noteholder to the Company as its address for the service of notices, or by delivering it to such address addressed as aforesaid, or by facsimile on a facsimile number supplied by the Noteholder to the Company. Any notice or document served on or delivered to that one of the joint holders of any Notes whose name stands first in the Register in respect of such Notes shall be sufficient notice to or service on all the joint holders in their capacity as such.
- 25.2 Notice may be given to the Persons entitled to any Notes in consequence of the death or bankruptcy of any Noteholder by sending the same by first class post in a pre-paid envelope addressed to them by name or by the title of the representatives or trustees of such holder at the address (if any) supplied for the purpose by such Persons or, until such address is supplied, by giving in the manner in which it would have been given if the death or bankruptcy had not occurred.
- 25.3 Where a notice or other document is served or sent by post, service or delivery shall be deemed to be effected at the expiration of 24 hours after the time when the cover containing the same is posted, and in proving such service or delivery it shall be sufficient to prove that such cover was properly addressed, stamped and posted.
- 25.4 Where a notice or other document is served by facsimile, delivery shall be deemed to be effected (subject to evidence of effective transmission) on the Business Day on which transmitted.
- 25.5 The Company shall be entitled to rely on any document purporting to be signed by or on behalf of a Noteholder and shall not be obliged to enquire into the authenticity of any such signature.

26. Transmission

- (A) Any Person becoming entitled to Notes in consequence of the death or bankruptcy of a Noteholder may, upon supplying to the Company such evidence as the Directors may reasonably require to show its title to the Notes, elect to be registered itself as holder of such Notes or, subject to these Conditions, the provisions of the Agreement, to transfer such Notes without itself being registered as the holder of such Notes.
- (B) The Company may, in its absolute discretion, withhold payment of any monies payable in respect of Notes until the Person entitled to be registered in respect thereof has been duly registered or, as the case may be, any transfer of such Notes has been registered.

27. Assignment

- 27.1 Subject to these Conditions and the provisions of the Agreement, neither this Note nor any of the rights, interests or obligations hereunder may be assigned, transferred, charged or otherwise dealt in, in whole or in part, by any Party without the prior written consent of the other Parties.
- 27.2 Any purported assignment, transfer, charge or dealing in contravention of this Condition 27 shall be void.
- 27.3 The rights and obligations of the Company and Noteholder shall be binding upon and benefit the successors, assigns, and permitted transferees of the Parties.
- 27.4 Any Noteholder may assign its rights hereunder to one or more of its Affiliates at any time (provided that any such assignment may only be made on the basis that immediately upon any assignee under this clause 27.4 ceasing to be an Affiliate of the assignor Party, such assignee shall assign back all such rights to the original assignor Party).

28. Severability

If any provision of this Note shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

29. Rights of the Third Parties

No Person who is not a Noteholder shall have any right to enforce any term of this Note.

30. Governing Law and Jurisdiction

- 30.1 This Note is governed by, and to be construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.
- 30.2 Each Party hereto agrees (i) that any action or proceeding relating to this Agreement may (but need not) be brought in any court of competent jurisdiction in the Province of Ontario, and for that purpose now irrevocably and unconditionally attorns and submits to the jurisdiction of such Ontario court; (ii) that it irrevocably waives any right to, and shall not, oppose any such Ontario action or proceeding on any jurisdictional basis, including forum non conveniens; and (iii) not to oppose the enforcement against it in any other jurisdiction of any judgment or order duly obtained from an Ontario court as contemplated by this clause 30.

Schedule 12 Events of Default

1. Non-payment

An Obligor does not pay on the due date any amount payable pursuant to a Transaction Document at the place at and in the currency in which it is expressed to be payable unless:

- (A) its failure to pay is caused by administrative or technical error; and
- (B) payment is made within 5 Business Days of its due date.

2. Covenants

Any material requirement, as determined by Indigo, in its sole discretion, of clause 12 of the Agreement is not satisfied.

3. Other Obligations

- 3.1 An Obligor fails to observe or perform any covenant or other agreement contained in the Transaction Documents or does not comply with any other provision of the Transaction Documents, in each case other than as specified in paragraph 1 above.

4. Misrepresentation

Any material representation or statement made or deemed to be made by an Obligor in the Transaction Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Transaction Document is or proves to have been incorrect or misleading when made or deemed to be made.

5. Cross default

- 5.1 No Event of Default will occur under this paragraph 5 if the action set out in paragraphs 5.3 to 5.5 are cured within any originally applicable grace period, if any, as set out in the document giving rise to such Financial Indebtedness.
- 5.2 Any Financial Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period.
- 5.3 Any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- 5.4 Any commitment for any Financial Indebtedness of any member of the Group is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described).
- 5.5 Any creditor of any member of the Group becomes entitled to declare any Financial Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).
- 5.6 No Event of Default will occur under this paragraph 5 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs 5.2 to 5.5 above is less than U.S.\$100,000 (or its equivalent in any other currency or currencies).

6. Insolvency

- 6.1 A member of the Group is unable or admits inability to generally pay its debts as they fall due, suspends or threatens to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.
- 6.2 A moratorium is declared in respect of any indebtedness of any member of the Group.

7. Insolvency Proceedings

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (A) the suspension of payments, a moratorium of any indebtedness, Winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any member of the Group (other than a solvent liquidation or reorganisation of any member of the Group which is not an Obligor);
- (B) a composition, compromise, assignment or arrangement with any creditor of any member of the Group;
- (C) the appointment of a liquidator (other than in respect of a solvent liquidation of a member of the Group which is not an Obligor), receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any member of the Group or any of its assets; or
- (D) enforcement of any Security over any assets of any member of the Group,

or any analogous procedure or step is taken in any jurisdiction.

8. Creditors' process

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of a member of the Group having an aggregate value in excess of U.S.\$100,000 (and the amount that is the subject of the related claim is U.S.\$100,000 or more) and the same is not discharged within 15 days.

9. Ownership of the Obligors

- 9.1 The Guarantor is not or ceases to be a direct or indirect wholly-owned Subsidiary of the Company.

10. Unlawfulness

It is or becomes unlawful for an Obligor to perform any of its obligations under the Transaction Documents or any Security created or expressed to be created or evidenced by the Security Documents ceases to be effective.

11. Invalidity

Any obligation or obligations of any Obligor under any Transaction Document are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Noteholder under the Transaction Documents.

12. Cessation of business

Any member of the Group suspends or ceases, or threatens or proposes in writing to suspend or cease, to carry on all or a substantial part of its business.

13. Compulsory acquisition

All or any material part of the property or assets of any member of the Group is seized, nationalised, expropriated or compulsorily acquired by, or by the order of, any central or local governmental authority in respect of which full market compensation is not paid.

14. Repudiation

An Obligor repudiates a Transaction Document or evidences an intention to repudiate a Transaction Document.

15. Material adverse change

Any event or circumstance occurs which is reasonably likely to have a Material Adverse Effect.

16. Miscellaneous

The Company applies any part of the New Note Funds for any purpose not specified in clause 7 of the Agreement.

17. Qualified Audit

The auditors of any Obligor materially qualify their audit.

18. Disputes

Any dispute, litigation, arbitration, expert determination, alternative dispute resolution, regulatory or administrative proceedings or investigations of, or before, any court, arbitral body or agency involving any Obligor or any other member of the Group is commenced which, if adversely determined, would be reasonably likely to have a Material Adverse Effect or which would involve a liability exceeding U.S.\$100,000 (or its equivalent).

19. Regulatory proceeding

Any regulatory proceeding into an Obligor or any other member of the Group is commenced (or any proceedings conducted by any regulatory body having jurisdiction over an Obligor or any other member of the Group are commenced in relation to a third party and that third party seeks to involve, or such proceedings in any way relate to, an Obligor or any other member of the Group), other than any regulatory proceeding by the Agency as a result of the Transaction Documents.

Schedule 13 Covenants

1. Authorisations

Each Obligor shall promptly:

- (A) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (B) if requested, supply certified copies to the Noteholder of,

any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under the Transaction Documents to which it is a party, to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of each such Transaction Document and to own its property and assets and to carry on its business, trade and ordinary activities.

2. Compliance with laws

2.1 Each Obligor shall comply in all respects with all laws to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under the Transaction Documents.

2.2 Each Obligor shall (and the Company shall ensure that each other member of the Group will) at all times comply with:

- (A) the terms of its articles of incorporation (or equivalent) and other constitutional documents from time to time; and
- (B) all laws and regulations applicable to it in respect of the conduct of its business breaches of which would have a significantly unfavourable effect on their activities, their assets and their financial situation.

3. Negative pledge

3.1 Subject to paragraph 3.3 below, no Obligor shall (and the Company shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets. For greater certainty and clarity, it is understood that the Guarantor has granted a security interest in its assets to Morgan 66 Ltd. but it is the intention of the parties that the obligations to Morgan 66 Ltd. will be paid out on completion with the proceeds of the Notes and that the security interest will be discharged promptly thereafter.

3.2 Subject to paragraph 3.3 below, no Obligor shall (and the Company shall ensure that no other member of the Group will):

- (A) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by an Obligor or any other member of the Group save for any assignment of insurances or requisition compensation relating to any aircraft;
- (B) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
- (C) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
- (D) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

3.3 Paragraphs 3.1 and 3.2 above do not apply to:

- (A) the Security provided pursuant to the Security Documents;
- (B) any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
- (C) any lien arising by operation of law and in the ordinary course of business including, without limitation, permitted liens under any aircraft operating lease agreements to which any of the Obligors is a party and any guarantee and assignment of insurances granted by any of the Obligors in connection with such aircraft operating lease agreement (and not as a result of any default or omission by any member of the Group);
- (D) any Security over or affecting any asset acquired by a member of the Group after the date of this Agreement if:
 - (i) the Security was not created in contemplation of the acquisition of that asset by a member of the Group;
 - (ii) the principal amount secured has not been increased in contemplation of, or since the acquisition of, that asset by a member of the Group; and
 - (iii) the Security is removed or discharged within 2 months of the date of acquisition of such asset;
- (E) any Security over or affecting any asset of any company which becomes a member of the Group after the date of this Agreement, where the Security is created prior to the date on which that company becomes a member of the Group, if:
 - (i) the Security was not created in contemplation of the acquisition of that company; and
 - (ii) the principal amount secured has not increased in contemplation of or since the acquisition of that company;
- (F) any Security entered into pursuant to any Transaction Document;
- (G) any Security arising out of title retention provisions (and not as a result of any default or omission by any member of the Group) in a supplier's standard conditions of supply of goods where the goods in question are supplied on credit and are acquired by the relevant member of the Group in the ordinary course of trading; or
- (H) any Security, as directed by the Board, so long as such Security (i) is not outside of the Ordinary Course of Business, and (ii) such action does not have a Material Adverse Effect.

4. Change of Business

4.1 The Company shall:

(A) procure that no substantial change is made to the general nature of its business from that carried on at the date of this Agreement;

(B) maintain, carry on and develop its business in the ordinary and usual course; and

(C) not take any material act outside its ordinary and normal course of business,

and the Company shall procure that each of its Subsidiaries complies with the covenants set forth in paragraphs 4.1(A), 4.1(B) and 4.1(C) in respect of their respective businesses.

5. Trading on arm's length terms

No Obligor shall (and the Company shall ensure that no other member of the Group will) enter into any transaction other than on commercial arm's length terms.

6. Notification of approaches

The Company shall (and the Company shall procure that each other member of the Group will) notify the Noteholder as soon as reasonably practicable following receipt of any approach or offer (unless such offer is made by a member of the Noteholder's group) which could lead to a sale of Company (whether by sale of securities by Company and/or its shareholders or a sale of assets by the Company or any other sale) or an IPO but in any event at least 10 Business Days prior to the execution of a definitive agreement for the same.

7. Distributions and reductions in share capital

For so long as Indigo together with its Permitted Transferees continues to hold not less than 15% of the Fully Diluted Share Capital, no Obligor shall (and the Company shall ensure that no other member of the Group will):

(A) declare, make or pay any distribution or dividend to its members; or

(B) repurchase or redeem any of its issued share capital or otherwise reduce its share capital,

except to the extent that (i) such Obligor's Unrestricted Cash Balance, after giving effect to the action set out in (A) or (B) above, is not less than 331/3% of the Obligor's trailing 12 months revenue or expenses, whichever is greater, and (ii) any action under this paragraph 7 cannot occur more than once per financial year.

8. No incurring of additional Financial Indebtedness

8.1 Subject to paragraph 8.2 below, no Obligor shall (and the Company shall ensure that no other member of the Group will) incur any Financial Indebtedness.

8.2 Paragraph 8.1 above does not apply to any Financial Indebtedness that is incurred:

(A) under the Transaction Documents or as specifically contemplated or specifically permitted by the Transaction Documents;

(B) if Indigo (together with its Permitted Transferees) at such time holds at least 15% of the Fully Diluted Share Capital, with the prior written approval of Indigo;

(C) at the direction of the Board in respect of Financial Indebtedness for amounts not greater than U.S.\$1,000,000, in the aggregate, in any 12 month period;

- (D) Financial Indebtedness relating to expenditures in the Ordinary Course of Business;
- (E) Financial Indebtedness for which an intercreditor agreement is required by such new lender to be entered into between such new lender and Indigo, on terms satisfactory to Indigo; or
- (F) Financial Indebtedness which does not have a Material Adverse Effect, as determined by Indigo, acting reasonably.

9. Compliance with the CTA

Each Obligor shall (and the Company shall procure that each other member of the Group will) ensure that the ownership and control of each member of the Group complies at all times with the Ownership and Control Requirements.

10. No Restricted Payments

10.1 For so long as Indigo (together with its Permitted Transferees) continues to hold not less than 15% of the Fully Diluted Share Capital, without the prior written consent of Indigo,

- (A) subject to clause 10.2 below, no Obligor shall (and the Company shall ensure that no other member of the Group will) make any payment to:
 - (i) any shareholder of any Obligor (a “**Relevant Shareholder**”);
 - (ii) any family member or relative of any Relevant Shareholder;
 - (iii) any trust in which any Relevant Shareholder (or any family member or relative of any Relevant Shareholder) has an interest (whether contingent discretionary or otherwise) or any trustee of such a trust;
 - (iv) any company which is Controlled by any of the Persons or entities falling within clause 10.1(A)(i) to (iii) above, or by any two or more of them; or
 - (v) any body corporate, partnership or undertaking in which any of the Persons or entities falling within 10.1(A)(i) to (iv) above own (legally or beneficially) more than 30% of the issued and outstanding share capital; and
- (B) notwithstanding any other provision of this Agreement (other than clause 10.3 below), no Obligor shall make any payment to any Person:
 - (i) unless such payment is of a type which is not outside the Ordinary Course of Business; or
 - (ii) if the effect of such payment (if made) would be to cause:
 - i. the aggregate amount of any type or class of payments made by the Obligors during such period to be outside the Ordinary Course of Business; or
 - ii. the aggregate amount of all payments made by the Obligors during such period to be outside the Ordinary Course of Business;

10.2 Subject to clause 10.1(B) above, clause 10.1 (A) shall not apply to:

- (A) salary payments by the Obligors to their employees (provided, in each case, that the same are consistent with the relevant employees salary payments over the six (6) months immediately prior to the date of this Agreement);
- (B) any intra-Group payments by the Obligors;
- (C) payments by the Obligors to providers of office space provided that such payments: (i) are not outside the Ordinary Course of Business; and (ii) do not exceed \$2,000,000 in total per annum; and
- (D) any dividend or distribution in respect of any share capital, to the extent permitted or required under the terms of the Transaction Documents.

11. Claims to rank pari passu

Each of the Obligors shall procure that Noteholders' claims under this Agreement and the other Transaction Documents rank and will rank at least pari passu with all its other unsecured obligations (except for obligations mandatorily preferred by law applying to companies generally).

12. [Intentionally Deleted]

13. Payment of taxes

Each Obligor shall (and the Company shall procure that each other member of the Group will) promptly pay all Taxes due and payable by it to any competent authority or body.

14. Insurance

14.1 Each Obligor shall (and the Company shall procure that each other member of the Group will) insure and keep insured with reputable insurers their respective insurable assets and undertakings to the extent, in the amounts and against the risks which a prudent licensed and operating airline would insure (including, without limitation, all those insurances which are required for a licensed and operating airline) and which are approved by the Board.

14.2 Each Obligor shall (the Company shall procure that no other member of the Group will) maintain directors and officers insurance to the fullest extent permitted by law and in an amount which a prudent licensed and operating airline would insure (including, without limitation, all those insurances which are required for a licensed and operating airline) and which are approved by the Board.

14.3 No Obligor shall (and the Company shall procure that no other member of the Group will), do anything or, as far as practicable suffer anything to be done, whereby any of the insurance policies effected in accordance with paragraph 14.1 shall become void or voidable or an increased premium thereon shall become payable.

14.4 The Company will:

- (A) supply to the Noteholders on request copies of each policy of insurance required to be maintained in accordance with paragraph 14.1 above (the "**policies**"), together with the current premium receipts relating to the policies;
- (B) promptly notify the Noteholders of any material change to the insurance cover of any member of the Group; and

- (C) promptly notify the Noteholders of any claim under any policy which is for, or is reasonably likely to result in a claim under that policy for, an amount in excess of U.S.\$10,000 (or its equivalent) and keep the Noteholders advised of the progress of any such claim.

15. Confidential Information

Each Obligor shall (and the Company shall procure that each other member of the Group will), take commercially reasonable steps within their respective powers together with such steps which are required or approved by the Lenders to protect information which is confidential to them (or any other member or the Group) or the Noteholders.

AMENDING AGREEMENT NO. 1

THIS AMENDING AGREEMENT NO. 1 (this "**Amending Agreement**") is made as of June 30, 2023 among the parties to the Note Purchase Agreement (as hereinafter defined).

WHEREAS:

A. Reference is made to the note purchase agreement dated as of December 20, 2018 (the "**Note Purchase Agreement**") among Lynx Air Holdings Corporation (formerly known as Enerjet Holdco Inc.) (the "**Company**"), 1263343 Alberta Inc., doing business as Lynx Air (formerly doing business as Enerjet) (the "**Guarantor**"), and Indigo Northern Ventures LP ("**Indigo**")

B. The Company, the Guarantor and Indigo wish to amend the Note Purchase Agreement on the terms and conditions set out herein.

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the mutual covenants and agreements contained in this Amending Agreement and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

ARTICLE 1 INTERPRETATION

1.1 One Amending Agreement. This Amending Agreement amends the Note Purchase Agreement. This Amending Agreement and the Note Purchase Agreement shall be read, interpreted, construed and have effect as, and shall constitute, one agreement with the same effect as if the amendments made by this Amending Agreement had been contained in the Note Purchase Agreement as of: (a) in respect of the amendment set out in Section 2.1 of this Amending Agreement, the date of this Amending Agreement, and (b) in respect of the amendment set out in Section 2.2 of this Amending Agreement, December 20, 2018.

1.2 Defined Terms. In this Amending Agreement, unless something in the subject matter or context is inconsistent:

- (a) terms defined in the description of the parties or in the recitals have the respective meanings given to them in the description or recitals, as applicable; and
- (b) all other capitalized terms have the respective meanings given to them in the Note Purchase Agreement as amended by Article 2 of this Amending Agreement (collectively, the "**Amended Note Purchase Agreement**").

1.3 Headings. The headings of the Articles and Sections of this Amending Agreement are inserted for convenience of reference only and shall not affect the construction or interpretation of this Amending Agreement.

1.4 References. All references to Articles, Sections, Exhibits and Schedules, unless otherwise specified, are to Articles, Sections, Exhibits and Schedules of the Note Purchase Agreement.

ARTICLE 2 AMENDMENTS

2.1 Interest Option. Section 13.1 is deleted in its entirety and replaced with the following:

At any time prior to the Fifth Anniversary, upon the request of the Company, Indigo, in its absolute discretion and by notice in writing delivered to the Company and each Noteholder, may agree that any of the interest payments prescribed by the Initial Notes shall be deferred and become due and payable by the Company on the Fifth Anniversary or such later date as Indigo may advise, in its absolute discretion. For greater certainty, interest shall continue to accrue on the outstanding amount of the Notes until such interest payment is received by Indigo.

2.2 Adjustments to the Relevant Conversion Price (share splits, consolidations etc.). Schedule 11, Section 15.1 is deleted in its entirety and replaced with the following:

15.1 If, at any time after the date of this Agreement, the Class B Common Shares shall be subdivided into a greater number of shares or consolidated into a lesser number of shares or an issue of Class B Common Shares by way of capitalisation of profits or reserves including any share premium account or capital redemption reserve shall be made or the Company effects any purchase of its own shares or any other variation in its issued share capital or any distribution of assets in specie occurs (each, a “**Capital Event**”), each Relevant Conversion Price shall be adjusted by multiplying the Relevant Conversion Price in force immediately before such Capital Event (as the same may previously have been adjusted pursuant to this Condition 15 or otherwise) by the following fraction:

$$\frac{A}{B}$$

where:

- A is the number of Class B Common Shares in issue immediately before such subdivision, consolidation or capitalisation issue; and
- B is the number of Class B Common Shares in issue immediately after such subdivision, consolidation or capitalisation issue.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

3.1 Confirmation of Representations. Each of the Company and the Guarantor represents and warrants that, as at the date of this Amending Agreement and assuming that the amendments made to the Note Purchase Agreement by this Amending Agreement have become effective:

- (a) this Amending Agreement has been duly authorized, executed and delivered by each of such parties;
- (b) the Amended Note Purchase Agreement constitutes a legal, valid and binding obligation of each of the Company and the Guarantor, enforceable in accordance

with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditor's rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law;

- (c) no Default or Event of Default has occurred and is continuing; and
- (d) the representations and warranties contained in Schedule 5 of the Note Purchase Agreement (other than those that are made with respect to a specific date), as modified by the bring-down certificate of an officer of the Company and the Guarantor dated as of the date hereof and addressed to Indigo (the "**Bring Down Certificate**"), are true and correct as if made on the date hereof.

ARTICLE 4 CONDITIONS

4.1 Conditions Precedent. The amendments set out in Article 2 shall become effective if and only if there is receipt by Indigo of:

- (a) a counterpart of this Amending Agreement executed by each party hereto; and
- (b) the executed Bring Down Certificate.

If such conditions precedent are met, then the effective date of the amendments set out in Article 2 will be: (a) in respect of the amendment set out in Section 2.1 of this Amending Agreement, the date of this Amending Agreement, and (b) in respect of the amendment set out in Section 2.2 of this Amending Agreement, December 20, 2018.

ARTICLE 5 GENERAL

5.1 Confirmation. Except as specifically stated herein, the Note Purchase Agreement and the other Transaction Documents shall continue in full force and effect in accordance with the provisions thereof. In particular but without limitation:

- (a) the Security Documents and the Security granted thereunder continue in full force and effect in accordance with their terms notwithstanding this Amending Agreement and the amendments to the Note Purchase Agreement effected hereby; and
- (b) the secured liabilities described in the Security Documents include indebtedness, liabilities and obligations arising under or in relation to the Amended Note Purchase Agreement, and the Security granted thereunder extend thereto.

All Secured Indebtedness under the Note Purchase Agreement shall be continuing with only the terms thereof being modified as provided in this Amending Agreement, and this Amending Agreement shall not evidence or result in a novation of such Secured Indebtedness.

5.2 Reservation of Rights. Except as expressly set forth herein, this Amending Agreement shall not by implication or otherwise limit, impair, constitute a waiver of, or otherwise affect the rights and remedies of Indigo under the Note Purchase Agreement or any other Transaction

Document. Nothing herein shall be deemed to entitle any other party to a consent to, or a waiver, amendment, modification or other change of, any of the terms, conditions, obligations, covenants or agreements contained in the Note Purchase Agreement or any other Transaction Document in similar or different circumstances.

5.3 Interpretation. All references to “this Agreement” or the “Note Purchase Agreement” and all similar references in any of the other Transaction Documents shall hereafter include, mean and be a reference to the Amended Note Purchase Agreement without any requirement to amend such Transaction Documents. This Amending Agreement shall constitute a “Note Document” under, and as defined in, the Note Purchase Agreement.

5.4 Binding Nature. This Amending Agreement shall enure to the benefit of and be binding upon the Company, the Guarantor and Indigo and their respective successors and permitted assigns.

5.5 Severability. Any provision of this Amending Agreement which is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Amending Agreement, all without affecting the remaining provisions of this Amending Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

5.6 Conflicts. If, after the date of this Amending Agreement, any provision of this Amending Agreement is inconsistent with any provision of the Note Purchase Agreement, the relevant provision of this Amending Agreement shall prevail.

5.7 Governing Law. This Amending Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

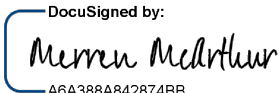
5.8 Counterpart and Facsimile. This Amending Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Amending Agreement by telecopy, emailed pdf. or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Amending Agreement. The words “execution,” “signed,” “signature,” “delivery,” and words of like import in or relating to any document to be signed in connection with this Amending Agreement and the transactions contemplated hereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law.

[signatures on the following pages]


S-1

IN WITNESS WHEREOF the undersigned has caused this Amending Agreement to be duly executed as of the date set out on the first page.

LYNX AIR HOLDINGS CORPORATION

DocuSigned by:

By: _____
Name: Merren McArthur
Title: President and Chief Executive Officer

1263343 ALBERTA INC.

DocuSigned by:

By: _____
Name: Merren McArthur
Title: President and Chief Executive Officer

INDIGO NORTHERN VENTURES LP by its
general partner **INDIGO NORTHERN
VENTURES GP, LLC**

By: _____
Name: Brian Franke
Title:

IN WITNESS WHEREOF the undersigned has caused this Amending Agreement to be duly executed as of the date set out on the first page.


LYNX AIR HOLDINGS CORPORATION

By: _____
Name: Merren McArthur
Title: President and Chief Executive Officer

1263343 ALBERTA INC.

By: _____
Name: Merren McArthur
Title: President and Chief Executive Officer

INDIGO NORTHERN VENTURES LP by its
general partner **INDIGO NORTHERN
VENTURES GP, LLC**

By: 
Name: Brian Franke
Title: Officer

Execution Version

AMENDING AGREEMENT NO. 1

THIS AMENDING AGREEMENT NO. 1 (this "**Amending Agreement**") is made as of January 12, 2024 among the parties to the Note Purchase Agreement (as hereinafter defined).

WHEREAS:

A. Reference is made to the bridge note purchase agreement dated as of February 24, 2023 (the "**Note Purchase Agreement**") among Lynx Air Holdings Corporation (formerly known as Enerjet Holdco Inc.) (the "**Company**"), 1263343 Alberta Inc., doing business as Lynx Air (formerly doing business as Enerjet) (the "**Guarantor**"), and Indigo Northern Ventures LP ("**Indigo**")

B. The Company, the Guarantor and Indigo wish to amend the Note Purchase Agreement on the terms and conditions set out herein.

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the mutual covenants and agreements contained in this Amending Agreement and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

ARTICLE 1 INTERPRETATION

1.1 One Amending Agreement. This Amending Agreement amends the Note Purchase Agreement. This Amending Agreement and the Note Purchase Agreement shall be read, interpreted, construed and have effect as, and shall constitute, one agreement with the same effect as if the amendments made by this Amending Agreement had been contained in the Note Purchase Agreement as of the date of this Amending Agreement.

1.2 Defined Terms. In this Amending Agreement, unless something in the subject matter or context is inconsistent:

- (a) terms defined in the description of the parties or in the recitals have the respective meanings given to them in the description or recitals, as applicable; and
- (b) all other capitalized terms have the respective meanings given to them in the Note Purchase Agreement as amended by Article 2 of this Amending Agreement (collectively, the "**Amended Note Purchase Agreement**").

1.3 Headings. The headings of the Articles and Sections of this Amending Agreement are inserted for convenience of reference only and shall not affect the construction or interpretation of this Amending Agreement.

1.4 References. All references to Articles, Sections, Exhibits and Schedules, unless otherwise specified, are to Articles, Sections, Exhibits and Schedules of the Note Purchase Agreement.

ARTICLE 2 AMENDMENTS

2.1 Definitions and Interpretation: Section 1.1 is amended by adding the following in alphabetical order:

“**Flair Term Sheet**” means the term sheet dated as of January 11, 2024 between Flair Airlines Ltd. and the Company;

“**Flair Transaction**” means the transaction as substantially contemplated by the Flair Term Sheet;

2.2 Definitions and Interpretation: The definition of “Redemption Date” in Section 1.1 is deleted in its entirety and replaced with the following:

“**Redemption Date**” shall mean the earlier to occur of: (a) the consummation of the Flair Transaction and (b) the Long Stop Date (as defined in the Flair Term Sheet) ;

2.3 Schedule 11 Conditions. Condition 3.6 of Schedule 11 is deleted in its entirety and replaced with the following:

3.6 If, at the Redemption Date, the Noteholder is not permitted to convert all of their Notes into Class B Common Shares due to the Ownership and Control Requirements, then, in the absolute discretion of the Noteholder, (i) any portion, as determined in the absolute discretion of the Noteholder, of any of the Notes, may be converted into Class B Common Shares to the extent permitted by the Ownership and Control Requirements and the remaining portion of such Notes shall be redeemed by the Company in accordance with Condition 3.2 of this Schedule 11, (ii) such Notes shall be redeemed by the Company in accordance with Condition 3.2 of this Schedule 11, or (iii) the Redemption Date for such Notes that cannot be converted shall be extended until such time as the Noteholder is permitted to convert such Notes.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

3.1 Confirmation of Representations. Each of the Company and the Guarantor represents and warrants that, as at the date of this Amending Agreement and assuming that the amendments made to the Note Purchase Agreement by this Amending Agreement have become effective:

- (a) this Amending Agreement has been duly authorized, executed and delivered by each of such parties;
- (b) the Amended Note Purchase Agreement constitutes a legal, valid and binding obligation of each of the Company and the Guarantor, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditor’s rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law;
- (c) no Default or Event of Default has occurred and is continuing; and

- (d) the representations and warranties contained in Schedule 5 of the Note Purchase Agreement (other than those that are made with respect to a specific date), as modified by the bring-down certificate of an officer of the Company and the Guarantor dated as of the date hereof and addressed to Indigo (the “**Bring Down Certificate**”), are true and correct as if made on the date hereof.

ARTICLE 4 CONDITIONS

4.1 Conditions Precedent. The amendments set out in Article 2 shall become effective if and only if there is receipt by Indigo of:

- (a) a counterpart of this Amending Agreement executed by each party hereto; and
- (b) such legal opinions and supporting materials as may be requested by Indigo.

If such conditions precedent are met, then the effective date of the amendments set out in Article 2 will as set out in Section 1.1.

ARTICLE 5 GENERAL

5.1 Confirmation. Except as specifically stated herein, the Note Purchase Agreement and the other Transaction Documents shall continue in full force and effect in accordance with the provisions thereof. In particular but without limitation:

- (a) the Security Documents and the Security granted thereunder continue in full force and effect in accordance with their terms notwithstanding this Amending Agreement and the amendments to the Note Purchase Agreement effected hereby; and
- (b) the secured liabilities described in the Security Documents include indebtedness, liabilities and obligations arising under or in relation to the Amended Note Purchase Agreement, and the Security granted thereunder extend thereto.

All Secured Indebtedness under the Note Purchase Agreement shall be continuing with only the terms thereof being modified as provided in this Amending Agreement, and this Amending Agreement shall not evidence or result in a novation of such Secured Indebtedness.

5.2 Reservation of Rights. Except as expressly set forth herein, this Amending Agreement shall not by implication or otherwise limit, impair, constitute a waiver of, or otherwise affect the rights and remedies of Indigo under the Note Purchase Agreement or any other Transaction Document. Nothing herein shall be deemed to entitle any other party to a consent to, or a waiver, amendment, modification or other change of, any of the terms, conditions, obligations, covenants or agreements contained in the Note Purchase Agreement or any other Transaction Document in similar or different circumstances.

5.3 Interpretation. All references to “this Agreement” or the “Note Purchase Agreement” and all similar references in any of the other Transaction Documents shall hereafter include, mean and be a reference to the Amended Note Purchase Agreement without any requirement

to amend such Transaction Documents. This Amending Agreement shall constitute a “Note Document” under, and as defined in, the Note Purchase Agreement.

5.4 Binding Nature. This Amending Agreement shall enure to the benefit of and be binding upon the Company, the Guarantor and Indigo and their respective successors and permitted assigns.

5.5 Severability. Any provision of this Amending Agreement which is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Amending Agreement, all without affecting the remaining provisions of this Amending Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

5.6 Conflicts. If, after the date of this Amending Agreement, any provision of this Amending Agreement is inconsistent with any provision of the Note Purchase Agreement, the relevant provision of this Amending Agreement shall prevail.

5.7 Governing Law. This Amending Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

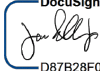
5.8 Counterpart and Facsimile. This Amending Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Amending Agreement by telecopy, emailed pdf. or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Amending Agreement. The words “execution,” “signed,” “signature,” “delivery,” and words of like import in or relating to any document to be signed in connection with this Amending Agreement and the transactions contemplated hereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law.

[signatures on the following pages]

S-1

IN WITNESS WHEREOF the undersigned has caused this Amending Agreement to be duly executed as of the date set out on the first page.

LYNX AIR HOLDINGS CORPORATION

By: 
Name: Jim Sullivan
Title: Interim Chief Executive Officer

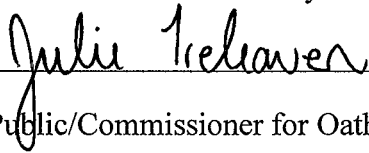
1263343 ALBERTA INC.

By: 
Name: Jim Sullivan
Title: Interim Chief Executive Officer

INDIGO NORTHERN VENTURES LP by its
general partner **INDIGO NORTHERN
VENTURES GP, LLC**

By: 
Name: William A. Franke
Title: Managing Member

This is **Exhibit "12"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

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Dated: February 24, 2023

LYNX AIR HOLDINGS CORPORATION

and

1263343 ALBERTA INC., DOING BUSINESS AS LYNX AIR

and

INDIGO NORTHERN VENTURES LP

BRIDGE NOTE PURCHASE AGREEMENT

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THIS BRIDGE NOTE PURCHASE AGREEMENT is executed as of February 24, 2023 and made
BETWEEN

- (1) **LYNX AIR HOLDINGS CORPORATION** (the “**Company**”), a company registered under the laws of Alberta whose registered office is at 1400, 350 7th Avenue S.W., Calgary, Alberta T2P 3N9;
- (2) **1263343 ALBERTA INC.**, doing business as Lynx Air (the “**Guarantor**” and also referred to herein as the “**Subsidiary**”), a company registered under the laws of Alberta whose registered office is at 1400, 350 7th Avenue S.W., Calgary, Alberta T2P 3N9; and
- (3) **INDIGO NORTHERN VENTURES LP** (“**Indigo**”), an exempted limited partnership registered under the laws of the Cayman Islands whose registered office is at c/o Maples Corporate Services Limited, PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands.

BACKGROUND:

- (A) Indigo has agreed to purchase Equivalent Amount in Canadian Dollars of U.S.\$5,250,000 principal amount of Notes in accordance with the provisions of this Agreement.
- (B) The Parties have agreed to enter into this Agreement to govern the terms on which the Notes are to be issued by the Company and held by the Noteholders.

THE PARTIES AGREE AS FOLLOWS:

In consideration of the premises and the covenants and agreements herein set forth, the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement:

“**Additional Financings**” shall have the meaning ascribed to such term in paragraph 2.2 of Schedule 2;

“**Adherence Agreement**” means a joinder to this Agreement substantially in the form set out in Schedule 7;

“**Affiliate**” means, in relation to any Person, a Subsidiary of that Person or any direct or indirect Holding Company of that Person or any other direct or indirect Subsidiary of any such Holding Company;

“**Agency**” means the Canadian Transportation Agency, or any successor agency thereto;

“**Agreement**” means this Bridge Note Purchase Agreement dated as of February 24, 2023;

“**Anti-Corruption Laws**” means all laws, rules, and regulations of any jurisdiction applicable to the Company or its Subsidiaries from time to time concerning or relating to

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bribery or corruption, including, without limitation, the *Corruption of Foreign Public Officials Acts* (Canada) and the U.S. Foreign Corrupt Practices Act.

“**Authorisation**” means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;

“**Authorised Expenses**” means the legal fees of Blake, Cassels & Graydon, LLP, incurred in connection with: (a) the negotiation and documentation of the term sheet relating to this Agreement; and (b) the negotiation and documentation of the Transaction Documents and all ancillary documents connected thereto;

“**BIA**” means the *Bankruptcy and Insolvency Act* (Canada), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation;

“**Board**” means the board of directors of the Company;

“**Business Day**” means any day (other than Saturday or Sunday) which is not a public holiday and on which banks are open for normal banking business in Toronto, Ontario, Calgary, Alberta and New York, New York;

“**Canadian**” shall have the meaning ascribed to such term in the CTA, as supplemented by the Exemption;

“**Canadian Benefit Plan**” means any plan, fund, program, or policy, whether oral or written, formal or informal, funded or unfunded, insured or uninsured, providing employee benefits, including medical, hospital care, dental, sickness, accident, disability, life insurance, pension, retirement or savings benefits, under which the Company or its Subsidiaries has any liability with respect to any employee or former employee, but excluding any Canadian Pension Plan.

“**Canadian Pension Plan**” means each pension plan required to be registered under Canadian federal or provincial law that is maintained or contributed to by the Company or its Subsidiaries for its employees or former employees, but does not include the Canada Pension Plan as maintained by the Government of Canada.

“**Capital Event**” shall have the meaning ascribed to such term in Condition 15.1 of Schedule 11;

“**Cash Equivalents**” means any of the following:

- (a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the Government of Canada or of any Canadian province (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the Government of Canada or of such Canadian province), in each case maturing within one year from the date of acquisition thereof;

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- (b) investments in certificates of deposit, bankers' acceptances and time deposits maturing within 180 days from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of Canada or of any Canadian province which has a combined capital surplus and undivided profits of not less than \$500,000,000 and a senior unsecured rating of "A-" or better by S&P and "A3" or better by Moody's;
- (c) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the Government of the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the Government of the United States of America), in each case maturing within one year from the date of acquisition thereof;
- (d) marketable and freely tradeable securities evidencing direct obligations of corporations, hospitals, municipal boards or school boards having, at the date of acquisition, a rating from DBRS of A, from Moody's of A 2 or from S&P of A, in each case maturing within 180 days from the date of acquisition thereof; or
- (e) deposits in bank accounts made in the ordinary course of business and otherwise permitted hereunder;

"CCAA" means the *Companies' Creditors Arrangement Act* (Canada), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation;

"Class A Common Shares" shall have the meaning ascribed to such term in the Noteholders' and Shareholders' Agreement;

"Class B Common Shares" shall have the meaning ascribed to such term in the Noteholders' and Shareholders' Agreement;

"Common Shares" shall have the meaning ascribed to such term in the Noteholders' and Shareholders' Agreement;

"Company Bank Account" means the bank account of the Company, the details of which are as follows:

Account:	Lynx Air Holdings Corporation
Bank:	ATB Financial Calgary Stephen Ave Branch 102 8 Ave SW Calgary AB T2P 1B3
Bank Code:	0219
Transit /Branch	07609

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Account: 00390932879

Swift Code: ATBRCA6EXXX

“Completion” means performance of the obligations set forth in clause 4 provided always that Completion shall under no circumstances occur unless the Indigo Note Amount (less the Pre-Completion Expenses) shall have been received in the Company Bank Account for value in immediately available funds;

“Completion Date” means the date on which Completion occurs;

“Conditions” means the conditions and other provisions of the Notes set out in Schedule 11;

“Confidential Information” means any information, whether acquired before or after the date of this Agreement, that relates to:

- (a) this Agreement;
- (b) any member of the Group or their respective businesses;
- (c) any of the Group’s customers, businesses, assets, contracts, employees or affairs; and
- (d) any Party or any of their Affiliates, in each case, in respect of their identity, their being a party to this Agreement and their holdings of Notes and/or Common Shares and making an investment in the Group or any other information relating to any of the foregoing that has been obtained pursuant to the negotiation of this Agreement or any of the documents referred to herein,

save for, in each case:

- (i) information that is independently developed by the relevant Person from information that was neither: (A) provided pursuant to this Agreement; (B) provided by any member of the Group or any Party; nor (C) provided by a third party to the extent that it was provided with any limitation on disclosure or obligation of confidence; or
- (ii) information which is at the date of disclosure within the public domain (otherwise than as a result of a breach of this Agreement);

“Control” shall have the meaning ascribed to such term in the definition of “Affiliation” in the CTA. **“Controlling”** and **“Controlled”** have meanings correlative thereto;

“Controlling Interest” means a direct or indirect beneficial interest in more than 50% of the Fully Diluted Share Capital, or the ability of any Person, either alone or in conjunction with Persons acting in concert with such Person to control a direct or indirect beneficial interest in more than 50% of the Fully Diluted Share Capital, as the context requires;

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“Conversion Date” means, in respect of any conversion of Notes, the date on which the Company is required to issue the Conversion Shares to the relevant Noteholder pursuant to the conversion of such Notes;

“Conversion Shares” means, in respect of any Notes, the Class B Common Shares that would result from the conversion of such Notes in accordance with their terms and the relevant provisions of this Agreement and as calculated in accordance with the provisions of Condition 13.1 of Schedule 11;

“Converting Noteholder” shall have the meaning ascribed to such term in Condition 10.2 of Schedule 11;

“Corporate Articles” means the articles of incorporation of the Company in the Agreed Form;

“Covenants” shall have the meaning ascribed to such term in clause 12.110.2;

“CTA” means the *Canada Transportation Act*, as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation;

“DBRS” means Dominion Bond Rating Service Limited, or its successor.

“Default” means an Event of Default or any event or circumstance specified in Schedule 12 which would (with the expiry of a grace period, the giving of notice, the making of any determination by the Noteholder that it is entitled to make under any of the Transaction Documents or any combination of the foregoing) be an Event of Default;

“Default Rate” means, at any time, the applicable Interest Rate plus 1%;

“Director” means a member of the Board;

“Dollar”, “Canadian Dollar”, “\$” and “CAD” means the lawful currency of Canada for the time being, unless an explicit reference is made to U.S. or other currency;

“Equivalent Amount” means, with respect to any specified amount of currency other than Canadian Dollars, the amount of Canadian Dollars that may be purchased with such amount of other currency at the spot wholesale transactions buying rate of The Royal Bank of Canada for the purchase of Canadian Dollars with such other currency in effect as of 11:00 a.m. on the Business Day with respect to which such computation is required for the purpose of this Agreement or, in the absence of such a buying rate on such date, using such other rate as the Lender may reasonably select;

“Event of Default” means any event or circumstance specified in Schedule 12;

“Exemption” means the exemption order issued by the Minister of Transport to the Guarantor on December 2, 2016 relating to the CTA;

“Financial Indebtedness” means, without double counting, any indebtedness for or in respect of:

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- (a) moneys borrowed or raised (including overdrafts);
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, shares or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a finance or capital lease;
- (e) receivables sold, discounted or factored (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised by the issue of redeemable shares if the shares are redeemable automatically or at the relevant shareholder's option before the Redemption Date;
- (g) any amount of any liability under an advance or deferred purchase agreement if:
 - (i) one of the primary reasons behind entering into the agreement is to raise financing; or
 - (ii) the agreement is in respect of the supply of material assets or services and payment is due more than 60 days after the date of supply;
- (h) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account);
- (i) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution;
- (j) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing; and
- (k) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (j) above;

"Fully Diluted Share Capital" means, at any time, the aggregate number of Common Shares that would be issued assuming the conversion (in full) of all Notes (whether or not, on their terms, the same are actually convertible into Common Shares at such time);

"GAAP" means in relation to any Person, the generally accepted accounting principles in Canada as in effect from time to time;

"Group" means the Company and its Subsidiaries from time to time;

"Holding Company" means, in relation to a corporation, any other corporation in respect of which it is a Subsidiary;

"Indigo Note Amount" shall have the meaning set out in clause 2.1;

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“Interest Rate” means 20% per annum;

“Initial Notes” means the convertible promissory notes (substantially in the form set out in Schedule 9) to be issued by the Company to Indigo pursuant to and in accordance with clause 2.1;

“Interest Payment Date” shall have the meaning ascribed to such term in the Notes.

“IPO” means an initial public offering, whether on a treasury or secondary basis, resulting in the holding of equity of the Company, directly or indirectly, by the public, or a transaction giving rise to a stock market listing on any Recognised Securities Exchange or over-the-counter quotation of equity of the Company, directly or indirectly, and includes an amalgamation, securities exchange take-over bid or other transaction having a similar result, and an offering of units of an income trust or similar offering where the trust, directly or indirectly, owns equity of the Company **“IPO Conversion Notice”** shall have the meaning ascribed to such term in Condition 12.4 of Schedule 11;

“Lenders” means Indigo (and any Person to whom Indigo has transferred any Notes in accordance with the terms of this Agreement);

“Material Adverse Effect” means, in the reasonable opinion of Indigo, a material adverse effect on:

- (a) the ability of any member of the Group to pay any amount of principal or interest or other amount (if payable in cash) in respect of the Notes or to perform any of its material obligations under this Agreement; or
- (b) the business, operations, property, condition (financial or otherwise) or prospects of the Group taken as a whole;

“Moody’s” means Moody’s Investors Service, Inc.;

“New Note Funds” means the money received by the Company pursuant to the sale of Notes in accordance with clause 2;

“Non-Canadian” means any Person that does not qualify as Canadian;

“Non-Indigo Party” means any Party other than Indigo (and any Person to whom Indigo has transferred any Notes in accordance with the terms of this Agreement);

“Note Conversion Notice” shall have the meaning ascribed to such term in Condition 10.3 of Schedule 11;

“Noteholder” means any holder for the time being of Notes;

“Noteholder Resolution” shall have the meaning ascribed to such term in paragraph 2.1 of Schedule 8;

“Noteholders’ and Shareholders’ Agreement” means the noteholders’ and shareholders’ agreement dated as of December 20, 2018 by and between the Company,

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the Subsidiaries, Indigo, the Noteholders and the Shareholders (in each case, as defined therein);

“**Notes**” means, collectively, the Initial Notes, the PIK Notes and the Subsequent Notes;

“**Obligor**” means the Company or the Guarantor, and the term “**Obligors**” means the Company and the Guarantor;

“**Obligor Warranties**” means, collectively, the statements set out in Schedule 5;

“**Ordinary Course of Business**” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“**Original Notes**” shall have the meaning ascribed to “Notes” in the Original NPA;

“**Original NPA**” means the note purchase agreement dated as of December 20, 2018 among, the Company, the Guarantor and Indigo;

“**Outstanding Expenses**” shall have the meaning ascribed to such term in clause 10.5(B);

“**Ownership and Control Requirements**” means the rules or regulations governing the ownership and control of Canadian airlines constituted pursuant to the federal laws of Canada including (without limitation) the CTA, as supplemented by the Exemption;

“**Party**” means a party to this Agreement;

“**Permitted Transferee**” means, in respect of a Lender:

- (a) any Subsidiary or Holding Company of such Lender;
- (b) any company, fund (including any unit trust or investment trust), partnership or other entity which is Controlled by any entity falling within (a) above (or by any two or more such entities);
- (c) any company, fund (including any unit trust or investment trust), partnership or other entity the major part of the assets of which are managed (whether solely or jointly with others) from time to time by any entity falling within (a) and/or (b) above (or by any two or more such entities); or
- (d) any company, fund (including any unit trust or investment trust), partnership or other entity that is managed by or Controlled by the same Person or Persons who manage or Control the Lender at the date of this Agreement;

“**Person**” includes any natural person, corporation, company, limited liability company, trust, joint venture, association, incorporated organization, partnership, governmental authority or other entity;

“**PIK Notes**” shall have the meaning ascribed to such term in paragraph 4.1 of Schedule 11;

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“Pre-Completion Expenses” shall have the meaning ascribed to such term in clause 10.3(B);

“Proposed Conversion Date” shall have the meaning ascribed to such term in Condition 10.2 of Schedule 11;

“Qualifying Takeover Offer” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“Recognised Securities Exchange” means the Toronto Stock Exchange or any other recognized securities exchange in Canada or the United States of America;

“Redemption Date” shall mean the second anniversary of the Completion Date (or, if such second anniversary is not a Business Day, the next Business Day thereafter), or such other date as may be determined pursuant to clause 18.3 or Condition 3.6 of Schedule 11;

“Register” means the register of the Notes required to be maintained by the Company pursuant to clause 9;

“Relevant Conversion Price” means \$0.25, subject to adjustment on a pro-rata basis in the event that the Company effects any share split, consolidation, sub-division or other reorganization of any part of its share capital after the date of this Agreement, which such price shall be equal to the price of the Common Shares on the date of this Agreement;

“S&P” means Standard & Poor’s Ratings Services, a division of the McGraw-Hill Companies, Inc.

“Sanctions” means, at any time, economic or financial sanctions or trade embargoes imposed, administered or enforced by (a) the Office of Foreign Assets Control of the U.S. Department of Treasury; or (b) any other governmental authority that are applicable to any party at such time.

“Sanctioned Person” means, at any time, any Person with whom any party is prohibited or restricted from transacting or otherwise dealing under any Sanction, whether by reason of designation under such Sanction or otherwise.

“Security” means, (a) with respect to any asset, any mortgage, deed of trust, lien (statutory or otherwise), deemed trust, pledge, hypothec, hypothecation, encumbrance, charge, security interest, royalty interest, adverse claim, defect of title or right of set off in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, title retention agreement or consignment agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to any asset, (c) any purchase option, call or similar right of a third party with respect to such assets, (d) any netting arrangement, defeasance arrangement or reciprocal fee arrangement, and (e) any other arrangement having the effect of providing security;

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“**Security Documents**” means the documents that constitute the Security required to be granted or put in place pursuant to clause 14 and Schedule 6;

“**Shareholder**” means a shareholder of the Company;

“**Specified Percentage**” shall have the meaning ascribed to such term in Condition 10.4(B) of Schedule 11;

“**Subsequent Notes**” means the convertible promissory notes (substantially in the form set out in Schedule 9) to be issued by the Company to Indigo pursuant to and in accordance with clause 2.2;

“**Subsidiary**” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“**Takeover Conversion Notice**” shall have the meaning ascribed to such term in Condition 11.3 of Schedule 11;

“**Takeover Offer**” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“**Tax**” means all taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, harmonized sales, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, real property and personal property taxes, and any other taxes, customs duties, fees, assessments, or similar charges in the nature of a tax, including *Canada Pension Plan* and provincial pension plan contributions, employment insurance payments and workers’ compensation premiums, together with any instalments with respect thereto, and any interest, fines and penalties with respect thereto, imposed by any governmental authority (including federal, state, provincial, municipal and foreign governmental authorities), and whether disputed or not;

“**Transaction Documents**” means this Agreement, the Noteholders’ and Shareholders’ Agreement, the Security Documents, and each other agreement or document entered into or executed pursuant to any of the foregoing;

“**Transferring Noteholder**” shall have the meaning ascribed to such term in Condition 6.1 of Schedule 11;

“**Unrestricted Cash Balance**” means, at any time, the aggregate amount of unrestricted cash and Cash Equivalents held by an Obligor at such time, in accounts maintained with a financial institution that has executed an account control agreement, blocked account agreement or other similar agreement (in each case, in form and substance satisfactory to Indigo, acting reasonably) in favour of Indigo;

“**Winding-Up**” means, in respect of any Person,

(a) that such Person:

(i) admits in writing that it is insolvent as they generally become due;

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- (ii) commits an act of bankruptcy under the BIA, files a voluntary assignment in bankruptcy under the BIA, makes a proposal (or files a notice of its intention to do so) under the BIA or seeks any other relief in respect of itself under the BIA;
 - (iii) institutes any proceedings seeking relief in respect of itself under the CCAA;
 - (iv) institutes any proceeding seeking relief in respect of itself under the WURA;
 - (v) in addition to the forgoing, institutes any other proceeding seeking: (a) to adjudicate itself an insolvent person or a bankrupt; (b) to liquidate, dissolve or wind-up its business or assets; (c) to compromise, arrange, adjust or declare a moratorium in respect of the payment of, its debts; (d) to stay the rights of creditors generally (or any class of creditors); (e) any other relief in respect of itself under any federal, provincial or foreign applicable Law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, receivership, restructuring of business, assets or debt, reorganization of business, assets or debt or protection of debtors from their creditors (such applicable Law includes any applicable corporations legislation to the extent the relief sought under such corporations legislation relates to or involves the compromise, settlement, adjustment or arrangement of debt); or (f) any other relief which provides for plans or schemes of reorganization, plans or schemes of arrangement or plans or schemes of compromise, in respect of itself, to be submitted or presented to creditors (or any class of creditors);
 - (vi) applies for the appointment of, or has a receiver (either court or privately appointed), interim receiver, receiver/manager (either court or privately appointed), sequestrator, conservator, custodian, administrator, trustee, liquidator or other similar official appointed in respect of it, or any substantial part of its property; or
 - (vii) threatens to do any of the foregoing, or takes any action, corporate or otherwise, to approve, effect, consent to or authorize any of the actions described in (i) to (vi) above; or
- (b) that any petition is filed, application made or other proceeding instituted against or in respect of any Person:
- (i) seeking to adjudicate it an insolvent person;
 - (ii) seeking a bankruptcy order against it under the BIA;
 - (iii) seeking to institute proceedings against it under the CCAA;
 - (iv) seeking to institute proceedings against it under the WURA;

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- (v) seeking, in addition to the forgoing: (a) to adjudicate it an insolvent person or a bankrupt; (b) to liquidate, dissolve or wind-up its business or assets; (c) to compromise, arrange, adjust or declare a moratorium in respect of the payment of, its debts; (d) to stay the rights of creditors generally (or any class of creditors); (e) any other relief in respect of it under any federal, provincial or foreign applicable Law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, receivership, restructuring of business, assets or debt, reorganization of business, assets or debt, or protection of debtors from their creditors (such applicable Law includes any applicable corporations legislation to the extent the relief sought under such corporations legislation relates to or involves the compromise, settlement, adjustment or arrangement of debt); or (f) any other relief which provides plans or schemes of reorganization, plans or schemes of arrangement or plans or schemes of compromise in respect of it, to be submitted or presented to creditors (or any class of creditors); or
- (vi) seeking the issuance of an order for the appointment of a receiver, interim receiver, receiver/manager, sequestrator, conservator, custodian, administrator, trustee, liquidator or other similar official in respect of it or any substantial part of its property; and

“**WURA**” means the *Winding Up and Restructuring Act* (Canada), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

1.2 In this Agreement, unless a contrary indication appears:

- (a) references to “**clauses**” and “**Schedules**” are references to clauses of and schedules to this Agreement, references to “**paragraphs**” are references to paragraphs of the Schedule (or clause) in which the reference appears and references to this Agreement include the Schedules;
- (b) reference to any gender shall include every other gender;
- (c) the singular shall include the plural and vice versa;
- (d) the headings and sub-headings are inserted for convenience only and shall not affect the construction of this Agreement;
- (e) references to dollars means Canadian Dollars unless an explicit reference is made to U.S. or other currency;
- (f) references to “**indebtedness**” include any obligation (whether incurred as principal, as guarantor or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (g) references to a “**regulation**” include any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental,

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intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or reorganisation;

- (h) references to “**Indigo**”, any “**Noteholder**”, any “**Shareholder**”, any “**Lender**”, and/or any “**Party**” shall be construed so as to include its successors, permitted assigns and permitted transferees;
- (i) references to any document being in “**Agreed Form**” are to that document in the form signed by or on behalf of each of the Lenders, the Company and the Guarantor for the purposes of identification;
- (j) references to “**assets**” include present and future properties, revenues and rights of every description;
- (k) references to any agreement or instrument is a reference to that agreement or instrument as amended, varied, supplemented or novated (however fundamentally) from time to time but excluding for these purposes any amendment, variations, supplement or novation which is contrary to the provisions of any such agreement or instrument;
- (l) references to “**guarantee**” mean any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assure any indebtedness of any Person or to make an investment in or loan to any Person or to purchase assets of any Person where, in each case, such obligation is assumed in order to maintain or assist the ability of such Person to meet its indebtedness (and “guaranteed” and “guarantor” shall be construed accordingly); and
- (m) references to a provision of law are references to that provision as amended or re-enacted and include any subordinate legislation.

2. SALE OF NOTES

- 2.1 Indigo hereby agrees to purchase Initial Notes at Completion for U.S.\$5,250,000 (the “**Indigo Note Amount**”) on the terms and subject to the conditions set out in this Agreement.
- 2.2 Upon the conditions being set out in Schedule 2 being met, the Company may request Indigo to purchase Subsequent Notes.
- 2.3 All Notes shall constitute “Notes” for the purpose of the Noteholders’ and Shareholders’ Agreement.

3. INTEREST

The Notes shall each bear interest at the rate and in accordance with the provisions set forth in Condition 4 of Schedule 11.

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4. COMPLETION

4.1 Subject to the terms of this Agreement, completion shall take place as soon as reasonably possible after the last of the conditions in clause 5 has been satisfied (or waived in accordance with clause 5.2) provided that this Agreement shall lapse and be of no further force and effect if Completion shall not have occurred by the earlier of.

(A) June 30, 2023; and

(B) the Winding-Up of the Company or any Subsidiary of the Company,

or such later date as Indigo may agree in writing.

4.2 Subject to clause 4.3, at Completion:

(A) Indigo will transfer the Indigo Note Amount (less the Pre-Completion Expenses) to the Company Bank Account by direct credit transfer; and

(B) the Company shall execute and deliver to Indigo the Initial Notes required to be issued pursuant to clause 2.1 of this Agreement, each of which will be issued in Indigo's name and dated as of the Completion Date.

4.3 For all purposes under this Agreement, Completion shall not be deemed to have occurred unless and until all of the obligations set forth in this clause 4 shall have been performed in full in accordance with the provisions set forth herein and the Indigo Note Amount (less the Pre-Completion Expenses) shall have been received in the Company Bank Account for value in immediately available funds.

5. CONDITIONS PRECEDENT

5.1 Completion is conditional on:

(A) the Company having delivered (or procured the delivery) to Indigo (or its solicitors on its behalf) the following documents:

(i) counterparts of any Adherence Agreement (as defined in the Noteholders' and Shareholders' Agreement) duly executed by each Noteholder not already a party thereto;

(ii) a counterpart to a guarantee given by the Guarantor in favour of the Lenders;

(iii) a counterpart to a general security agreement given by each of the Company and the Guarantor in favour of the lenders (the "GSA");

(iv) a detailed 90-day cash-flow forecast of the Company for the period ending May 31, 2023, and Indigo confirms receipt of such forecast;

(v) confirmation from a senior officer of the Company that the forecast referred to in clause 5.1(A)(iv) above remains true, complete and correct as of the

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Completion Date such that there are no material changes to the information set out therein;

- (vi) a counterpart by every party thereto to the amendment no. 3 to the Noteholders' and Shareholders' Agreement, such amendment to be entered into to reflect the issuance of the Notes pursuant to this Agreement and all transactions contemplated hereby; and
- (vii) such legal opinions and supporting materials as may be requested by Indigo;

- (B) Indigo is satisfied with the condition of the Company, in its sole discretion;
- (C) the GSA shall have been registered in all offices in which, in the opinion of Indigo or its counsel, registration is necessary or of advantage to perfect or render opposable to third parties the Security intended to be created thereby;
- (D) [Intentionally Deleted];
- (E) [Intentionally Deleted];
- (F) confirmation by the Company, to the satisfaction of Indigo, that no event or circumstance exists or has occurred which constitutes a default under any agreement or instrument which is binding on it or the Group or to which its or any of the Group's assets are subject which has or might have a Material Adverse Effect;
- (G) [Intentionally Deleted];
- (H) [Intentionally Deleted];
- (I) confirmation by the Company, to the satisfaction of Indigo, that none of the Group's debt (including, without limitation, any debt payable to any Shareholder) which exists as of the date hereof, will be repaid, rescheduled or modified in any way (other than the payments of any accounts payable in the ordinary course of business or any interest and principal scheduled under existing terms) unless approved by Indigo in writing;
- (J) [Intentionally Deleted]; and
- (K) [Intentionally Deleted].

5.2 Indigo may agree to waive all or any part of the conditions in clause 5.1 or to modify such conditions.

6. POST-COMPLETION OBLIGATIONS

6.1 As soon as reasonably practicable following Completion, the Company shall comply with its obligations under clause 14.

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7. PURPOSE

- 7.1 Subject to clause 7.3, the Company shall apply the New Note Funds towards:
- (A) making intra-group loans to, or equity investments in, the Subsidiary to enable such Subsidiary to discharge amounts referred to in clause 7.2;
 - (B) payment and discharge of all amounts due to airports and air navigation authorities (including, without limitation, NAV Canada) or amounts owed relating to emission schemes now and from time to time arising;
 - (C) payment and discharge of all amounts due to any repairer, servicer or hangarkeeper to the extent that any such amount may give rise or create an encumbrance or lien on any aircraft or engine operated by the Company; and/or
 - (D) general working capital purposes, but not towards the making of acquisitions of or investments in companies, businesses or undertakings other than as contemplated in clause 7.1(A) above.
- 7.2 For so long as any Notes remain outstanding, the Company shall procure that the New Note Funds are applied as follows:
- (A) first, immediate payment and discharge of all amounts due to airports and air navigation authorities (including, without limitation, NAV Canada) and amounts owed relating to emission schemes now and from time to time arising;
 - (B) second, immediate payment and discharge of all amounts due to any repairer, servicer or hangarkeeper to the extent any such amount may give rise or create an encumbrance or lien on any aircraft or engine operated by the Company;
 - (C) thirdly, general working capital purposes; or
 - (D) fourthly, any other purpose approved by the Lenders in writing.
- 7.3 Notwithstanding any other provision contained in this Agreement, (A) the Guarantor will not engage, and will not use the New Note Funds to engage, to any material extent, in any material business other than business of providing a low fare, low cost airline, and (B) the Company will not, and will not use the New Note Funds to, (i) engage in any business (other than non-operating business and management services, in each case typically conducted by a holding company), (ii) own any assets (other than bank accounts and shares in the Guarantor), (iii) incur any indebtedness (other than that as approved by the Lenders), or (iv) incur any expenses other than customary and reasonable administrative expenses associated with maintaining its corporate existence.
- 7.4 The Lenders are not bound to monitor or verify the application of any amount borrowed pursuant to this Agreement and the Lenders will not be responsible for, or for the consequences of, any such borrowing.

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8. CERTIFICATES

8.1 Every certificate for Notes shall be in the form or substantially in the form set out in Schedule 9 and shall have endorsed thereon or attached thereto:

- (A) a conversion notice in the form or substantially in the form set out in Schedule 10; and
- (B) a copy of the Conditions.

8.2 Every Noteholder shall be entitled, without charge, to one certificate for the Notes held by it save that joint holders shall be entitled to one certificate only in respect of the Notes held by them jointly which certificate shall be delivered to the holder whose name stands first in the Register in respect of such joint holding. The Company shall not be bound to register more than four Persons as joint holders of any Notes.

8.3 Where some but not all of the Notes comprised in any certificate are transferred or repaid, the Company shall forthwith issue free of charge to the relevant Noteholder a fresh certificate in accordance with the other provisions of this Agreement for the balance of the Notes retained by such Noteholder.

8.4 The Company hereby undertakes and covenants that for such time as any of the Notes remain outstanding, the Company shall carry on and conduct its affairs so as to comply with:

- (A) the provisions contained in the certificates for the Notes;
- (B) the Conditions;
- (C) the provisions of this Agreement, including (without limitation) the provisions of:
 - (i) Schedule 6;
 - (ii) Schedule 12; and
 - (iii) Schedule 13,

and the Notes shall be held subject to and with the benefit of such provisions and Conditions all of which shall be deemed to be incorporated in this Agreement and which shall be binding upon the Company and the Noteholders and all Persons claiming through or under them respectively with the intent that the Notes shall enure for the benefit of each Noteholder who shall, for the avoidance of doubt, be entitled to sue for the performance and observance of such provisions and Conditions in respect of any Notes held by such Noteholder.

9. REGISTER

9.1 The Company shall keep an accurate register of the Notes at its registered office or at such other place as the Directors may determine from time to time and there shall be entered in the Register:

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- (A) the names, addresses and nationality for the purposes of the Ownership and Control Requirements of the holders for the time being of the Notes;
 - (B) the nominal amount of the Notes held by every registered holder;
 - (C) the date upon which the name of every such registered holder is entered in respect of the Notes standing in its name;
 - (D) the serial number of each Note; and
 - (E) details of any account designated by any Noteholder for the purpose of receiving payments pursuant to the terms of the Notes.
- 9.2 Any change of name, address or nationality on the part of any Noteholder shall be notified as soon as is reasonably practicable to the Company and the Company shall amend the Register accordingly.
- 9.3 Any Noteholder and any Person authorized by any Noteholder shall be at liberty at all reasonable times during office hours to inspect the Register and to take copies of or extracts from the Register or any part thereof and shall be entitled to obtain from the Company by telephone or by facsimile confirmation of its registered address and the aggregate nominal amount of the Notes in issue from time to time.

10. FEES AND EXPENSES

- 10.1 In consideration for Indigo agreeing to enter into this Agreement and for other valuable consideration, the Company will pay (for and on behalf of itself and the Subsidiaries) the following fees and expenses:
- (A) [Intentionally Deleted]; and
 - (B) the Authorised Expenses, in accordance with clauses 10.2 to 10.7 below.
- 10.2 [Intentionally Deleted].
- 10.3 Prior to Completion, Indigo shall deliver to the Company a statement containing an itemised list of the Authorised Expenses as follows:
- (A) those Authorised Expenses actually incurred by Indigo in respect of the period up to Completion (together with invoices or other supporting evidence of the same, which may include a letter from the relevant law firm setting out the amounts due to it by Indigo);
 - (B) a reasonable estimate (if necessary) of any Authorised Expenses that remain to be incurred by Indigo in respect of the period up to Completion;
- (the Authorised Expenses referred to in clauses 10.3(A) and 10.3(B) being the “**Pre-Completion Expenses**”).

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- 10.4 Indigo will deduct the Pre-Completion Expenses from the Indigo Note Amount prior to the transfer of the same to the Company pursuant to clause 2.1 above.
- 10.5 Within 15 Business Days after the execution of the last document required to be executed in connection with the Security, Indigo will submit a final statement to the Company setting out the following:
- (A) the aggregate amount of the Lenders' Authorised Expenses incurred by the Lender; and
 - (B) the amount of Lenders' Authorised Expenses (if any) that remains due to such Lender (the "**Outstanding Expenses**"), being the amount referred to in clause 10.5(A).
- 10.6 If there are Outstanding Expenses, Indigo shall deliver copies of invoices in respect of the outstanding amount and the Company shall settle such invoices within 5 Business Days of receipt of the same.
- 10.7 Any fees, costs and expenses required to be paid or reimbursed to Indigo or any other Affiliates of Indigo by the Company or a Subsidiary pursuant to any of the Transaction Documents shall be paid by the Company to the maximum extent permissible by law or otherwise by the Guarantor.

11. WARRANTIES

- 11.1 The Obligors jointly and severally warrant to each of the Lenders that each of the Obligor Warranties is true and correct on the date of this Agreement in respect of each of the Obligors.
- 11.2 The Obligors each acknowledge to the Lenders that:
- (A) they have agreed to give the Obligor Warranties in respect of itself in consideration of the execution by Indigo of this Agreement and the performance of the obligations contained herein; and
 - (B) Indigo has entered into this Agreement, and the Lenders will perform their obligations in accordance with the provisions of this Agreement, in reliance, inter alia, on the Obligor Warranties.
- 11.3 The Obligors each hereby acknowledge and agree that each of the Obligor Warranties shall be separate and independent and save as expressly provided shall not be limited by reference to any other of the Obligor Warranties or anything in this Agreement.

12. COVENANTS

- 12.1 Each of the Company and the Subsidiary give the covenants set forth in Schedule 13 (the "**Covenants**") to the Lenders and agree the same will remain in force from the date of this Agreement for so long as the Notes remain outstanding, provided that it shall not be a breach of any covenant under this Agreement arising from the Company or any Subsidiary

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complying with any other specific obligation under any of the Transaction Documents apart from the Covenants.

13. [INTENTIONALLY DELETED]

14. SECURITY

14.1 The Company and the Subsidiary undertake to provide and maintain the Security in favour of the Lenders in accordance with the provisions of Schedule 6.

15. TRANSFERS AND ADHERENCE AGREEMENT REQUIREMENTS

15.1 All transfers of Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) shall be regulated in accordance with Conditions 6 to 9 (inclusive).

15.2 Notwithstanding any other provision contained in this Agreement, no transfer of any Note shall be made by any Person unless the transferee shall have first executed an Adherence Agreement, pursuant to which the transferee agrees to adhere to and be bound by the provisions of this Agreement (including this clause) so far as it binds the transferor of the relevant Note(s).

15.3 Upon the execution of an Adherence Agreement pursuant to clause 15.2 above, the Parties (other than the transferor if the transferor retains no Notes after the relevant transfer) agree to adhere to and be bound by the provisions of this Agreement (including this clause) as if the transferee were an original party to the Agreement in place of the transferor.

15.4 This Agreement shall have effect accordingly, provided that no Adherence Agreement need be executed where the transferee is already a Party in the same capacity.

15.5 Any Party proposing to transfer any Notes in accordance with Conditions 6 to 9 of Schedule 11 (inclusive) or to direct its nominees to do so, shall procure that the transferee or the Person who will become the beneficial owner of the Notes to be transferred shall enter into an Adherence Agreement before the completion of the transfer.

15.6 The Company undertakes to procure, insofar as they are able to procure by the exercise of the voting rights of themselves and their nominees as shareholders of the Company and of their appointed Directors (subject to the fiduciary duties of such Directors) that:

(A) no transfer of any Notes shall be registered unless any Adherence Agreement required by this clause 15.6 has been duly executed and delivered; and

(B) all necessary resolutions required to be passed to effect conversion of any Notes in accordance with the Corporate Articles are duly passed.

15.7 The obligations contained in this Agreement shall be binding upon the personal representatives and successors in title of the Parties but none of them shall be entitled to the benefit of this Agreement unless and until they have entered into an Adherence Agreement.

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16. CONFIDENTIALITY

16.1 Obligations of Confidentiality

- (A) Each Party shall keep all Confidential Information strictly confidential and secret (and to ensure that each of its Affiliates, and its and their officers, employees, agents and professional and other advisers shall keep all Confidential Information strictly confidential and secret);
- (B) Without limitation to its general obligation of confidentiality:
 - (i) no Party shall disclose to any third party any Confidential Information;
 - (ii) no Party shall use or permit the use of any Confidential Information for any purpose other than assessing its investment in the Group and making decisions in relation to that investment;
 - (iii) each Party shall use its reasonable endeavours to alert the Company and the Lenders as soon as is reasonably practical after it becomes aware of any request from a third party for disclosure of any Confidential Information and upon the Company's reasonable request will join it in asserting against any third party that the Confidential Information and its contents are protected by privilege and that, as against such third party, that privilege has not been waived.

16.2 General Exceptions from Confidentiality Obligations

- (A) The obligations of confidentiality under clauses 16.1(A) and 16.1(B) do not apply to:
 - (i) the disclosure of information solely to the extent required to be disclosed by law, legal process, regulation or any regulatory authority provided always that prior to such disclosure, the Party proposing to disclose information pursuant to this clause 16.2(A)(i) shall immediately inform each of the Lenders and shall co-operate in good faith with the Lenders about the timing and content of such disclosure to the extent reasonably practicable;
 - (ii) the disclosure in confidence to professional advisers, or any Affiliate of a Party, as the case may be, or their respective professional advisers, in each case where the disclosure is for a purpose reasonably incidental to this Agreement or for the purpose of assessing such Person's investment in the Group or any member of it (and only to the extent the disclosed information is reasonably required for such purpose);
 - (iii) any bona fide potential purchaser of any Note or Common Shares from any Lender provided such purchaser shall have entered into a confidentiality undertaking in favour of the seller on substantially the same terms as clause 16.1;

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- (iv) any shareholder or investor (or potential shareholder or investor) in or of any of the Lenders;
 - (v) any present or future financier of any of the Lenders;
 - (vi) the disclosure of information to any tax authority to the extent reasonably required for the purposes of the tax affairs of the Person disclosing the information or any Affiliate of such Person, as the case may be;
 - (vii) the disclosure by any Director, officer, employee, representative or consultant to the Group in the proper performance of their duties or by any employee of the Group making a protected disclosure relating to employment in accordance with applicable law; and
 - (viii) the disclosure by any Lender of Confidential Information to any Affiliate of such Lender.
- (B) Other than in respect of disclosure pursuant to clause 16.2(A)(iv), each Party shall inform (and shall ensure that any Affiliates shall inform) any Person to whom it provides Confidential Information pursuant to clause 16.2(A), that such information is confidential and, in the case of disclosure pursuant to clauses 16.2(A)(ii) shall only provide such Confidential Information to such Person if they agree:
- (i) to keep it confidential on the terms of and otherwise to comply with, this clause; and
 - (ii) not to disclose it to any third party (other than those Persons to whom it has already been disclosed in accordance with the terms of this Agreement).
- (C) A Party may only disclose Confidential Information pursuant to clauses 16.2(A)(iv) and 16.2(A)(v) on the basis that the recipient of such Confidential Information shall have entered into a confidentiality agreement with the disclosing Party on substantially the same terms as clause 16.1.

16.3 Breaches of Confidentiality restrictions

Each Party shall procure that promptly upon becoming aware of any breach (by any Person) of this clause 16, such Party shall promptly notify each of the Lenders of such fact and shall provide such information relating to the breach as any Lender may reasonably request.

17. GENERAL

- 17.1 The provisions of this Agreement shall be enforceable by and enure for the benefit of the Parties and their respective successors and permitted assigns.
- 17.2 Any release, waiver or compromise or any other arrangement of any kind by any Party shall not affect the rights and remedies of the Party concerned as regards any other Party or its rights and remedies against the Party in whose favour the release, waiver,

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compromise or other arrangement is granted or made, except (in any event) to the express extent of the release, waiver, compromise or other arrangement, and no such release, waiver, compromise or other arrangement shall have effect unless granted or made in writing.

- 17.3 If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.
- 17.4 No failure to exercise, nor any delay in exercising, on the part of a Party, any right or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.
- 17.5 The Parties hereto confirm that it is their wish that this Agreement and any other document executed in connection with the transactions contemplated herein be drawn up in the English language only and that all other documents contemplated thereunder or relating thereto, including notices, may also be drawn up in the English language only. *Les Parties aux présentes confirment que c'est leur volonté que cette convention et les autres documents de crédit soient rédigés en langue anglaise seulement et que tous les documents, y compris tous avis, envisagés par cette convention et les autres documents peuvent être rédigés en langue anglaise seulement.*
- 17.6 All payments to be made by the Company under this Agreement shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.
- 17.7 Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- 17.8 During any extension of the due date for payment of any principal or unpaid sum under this Agreement interest is payable on the principal or unpaid sum at the rate payable on the original due date.
- 17.9 Any interest, conversion or fee or compounded return accruing under this Agreement will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days or 366 days, as applicable. For the purposes of the *Interest Act* (Canada) and disclosure thereunder, whenever any interest or any fee to be paid hereunder or in connection herewith is to be calculated on the basis of a 365-day or 366-day year, the yearly rate of interest to which the rate used in such calculation is equivalent is the rate so used multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 365 or 366, as applicable, computed on the basis of the actual number of days elapsed over a year of 365 days or 366 days, as the case may be. The rates of interest under this Agreement are nominal rates, and not effective rates or yields. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement.

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- 17.10 No amendment to, or waiver of, any provision of this Agreement shall be effective unless it is in writing and signed by each of the Parties hereto.
- 17.11 The obligations of the Parties contained in this Agreement shall be several save that the obligations of the Obligors shall be joint and several among the Obligors.
- 17.12 If any provision of this Agreement would oblige the Company to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate which would be prohibited by applicable Law or would result in a receipt by that Lender of "interest" at a "criminal rate" (as such terms are construed under the *Criminal Code* (Canada)), then, notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law or so result in a receipt by that Lender of "interest" at a "criminal rate", such adjustment to be effected, to the extent necessary (but only to the extent necessary), by reducing any fees, commissions, costs, expenses, premiums and other amounts required to be paid to the affected Lender which would constitute interest for purposes of Section 347 of the *Criminal Code* (Canada).

18. REGULATORY PROVISIONS

- 18.1 The Company undertakes to procure, insofar as they are able to procure, that no Non-Canadian Person or entity shall acquire or exercise control over the Company, either alone or in combination with others if, and for so long, as such control would constitute a breach of the Ownership and Control Requirements.
- 18.2 If at any time it is determined by the Agency, a court or a competent regulatory authority that a non-Canadian Person or entity may exercise effective control over the Company, that Person or entity, to the extent that it is a Party, will take immediate steps to ensure that control is no longer effective (provided that this clause 18.2 shall not require any such Non-Canadian Party to convert any Notes or divest itself of any Common Shares, other than pursuant to and on the basis set forth in clause 3 of the Corporate Articles or the Notes). For purposes of this clause 18.2 and clause 18.3, "effective control" shall mean "controlled in fact" as defined in the CTA and interpreted, in practice, by the Agency.
- 18.3 The provisions of this Agreement take effect subject always to this clause 18.3. This Agreement shall not confer on Indigo any rights, and Indigo shall not do or omit to do anything, which would result in Indigo acquiring or exercising Control or effective control, or being deemed to acquire or exercise Control or effective control of the Company. References in this Agreement to "complying with", "not breaching", "acting in accordance with" and "for the purposes of" the Ownership and Control Requirements, or any wording similar to or deriving from such phrases, shall include an obligation on Indigo to ensure that Indigo is not required to file a submission under: (i) any regulations governing the ownership and control of Canadian airlines; or (ii) the *Competition Act* (Canada). To the extent that Notes have been issued and, subsequently, the Agency determines that there is a breach of the Ownership and Control Requirements as a result of such Notes and/or other arrangements between Indigo and any of the Group, the affected Noteholders shall be entitled to redeem their Notes as if it was the Redemption Date.

Execution Version

STRICTLY PRIVATE & CONFIDENTIAL

19. COUNTERPARTS

This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same agreement.

20. ENTIRE AGREEMENT

20.1 This Agreement, the Noteholders' and Shareholders' Agreement, the Corporate Articles, and the Security Documents constitute the entire agreement of the Parties with respect to the subject matter of this Agreement.

21. FURTHER ASSURANCES

The Parties shall (and shall procure that their respective nominees shall) do and execute and perform all further deeds, documents, assurances, acts and things that may reasonably be required to give effect to the terms of this Agreement and the Parties (other than the Company) shall at all times use and exercise the votes that they control (which shall be deemed to include all votes held by their respective nominees and board appointees) at both general meetings and/or Board meetings and/or any meetings of any committee of the Company to ensure, in so far as each is reasonably able to, the maintenance and observance of the terms of this Agreement and the Corporate Articles as may be amended from time to time with the agreement of the Lenders.

22. GOVERNING LAW AND JURISDICTION

22.1 This Agreement is governed by, and to be construed in accordance with the laws of Province of Ontario and the laws of Canada applicable in such Province.

22.2 Each Party hereto agrees (i) that any action or proceeding relating to this Agreement may (but need not) be brought in any court of competent jurisdiction in the Province of Ontario, and for that purpose now irrevocably and unconditionally attorns and submits to the jurisdiction of such Ontario court; (ii) that it irrevocably waives any right to, and shall not, oppose any such Ontario action or proceeding on any jurisdictional basis, including forum non conveniens; and (iii) not to oppose the enforcement against it in any other jurisdiction of any judgment or order duly obtained from an Ontario court as contemplated by this clause 22.2.

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[Signature blocks follow on the next page]

Execution Version

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IN WITNESS WHEREOF THE Parties hereto have executed this Agreement as of the date first set forth above.

LYNX AIR HOLDINGS CORPORATION

DocuSigned by:
Merren McArthur
By: _____
Name: Merren McArthur
Title: CEO and President

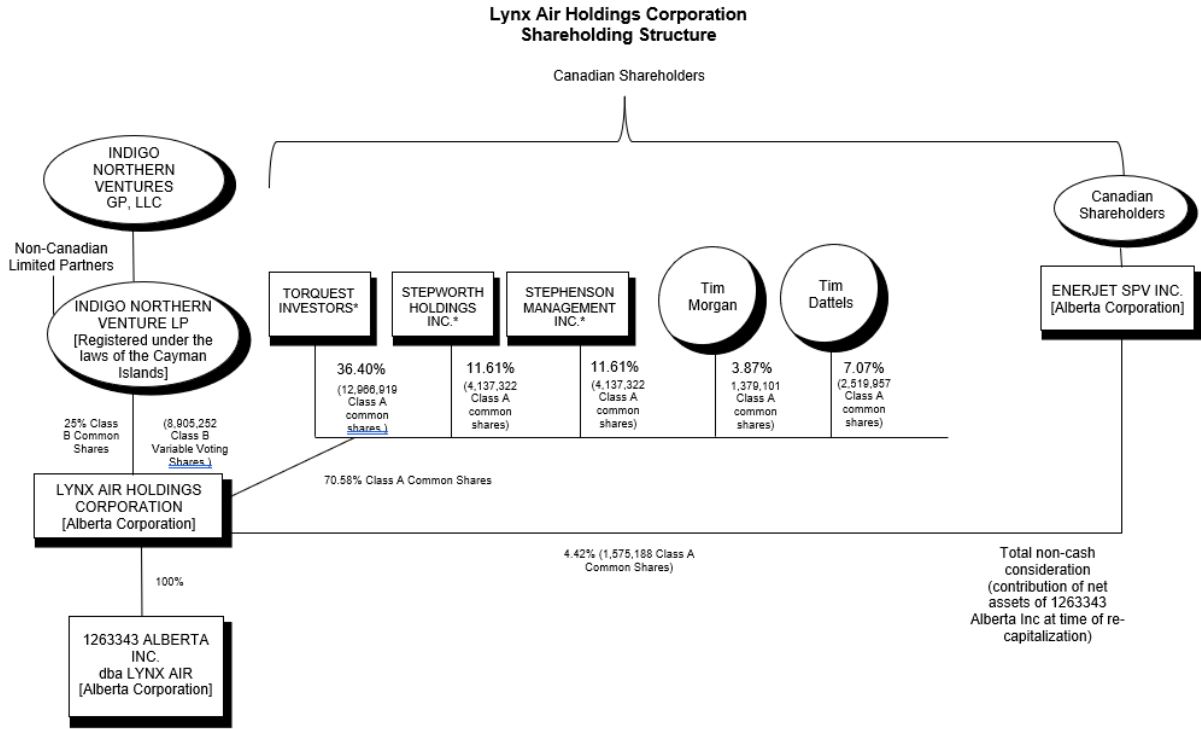
1263343 ALBERTA INC.

DocuSigned by:
Merren McArthur
By: _____
Name: Merren McArthur
Title: CEO and President

INDIGO NORTHERN VENTURES LP by its
general partner **INDIGO NORTHERN
VENTURES GP, LLC**

DocuSigned by:
William A. Franke
By: _____
Name: William A. Franke
Title: Managing Member

Schedule 1 Corporate Structure



Schedule 2 Subsequent Sales of Notes

1. Additional Notes

- 1.1 The Noteholders acknowledge that, in addition to the Initial Notes to be purchased on the Completion Date, the Company may, at any time after the Completion Date, and prior to June 30, 2023, request that the Noteholders purchase additional Subsequent Notes on the terms and conditions set out in this Schedule 2.

2. Noteholder Financing

- 2.1 In order to request that the Noteholders purchase additional Subsequent Notes, the Company shall, no later than fifteen (15) Business Days prior to the end of the calendar month (the "**Request Month**"), provide the Noteholders (with a copy concurrently provided to the Board) with a cash flow forecast of the Company for the next ninety (90) calendar days (the "**Projection Period**"), in such form and including all necessary details as required by the Noteholders, in their sole discretion, to determine the amount of funding, if any, that the Noteholders are willing to advance to the Company (the "**Projections**").
- 2.2 On or before the tenth (10th) Business Day following receipt of such Projections (the "**Notice Date**"), each Noteholder shall notify the Company of its election to purchase or not purchase additional Subsequent Notes and the amount of such additional Subsequent Notes, if applicable, in its sole discretion (the "**Funding Amount**"). Any failure by any Noteholder to notify the Company of its election to purchase or not purchase Subsequent Notes as requested shall be deemed to be a refusal to purchase such Subsequent Notes.
- 2.3 Upon receipt of such notice from the Noteholders, the Company shall determine whether it requires a meeting of the Board to determine, among other things, the cash flow requirements of the Company for the Projection Period, whether to offer the Subsequent Notes at the Funding Amount and whether there are suitable alternative financing arrangements available. If the Company determines that such meeting is required, then it shall convene a meeting of the Board to be held no later than two (2) Business Days after the Notice Date and shall use its best efforts to ensure that an Indigo Director and a Director designated by each of the Torquest Investor, Stephenson Management and Stepworth Holdings Inc. attend such meeting.
- 2.4 The Company shall advise the Noteholders no later than three (3) Business Days after the Notice Date as to whether it will offer the Subsequent Notes to the applicable Noteholders in an amount equal to the Funding Amount and such Noteholders shall, subject to the conditions set out in paragraph 3 of this Schedule 2, purchase such Subsequent Notes no later than the second last Business Day of the Request Month as follows: (a) the Noteholders shall transfer the Funding Amount to the Company Bank Account by direct credit transfer (the specific cash amounts thereof being "**Additional Financings**") and (b) the Company shall execute and deliver to the Noteholders the Subsequent Notes required to be issued pursuant to this paragraph 2, issued in the name of the Noteholder and dated as of the date of purchase.
- 2.5 Such Subsequent Notes shall be on the same terms and conditions as the Initial Notes.

2.6 For the avoidance of doubt, and without prejudice to any other liability the Noteholder may have under or pursuant to this Agreement, no Noteholder shall be obliged to elect to purchase Subsequent Notes.

3. Conditions

3.1 Additional Financings are conditional on:

- (A) the completion of the conditions, to the satisfaction of the Noteholders, set out in paragraph 2 of this Schedule 2 and clause 5.1(A) and (F) of the Agreement;
- (B) confirmation by the Obligors to the Noteholders, that each of the Obligor Warranties is true and correct on the date of such Additional Financing in respect of each of the Obligors;
- (C) no Event of Default has occurred and is continuing; and
- (D) confirmation from a senior officer of the Company that the applicable Projections remain true, complete and correct as of the date of the Additional Financings such that there are no material changes to the information set out in such Projections.

Indigo confirms that it has received the Projections for the period ending June 30, 2023.

Schedule 3 INTENTIONALLY DELETED

Schedule 4 Post-Closing Holdings¹

Name	Aggregate Principal Amount of Notes	Applicable Conversion Price(s)	Number of Class A Common Shares (except as otherwise specified)	Percentage of the Issued Share Capital	Number of Fully Diluted Shares	Percentage of the Fully Diluted Share Capital
Indigo Northern Ventures LP	78,351,581	\$1.00/\$0.25	8,905,252	25.00%	108,585,483	80.25%
Tim Dattels			2,519,957	7.07%	2,519,957	1.86%
Gary Torhjem				0.00%	-	0.00%
T.W. Morgan			1,379,101	3.87%	1,379,101	1.02%
Stephenson Management Inc.			4,137,322	11.61%	4,137,322	3.06%
Torquest Partners Fund IV, L.P.			5,668,238	15.91%	5,668,238	4.19%
Torquest Partners Fund (U.S.) IV, L.P.			6,948,221	19.51%	6,948,221	5.14%
Torquest Capital Fund IV, L.P.			350,460	0.98%	350,460	0.26%
Stepworth Holdings Inc.			4,137,322	11.61%	4,137,322	3.06%
Enerjet SPV Inc.			1,575,188	4.42%	1,575,188	1.16%
	78,351,581		35,621,061	100.00%	135,301,292	100.00%

¹¹ This assumes that US\$5,250,000 in Notes has been purchased by Indigo.

Schedule 5 Obligor Warranties

1. Status

- (A) It is a company, duly incorporated, validly existing and in good standing under
 - (i) the laws of the Province of Alberta in the case of the Company, and
 - (ii) the laws of the Province of Alberta in the case of the Guarantor.
- (B) It has the power to own its property and assets and carry on its business as it is being conducted.
- (C) It is in compliance with all applicable laws and regulations (including, without limitation, the laws of the provinces of Alberta and Ontario and the federal laws of Canada).

2. Binding Obligations

This Agreement has been duly authorized, executed and delivered by it and is a valid and binding obligation of it enforceable against it in accordance with its terms, subject only to bankruptcy, insolvency, liquidation, reorganization, moratorium and other similar laws generally affecting the enforcement of creditors' rights, and to the fact that equitable remedies (such as specific performance and injunction) are discretionary remedies.

3. Non-Conflict with Other Obligations

The entry into and performance by it of, and the transactions contemplated by, this Agreement, do not and will not conflict with:

- (A) any law or regulation applicable to it;
- (B) its constitutional documents; or
- (C) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (howsoever described) under any such agreement or instrument.

4. Power and Authority

- (A) It has the corporate power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Agreement and the transactions contemplated herein.
- (B) No limit on its corporate powers will be exceeded as a result of the borrowing or the issue of the Notes contemplated pursuant to the terms of this Agreement.

5. Authorisations

All Authorisations, consents, approvals, permits and license of, and registrations or filings with, any governmental agency or authority required:

- (A) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Agreement;
- (B) to ensure that the obligations expressed to be assumed by it in this Agreement are legal, valid, binding and enforceable;
- (C) to make this Agreement admissible in evidence in its jurisdiction of incorporation; and
- (D) for the conduct of its business, trade and ordinary activities in all material respects, have been obtained or effected and are in full force and effect.

6. Governing Law and Enforcement

- (A) The choice of Ontario law as the governing law of this Agreement will be recognised and enforced in its jurisdiction of incorporation.
- (B) Any judgment obtained in Ontario in relation to this Agreement will be recognised and enforced in its jurisdiction of incorporation.

7. No filing or Stamp Taxes

It is not necessary that this Agreement be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar Taxes or fees be paid on or in relation to this Agreement or the transactions contemplated herein.

8. Taxes

- 8.1 It has filed or caused to be filed when due all Tax returns and reports required to have been filed and has paid or caused to be paid when due all Taxes required to have been paid by it (including all instalments with respect to the current period) and has made adequate provision for Taxes for the current period, except Taxes that are being contested in good faith by appropriate proceedings and for which it has set aside on its books adequate reserves.

9. No Default

- (A) No Default has occurred and is continuing or reasonably might be expected to occur as a result of the execution or performance of this Agreement by the Parties.
- (B) No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (howsoever described) under any other agreement or instrument which is binding on it or to which its assets are subject which might have a Material Adverse

Effect, save as specifically contemplated or specifically permitted by or specifically required to comply with this Agreement.

10. Pari Passu Ranking

Its payment obligations under this Agreement rank at least *pari passu* with (to the fullest extent permitted by law) with all other senior secured creditors of it.

11. No Proceedings Pending or Threatened

No dispute, litigation, arbitration, expert determination, alternative dispute resolution, regulatory or administrative proceedings or investigations of, or before, any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect or which involve a potential liability of any member of the Group exceeding U.S.\$20,000 have been started or (to the best of its knowledge and belief having made due and careful enquiry) threatened in writing (and not withdrawn) against it nor are there any circumstances reasonably likely to give rise to any such dispute, litigation, arbitration, expert determination, alternative dispute resolution, regulatory or administrative proceedings or investigations.

12. No Undisclosed Liabilities

Neither the Company nor any of its Subsidiaries have any Financial Indebtedness, other than arising (i) under this Agreement and the Notes; (ii) pursuant to aircraft or engine leases on commercial terms with third party lessors; and (iii) under the Original NPA and the Original Notes.

13. Security

Save with regard to the Security in connection with the Original NPA, the Original Notes, this Agreement, the Notes, and pursuant to aircraft and engine leases on commercial terms with third party lessors, there does not exist any Security over any of its assets or properties.

14. Ownership of Assets

(A) It has title to its owned personal properties, and with respect to leased personal properties, title to the leasehold estate with respect thereto, pursuant to valid and enforceable leases, free and clear of all Security, other than as set out in paragraph 13 of this Schedule.

(B) It has indefeasible fee simple title to its owned real properties, and with respect to leased real properties, indefeasible title to the leasehold estate with respect thereto, pursuant to valid and enforceable leases, free and clear of all Security, other than as set out in paragraph 13 of this Schedule.

15. Post-Completion Holdings

(A) Schedule 4 lists all of the Common Shares and Notes that will be outstanding immediately after Completion.

- (B) The information contained in Schedule 4 is complete and accurate in all respects.

16. Financial Condition

- (A) It has furnished to the Noteholder its consolidated balance sheets and statements of income, retained earnings and changes in its financial position as of and for the fiscal quarter ended December 31, 2022. Such financial statements, present fairly, in all material respects, its consolidated financial position and results of operations and cash flows as of the applicable dates and for the applicable periods in accordance with GAAP.
- (B) Since December 31, 2022, there has been no event, development or circumstance that has had or could reasonably be expected to have a Material Adverse Effect.
- (C) All information (including that disclosed in all financial statements) pertaining to the Group (other than projections) that has been or will be made available to the Noteholder by the Company, taken as a whole, is or will be, when furnished, complete and correct in all material respects and does not or will not, when furnished, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements are made. The projections that have been or will be made available to the Noteholders by the Company have been or will be prepared in good faith based upon reasonable assumptions.

17. Pension Plan

It does not maintain or contribute to any Canadian Benefit Plan or Canadian Pension Plans.

18. Subsidiaries

As of the date hereof, the Company owns 985,661 common voting shares in the capital of Guarantor and, Schedule 1 correctly sets forth:

- (A) the legal name of each member of the Group and its form of legal entity and jurisdiction of organization;
- (B) the equity securities issued and outstanding by each member of the Group, and the registered and beneficial owners thereof;
- (C) the equity securities owned by each member of the Group; and
- (D) a corporate organizational chart of the Group.

19. Insurance

It maintains insurance policies and coverage in compliance with Schedule 13. Such insurance coverage (a) is sufficient for compliance with all requirements of applicable law and of all agreements to which any member of the Group is a party, (b) is provided under valid, outstanding and enforceable policies, (c) provides adequate insurance coverage in

at least such amounts and against at least such risks (but including in any event public liability) as are usually insured against in the same general area by Persons engaged in the same or a similar business to the assets and operations of the Group, and (d) will not in any way be affected by, or terminate or lapse by reason of, the entering into of, and the performance of the transactions contemplated by, this Agreement. All such material policies are in full force and effect, all premiums with respect thereto have been paid in accordance with their respective terms, and no notice of cancellation or termination has been received with respect to any such policy.

20. Solvency

No member of the Group is an “insolvent person” within the meaning of the BIA.

21. Tax

It is a resident of Canada for the purposes of the *Income Tax Act* (Canada).

22. Fiscal Year

Its fiscal year ends on September 30 of each calendar year, and the fiscal quarters end on the last day of each of December, March, June and September of each calendar year.

23. Anti-Corruption Laws and Sanctions.

Each member of the Group has implemented and maintains in effect policies and procedures designed to ensure compliance by such member and its directors, officers, employees and relevant agents with Anti-Corruption Laws and Sanctions. Each member of the Group and its directors, officers, employees and relevant agents is in compliance with Anti-Corruption Laws and Sanctions. No member of the Group or any of its directors, officers or employees or relevant agents is a Sanctioned Person or is engaged in any activity that would reasonably be expected to result in such member being designated as a Sanctioned Person. No use of proceeds or other transaction contemplated by this Agreement will violate Anti-Corruption Laws or Sanctions.

24. Canadian Ownership

No breach of the Ownership and Control Requirements has occurred or is reasonably expected to occur as a result of the execution or performance of this Agreement by the Parties.

Schedule 6 Security

1. Definitions

1.1 In this Schedule 6:

“Enforcement Action” means, in relation to any Secured Indebtedness, any action whatsoever to: (a) demand payment, declare prematurely due and payable or otherwise seek to accelerate payment of or place on demand all or any part of the Secured Indebtedness; (b) recover all or any part of the Secured Indebtedness (including by exercising any right of set-off or combination of accounts); (c) exercise or enforce any security rights against sureties or any other rights under any other document or agreement against any Security Provider in relation to (or given in support of) all or any part of the Secured Indebtedness (including under any security document); (d) petition for (or take any other steps which may lead to) an insolvency event in relation to any Security Provider; or (e) commence legal proceedings against any Security Provider (but excluding, any action whatsoever in respect of any other document or agreement);

“Note Documents” means this Agreement, the Notes and any document entered into in connection herewith or therewith;

“Secured Indebtedness” means all money and liabilities now or in the future due, owing or incurred to the Noteholders by any member of the Group in respect of the Note Documents in any currency, whether actual or contingent, whether incurred solely or jointly with any other Person and whether as principal or surety, together with all accruing interest and all related costs, charges and expenses; and

“Security Provider” means any member of the Group or any other Person that grants any security or guarantee in respect of, or otherwise becomes liable for, any Secured Indebtedness (being initially each member of the Group as at the date of this Agreement).

2. Guarantees – General

2.1 Guarantees of the Secured Indebtedness are to be provided by each Security Provider in accordance with the agreed principles set out in this Schedule 6.

3. Security – General

3.1 Security for the Secured Indebtedness is to be provided by each Security Provider in accordance with the agreed security principles set out in this Schedule 6.

4. Guarantees And Security – Agreed Principles

4.1 This Schedule 6 addresses (among other things) the manner in which the agreed principles will impact on the guarantees and security proposed to be taken in relation to the Secured Indebtedness.

4.2 In determining the extent of the security, the form of each security document and the extent of the perfection of the security, Indigo agrees to take into account the costs to the relevant Security Provider of providing such security and the proportionate benefit accruing to

Indigo and the impact, if any, of the grant of such security and any restrictions therein on the operations of the grantor of such security.

- 4.3 The extent of the security from each member of the Group will be determined by Indigo (acting reasonably). It is the current intention of Indigo that security will be taken over all material assets of each member of the Group from time to time, according to the principles set out herein, including (without limitation) over all land and buildings, shares, receivables, insurance policies, material contracts and claims, intellectual property and bank accounts of each member of the Group.
- 4.4 The Obligors and Indigo agree to negotiate the form of each security document in good faith. Each security document will be drafted by counsel to Indigo and will be in the form customary for the relevant security and jurisdiction.
- 4.5 It will be the Company's responsibility to ensure that any security interest created under any security document is duly created and perfected in favour of Indigo from time to time within applicable time limits. Costs incurred in respect of the execution of any such security document, or any updating, registration or re-registration to be made for the purpose of complying with such obligations, shall be borne by the Company.
- 4.6 Where a member of the Group which is a Security Provider acquires assets of material value or significance (in the opinion of the Lenders (acting reasonably) or, absent agreement between the Lenders, by Indigo (acting reasonably)) after the date on which it initially grants security, such Security Provider shall grant security in accordance with these agreed principles in respect of such assets if they are of a type which if owned on the date on which it initially grants security would have been secured in accordance with these agreed principles.
- 4.7 All security will be granted to Indigo from time to time or to any security agent or trustee appointed by Indigo to act for them.

5. Enforcement of Debts

Notwithstanding any other provision or principle in this Schedule 6, Indigo shall be entitled to enforce any rights against the Company or member of the Group under this Agreement or relating to the Notes to the extent such rights relate to monies due and owing to Indigo provided that such amounts outstanding and owing to Indigo exceed \$100,000 in aggregate and provided further that such amounts have been outstanding and owing to Indigo for more than 60 days following written notice of the failure to pay such amounts due and owing served on the Company with a copy to Indigo.

Schedule 7 Form of Adherence Agreement

THIS ADHERENCE AGREEMENT is made on the ____ of ____ 202_ by [•] (the “**Transferee**”).

THE PARTIES AGREE as follows:

1. The Transferee confirms that it has read a copy of the bridge note purchase agreement dated February 24, 2023 made between: the Company, the Guarantor and Indigo (which agreement is herein referred to as the “**Note Purchase Agreement**”) and hereby covenants to each of the Persons referred to in paragraph 2(a) and paragraph 2(b) to be bound by the Note Purchase Agreement in all respects as if the Transferee were a party to the Note Purchase Agreement as one of the Noteholders and to perform all the obligations imposed on such a party to the Note Purchase Agreement, to be performed on, as on, or after the date hereof.
2. This Agreement is made for the benefit of:
 - (a) the parties to the Note Purchase Agreement as at the date of the Note Purchase Agreement; and
 - (b) any other Person or Persons who may after the date of the Note Purchase Agreement (and whether prior to or after the date hereof) assume any rights or obligations under the Note Purchase Agreement and be permitted to do so by the terms thereof.
3. Save as expressly set out in the Note Purchase Agreement in favour in the Transferee, the Company does not:
 - (a) make any representations or warranty or assumes any responsibility with respect to the legality, validity, effectiveness, adequacy or enforceability of the Note Purchase Agreement or any agreement entered into pursuant thereto;
 - (b) make any representation or warranty or assumes any responsibility with respect to the content of any information regarding the Company or any member of the Group or otherwise related to the acquisition of shares in the Company;
 - (c) assume any responsibility for the financial condition of the Company or any member of the Group or any other party to the Note Purchase Agreement or any other document; or
 - (d) assume any responsibility for the performance and observance by the Company or any other party to the Note Purchase Agreement or any other document (save as expressly provided therein),

and any and all conditions and warranties, whether express or implied by law or otherwise, are to the extent legally possible excluded.

For the purposes of the Note Purchase Agreement, the Transferee’s address and other details for notices shall be:

Address:

Email address:

For the attention of:

4. Words and expressions defined in the Note Purchase Agreement shall bear the same meanings herein.
5. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereon.

DULY DELIVERED as on the date and year first above written.

EXECUTED)
and **DELIVERED** by)
[Insert name of Transferee])
)

Schedule 8 Noteholders' Resolutions

1. Powers of Noteholders

1.1 Noteholders may, by Noteholder Resolution:

- (A) at the request of the Board, authorize the Company to amalgamate or consolidate with any other Person, or permit any other Person to merge into or amalgamate or consolidate with it, or liquidate or dissolve;
- (B) at the request of the Board, authorize the exchange of the Notes for, or the conversion of the Notes into, any Common Shares, stock, debentures, debenture stock or other obligations or securities of the Company or any other company formed or to be formed;
- (C) at the request of the Board, authorize any modification, abrogation or compromise of or arrangement in respect of the rights that arise under this Agreement or the certificates for the Notes or otherwise;
- (D) assent to any modification or abrogation of the Conditions to which the Notes are subject and/or of the provisions contained in this Agreement and authorise the execution of any supplemental deed embodying any such modification or abrogation; and
- (E) appoint any Persons (whether Noteholders or not) as a committee to represent the interests of the Noteholders and confer upon such committee any powers or discretions which the Noteholders could themselves exercise.

2. Noteholders' Resolutions

- 2.1 The expression "**Noteholder Resolution**" where used in this Schedule 8 shall mean a written resolution duly executed by or on behalf of Noteholders holding at least 15% of the fully diluted share capital or such higher percentage as may be approved in writing by Indigo.

Schedule 9 Form of Certificate for the Notes

LYNX AIR HOLDINGS CORPORATION

(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

<u>Certificate No.</u>	<u>Principal Amount</u>
[•]	\$(•)

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 202[•]

THIS IS TO CERTIFY THAT *[NAME]*

Of *[address]*

is/are the registered holder(s) of \$(•) in nominal amount of the secured convertible loan notes which are constituted by an agreement dated February 24, 2023 made between Lynx Air Holdings Corporation (the “**Company**”), 1263343 Alberta Inc. (the “**Guarantor**”) and Indigo Northern Ventures LP (as amended, supplemented or restated from time to time, the “**Agreement**”) and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.

Interest is payable on the Notes represented by this certificate semi-annually in arrears on [·] and [·] (each, an “**Interest Payment Date**”) in each year.

The Notes shall be redeemed in accordance with Condition 3 of Schedule 11 on February 24, 2025, subject to such other redemption date or conversion in accordance with the Conditions.

LYNX AIR HOLDINGS CORPORATION

By _____
Name:
Title:

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.

- (B) No transfer of the whole or any part of the Notes represented by this certificate will be registered without the production of this certificate at the registered office of the Company or at such other place as the Company may from time to time designate.
- (C) Each transfer in point of time of the whole or any part of the Notes represented by this certificate will be registered free of charge.
- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.

Schedule 10 Form of Conversion Notice

To: The Directors of [●]

Notes

I/We, the registered holder(s) of \$[●] in principal nominal amount of Notes, hereby give notice of my/our desire that:

- the Company convert []* principal nominal amount of such Notes held by me/us;
- that such conversion be effected on [or prior] to []*

and that such conversion be effected in accordance with the Conditions, at the price and on the terms set out in the Conditions.

[Include any further information required to be specified in the relevant notice.]

(Name)

(Address)

Signature(s) of
Noteholders(s)

.....
In the case of joint holdings, all Noteholder(s) must sign. In the case of a corporation this form must be signed by a duly authorised officer of the corporation.

DATED

Schedule 11 Conditions

1. Form and Status

- 1.1 The Notes are issued in amounts or multiples of \$1 in nominal value and constitute secured obligations of the Company.
- 1.2 The aggregate principal amount of the Notes is limited to the Equivalent Amount of US\$9,000,000, calculated on the basis of the aggregate of (i) the Equivalent Amount of the Indigo Note Amount (determined as of the date of Completion) plus (ii) the Equivalent Amount of each Additional Financing (determined as of the date of each such Additional Financing).
- 1.3 The Notes shall be issued in denominations and integral amounts of \$1 in principal amount subject to and with the benefit of the provisions of this Agreement.
- 1.4 The Notes, when issued, shall rank *pari passu* equally and rateably without discrimination or preference in all respects.
- 1.5 Upon execution of the Security Documents, the Notes will have the benefit of the Security (subject to the provisions of the Security Documents).
- 1.6 Any Notes which have been repaid or otherwise satisfied in accordance with the terms of this Agreement shall be cancelled and shall not be available for re-issue by the Company.

2. Interpretation

- 2.1 In these Conditions, the “**Agreement**” means the agreement constituting the Notes between the Company, and Indigo (in each case, as such terms are defined therein).
- 2.2 Capitalised terms not otherwise defined in these Conditions shall have the meaning given in the Agreement.

3. Redemption

- 3.1 Unless previously converted into Class B Common Shares, repaid or purchased in accordance with these Conditions and the Agreement, including, without limiting, Condition 18.2 of this Schedule 11, or extended pursuant to Condition 3.6 of this Schedule 11, the Company shall redeem all outstanding Notes in full on the Redemption Date.
- 3.2 Upon any redemption of Notes the Company shall pay to each Noteholder an amount equal to the greater of:
 - (A) the fair market value of the corresponding Conversion Shares; and
 - (B) the aggregate of (i) the principal nominal amount of the Notes held by such Noteholder; and (ii) the accrued and unpaid interest on the Notes held by such Noteholder (calculated in accordance with Condition 4 of this Schedule 11) from (and including) the date of issue of such Notes to (and including) the date of redemption of such Notes.

- 3.3 All amounts payable on redemption of any Notes shall be paid subject to any deduction or withholding required by law in respect of any Tax, duty or charge. The Company's payment obligations pursuant to the Agreement and the Notes are absolute, irrevocable and unconditional and irrespective of any contingency (including, without limitation, rights of set-off or counterclaim).
- 3.4 Subject to the provisions of clause 14 and Schedule 6 of the Agreement and to the provisions of the Security Documents (once the same have been entered into), at any time after the Notes shall have become redeemable in accordance with the terms of this Agreement, the Noteholders or any of them may, without further notice, institute such proceedings as they or any of them may think fit to enforce payment of the monies due in respect of the Notes and the performance of the Company's other obligations contained in these Conditions or the Agreement.
- 3.5 Save as otherwise expressly provided in these Conditions or the Noteholders' and Shareholders' Agreement, the Company may not pre-pay the Notes or redeem the same prior to the Redemption Date.
- 3.6 If, at the Redemption Date, the Noteholders are not permitted to convert all of their Notes into Class B Common Shares due to the Ownership and Control Requirements, then the Redemption Date for such Notes that cannot be converted shall be extended until such time as the Noteholder is permitted to convert such Notes.

4. Interest

- 4.1 Subject to Condition 19 of this Schedule 11, interest on the principal amount outstanding in respect of the Notes shall accrue at the Interest Rate on the basis of the actual number of days elapsed and a year of 365 days or 366 days, as applicable, and shall be payable in-kind, in arrears, on each applicable Interest Payment Date. On each Interest Payment Date, the applicable interest shall be paid by issuing additional Notes under this Agreement on the same terms and conditions as the Notes to which the interest payment relates in a principal amount equal to the interest payable (the "**PIK Notes**"). For greater certainty, any such PIK Notes shall be dated as of the applicable Interest Payment Date and shall bear interest from and after such date.

5. Title

- 5.1 The Company shall:
- (A) recognise the registered holder of any Notes as the absolute owner thereof; and
 - (B) not be bound (unless ordered to do so by a court of competent jurisdiction) to take notice of, or see to the execution of, any trust whether express, implied or constructive to which any Notes may be subject.
- 5.2 The receipt by the registered holder of any Notes or, if two or more Persons are registered as joint holders of any Notes or are entitled jointly to any Notes in consequence of the death or bankruptcy of the Noteholder, the receipt by any of them, of the principal, any interest or other monies payable on or in respect of such Notes or payment of a cheque sent in accordance with the Conditions or any instructions contained in the relative Notice

of Repayment shall be a valid receipt and a good discharge to the Company notwithstanding any notice (whether express or implied) which any of them may have of any right, title, interest or claim of any other Person to or in respect of such Notes, interest or monies.

- 5.3 No notice of any trust, express, implied or constructive, shall (except as aforesaid) be entered in the Register in respect of any Notes.
- 5.4 Every Noteholder will be recognised by the Company as entitled to its Notes free from any equity set-off or cross-claim on the part of the Company against the original or any intermediate holder of the Notes.
- 5.5 As applicable, in the case of the death of a Noteholder (if applicable), the survivors or survivor, where the deceased was a joint holder, and the executors or administrators of the deceased, where they were a sole or only surviving holder, shall be the only Persons recognised by the Company as having any title to the interest in the Notes.

6. Transfer of Notes

All transfers of Notes shall be regulated in accordance with this Agreement and clause 5 of the Noteholders' and Shareholders' Agreement.

7. Transfer of Notes Pursuant to a Takeover Offer

There shall be no restriction on any transfer of Notes made pursuant to and in accordance with clause 9 of the Noteholders' and Shareholders' Agreement in connection with (and pursuant to and in accordance with the terms of) a Takeover Offer provided that such Takeover Offer constitutes a "Qualifying Takeover Offer", as such term is defined in the Noteholders' and Shareholders' Agreement.

8. Permitted Transfers of Notes

- 8.1 Notwithstanding the provisions of Condition 6 of this Schedule 11, a Noteholder may at any time transfer any of the Notes held by it:
 - (A) to any Affiliate of such Noteholder;
 - (B) to its limited partners, in the case of a limited partnership;
 - (C) to any Person in connection with the sale of all or substantially all of the assets of the Noteholder;
 - (D) to any Person or Persons in connection with the dissolution or Winding-up of the Noteholder, or the liquidation of its assets;
 - (E) to a financial institution which carries on the business of providing equity financing as part of a sale of a portfolio of equity interests; or
 - (F) to any Person if it is required by law to do so.

- 8.2 Any Person to whom Notes have been validly transferred pursuant to Condition 8.1 of this Schedule 11 may, at any time, transfer all or any Notes back to the original transferor or to any other Person to whom the original transferor, if it still held such Notes, would have been able to transfer them pursuant to Condition 8.1 of this Schedule 11.
- 8.3 In the event that any Person to whom Notes are transferred pursuant to Condition 8.1 of this Schedule 11 ceases to be within the required relationship to the original holder of such Notes, the holder of such Notes shall without delay notify the Company that such change of relationship has occurred and within ten (10) Business Days of such change of relationship transfer such Notes back to the member who originally held them or to such other Person if any (designated by such original member) to whom such original member, if it still held such Notes, would have been able to transfer pursuant to Condition 8.1 of this Schedule 11.
- 8.4 In the event that any Noteholder which is a corporation holding Notes transferred to it pursuant to Condition 8.1 of this Schedule 11 passes a resolution to commence a liquidation or winding up or has a winding up petition presented which is not discharged or contested in good faith within sixty (60) Business Days or has a receiver or administrator appointed to it (or any analogous proceedings in any jurisdiction), the holder of such Notes shall without delay notify the Company of such event and within ten (10) Business Days of such event shall transfer such Notes back to the member who originally held such Notes or to such other Person if any (designated by such member) to whom such original Noteholder, if it still held such Notes, could transfer such Notes pursuant to Condition 8.1 of this Schedule 11.

9. Transfers of Notes: Mechanics and Other Provisions

- 9.1 The Notes shall be transferable by instrument in writing in any usual or common form (or in any other form acceptable to the Board) and need not be executed as a deed.
- 9.2 Every instrument of transfer must be signed by or on behalf of the transferor but need not be signed by or on behalf of the transferee. The transferor shall remain the holder of the Notes concerned until the name of the transferee is entered in the Register in respect thereof.
- 9.3 Every instrument of transfer must be delivered for registration to the registered office of the Company or to such other place as the Company may appoint from time to time (or which it may notify to a Noteholder for the purposes of any specific transfer) accompanied by the certificate for the Notes to be transferred and, if the transferor is not the registered holder of such Notes, such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer and, if the instrument of transfer is executed by some other Person on behalf of the transferor, the authority of that Person so to do.
- 9.4 All instruments of transfer which are registered may be retained by the Company for so long as it thinks fit together with the cancelled certificates for the Notes.
- 9.5 No fee shall be charged by the Company in respect of the registration of any transfer in point of time of the whole or part of any Notes issued by the Company to any Noteholder or any probate or letters of administration or certificate of marriage or death, or power of attorney or other document relating to or affecting the title to any Notes at any time.

10. General Conversion Rights

- 10.1 Notwithstanding any other provision of these Conditions, no Notes shall be converted into Class B Common Shares (or any other shares in the Company) to the extent that such conversion would result in any breach of Section 3 of the Corporate Articles.
- 10.2 Subject to Condition 10.1 of this Schedule 11, a holder of the Notes (a “**Converting Noteholder**”) may, at any time, require the Company to convert all (or some only) of its Notes into fully paid and non-assessable Class B Common Shares. All accrued and unpaid interest thereon shall be satisfied by a payment in cash by the Company to Indigo.
- 10.3 In order to exercise the conversion rights pursuant to Condition 10.2 of this Schedule 11, a holder of Notes shall serve a notice (substantially in the form set out in Schedule 10) (a “**Note Conversion Notice**”) on the Company and all other Noteholders not less than 10 Business Days (nor more than 60 Business Days) prior to the date on which the Company is required to convert the Notes specified in the Note Conversion Notice (the “**Proposed Conversion Date**”).
- 10.4 A Note Conversion Notice shall specify:
- (A) the Proposed Conversion Date; and
 - (B) the percentage of the Notes then held by the Converting Noteholder required to be converted pursuant to this Condition 10 (the “**Specified Percentage**”).
- 10.5 Subject to Condition 10.1 above, on the proposed Conversion Date, the Company shall simultaneously convert all of the Notes specified in the Note Conversion Notice.

11. Conversion Rights in Relation to a Takeover Offer

- 11.1 If, at any time prior to the conversion or redemption of the Notes and payment of all accrued and unpaid interest thereon (in full in accordance with the terms of these Conditions and the Agreement), a Qualifying Takeover Offer is made:
- (A) the Company shall notify all Noteholders of such Qualifying Takeover Offer in accordance with the relevant provisions of the Noteholders’ and Shareholders’ Agreement; and
 - (B) the provisions of this Condition 11 shall apply (subject always to Condition 10.1 of this Schedule 11).
- 11.2 A Noteholder may, at its option (exercisable in its absolute discretion) at any time after receiving a notification pursuant to Condition 11.1 of this Schedule 11 require the conversion of all (or some only) of its Notes into fully paid and non-assessable Class B Common Shares in the capital of the Company in accordance with (but subject to any restrictions contained in) this Condition 11. All accrued and unpaid interest thereon shall be satisfied by a payment in cash by the Company to Indigo.
- 11.3 In order to effect a conversion of the Notes pursuant to Conditions 11.1 and 11.2 of this Schedule 11, the Noteholder shall serve a notice on the Company (substantially in the form set out in Schedule 10) (a “**Takeover Conversion Notice**”).

11.4 A Takeover Conversion Notice:

- (A) must be served by the Noteholder not less than 5 Business Days prior to the proposed completion date for first acquisition of Common Shares pursuant to the Qualifying Takeover Offer (as notified to the Noteholder by the Company in accordance with the provisions of the Noteholders' and Shareholders' Agreement);
- (B) shall be irrevocable save that the Noteholder may specify that such Takeover Conversion Notice is conditional upon a transfer of shares that together constitute a Controlling Interest occurring pursuant to and in the terms of such Qualifying Takeover Offer; and
- (C) shall specify the principal amount of Notes that the Company is required to convert and that the Company is required to convert such Notes (and all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to this Condition 11.

11.5 The Company shall:

- (A) procure that each Noteholder is given the opportunity to convert its Notes (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to this Condition 11 prior to the occurrence of any transfer of Common Shares pursuant to a Qualifying Takeover Offer; and
- (B) procure that in the event of any Qualifying Takeover Offer being accepted in accordance with the relevant provisions of the Noteholders and Shareholders' Agreement:
 - (i) the Conversion Shares resulting from any conversion of Notes pursuant to this Condition 11 are sold or transferred pursuant to such Qualifying Takeover Offer (at the same price and, save as set out below, on the same terms as the Common Shares held by the Shareholders);
 - (ii) the Noteholders shall not be required to give any representations or warranties pursuant to such Qualifying Takeover Offer (save with respect to title, absence of encumbrances on any shares to be sold or transferred and capacity); and
 - (iii) the Company shall refuse to register any transfer of shares pursuant to such Qualifying Takeover Offer) unless the Company has fully adhered to its obligations under Condition 11.5(B) of this Schedule 11.

11.6 Upon completion of any transfer of Common Shares pursuant to (and on the terms of) a Qualifying Takeover Offer:

- (A) any Notes not converted pursuant to the foregoing provisions of this Condition 11, shall cease to be capable of conversion into Class B Common Shares (or any other class of shares in the capital of the Company or securities of the Company); and

- (B) the Company shall be entitled to pre-pay the Notes (together with all accrued and unpaid interest calculated in accordance with Condition 4.1 of this Schedule 11 thereon which shall be satisfied by a payment in cash by the Company to Indigo) at any time after the completion of any transfer of Common Shares pursuant to a Qualifying Takeover Offer on not less than 5 Business Days written notice to the relevant Noteholder(s).

12. Conversion Rights in Relation to an IPO

- 12.1 If, at any time prior to the conversion or redemption of the Notes (and all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) (in full in accordance with the terms of these Conditions and the Agreement), the Board passes any resolution to facilitate an IPO or that may result in an IPO occurring, the provisions of this Condition 12 shall apply.
- 12.2 The Company shall give each Noteholder not less than 20 Business Days' notice of any proposed IPO.
- 12.3 Each holder of the Notes (in respect of the maximum amount of Notes capable of being converted under the Ownership and Control Requirements) may, at its option (exercisable in its absolute discretion) require the conversion of all (or some only) of its Notes, (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo), into fully paid and non-assessable Class B Common Shares in the capital of the Company in accordance with this Condition 12:
 - (A) at any time during the period from the notification pursuant to Condition 12.2 of this Schedule 11 up to the 3:00pm (Mountain time) on the Business Day prior to the occurrence of the IPO (such that the relevant Conversion Shares issued to each such Noteholder are listed pursuant to such IPO); or
 - (B) at any time after the occurrence of such IPO, by notice served in accordance with Condition 12.5 of this Schedule 11.
- 12.4 In order to effect a conversion of Notes (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to Condition 12.3 of this Schedule 11, a Noteholder shall serve a notice on the Company (substantially in the form set out in Schedule 10) (an "**IPO Conversion Notice**").
- 12.5 An IPO Conversion Notice:
 - (A) must be served by the Noteholder:
 - (i) not less than 5 Business Days prior to the proposed date for the IPO (as notified to the Noteholder pursuant to Condition 12.2 of this Schedule 11), if the Noteholder requires the Note(s) to be converted on or immediately prior to the completion of the IPO; or
 - (ii) not less than 10 Business Days prior to the date on which the Noteholder requires the Note(s) to be converted, if the Noteholder requires the Note(s) to be converted after the occurrence of the IPO;

- (B) shall be irrevocable (unless the Noteholder serves such IPO Conversion Notice at least 5 Business Day prior to the proposed completion date of the IPO, as notified to the Noteholder by the Company in the notice required to be served by it pursuant to Condition 12.2 of this Schedule 11, in which case, the Noteholder may specify that such IPO Conversion Notice is conditional upon the IPO occurring);
- (C) shall specify:
 - (i) the principal amount of Notes that such Noteholder requires to be converted;
 - (ii) that the Noteholder requires the Company to convert the Notes (and all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to Condition 12.3 of this Schedule 11; and
 - (iii) the date on or by which such conversion is to be effected (provided that the Noteholder shall comply with the provisions of Condition 12.5(A) of this Schedule 11).

12.6 The Company shall:

- (A) procure that the Noteholder is given a reasonable opportunity to convert its Notes (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to this Condition 12 prior to the occurrence of an IPO;
- (B) procure that in the event of an IPO occurring:
 - (i) the Conversion Shares issued to the Noteholder upon a conversion of Notes pursuant to this Condition 12 are listed pursuant to the IPO; and
 - (ii) the Noteholder shall not be required to give any representations or warranties in connection with such IPO or agree to any lock-up period or other orderly marketing arrangements in relation to such IPO.

12.7 The Company shall not permit any of its shares to be listed pursuant to an IPO unless it has fully adhered to its obligations under this Condition 12 prior to the occurrence of such IPO.

12.8 To the extent there are Noteholders who are unable to convert their Notes pursuant to this Condition 12 as a result of the Ownership and Control Requirements, the Board and the Lenders shall each use best efforts to create a path to liquidity for such Noteholders.

12.9 Nothing in these Conditions shall oblige a Noteholder to convert its Notes.

13. Calculation of Conversion Shares

13.1 Upon any conversion of Notes, the number of Class B Common Shares required to be issued by the Company to the relevant Noteholder (the “**Conversion Shares**”) shall be calculated using the following equation:

$$A = \frac{B}{C}$$

where:

- A is the number of Conversion Shares;
- B is the principal amount of the Notes required to be converted (including any accrued and unpaid interest thereon);
- C is the Relevant Conversion Price (subject to adjustment in accordance with Condition 15 of this Schedule 11).

14. Mechanics of Conversion

- 14.1 Each conversion of Notes into Class B Common Shares that is required or permitted to be made pursuant to this Agreement shall be effected by the Company repaying the principal amount of the relevant Notes in full on the Conversion Date and immediately applying such repayment monies to subscribe for the Conversion Shares, or by any such other method as the Board may determine in accordance with all applicable laws and the Corporate Articles. All accrued and unpaid interest thereon shall be satisfied by a payment in cash to Indigo.
- 14.2 All Conversion Shares shall be credited as fully paid at the time the same are issued to the relevant Noteholder;
- 14.3 A Conversion Notice must be accompanied by the certificate(s) relating to the Notes to be converted.
- 14.4 Conversion Shares arising pursuant to a conversion of Notes shall carry the right to participate in full in all dividends and other distributions accruing on such shares from the Conversion Date. In all other respects, Conversion Shares arising on conversion shall rank pari passu and form one class with the shares of that class then in issue.
- 14.5 A conversion of Notes into Class B Common Shares that is required or permitted to be made pursuant to this Agreement shall not constitute a breach of any prohibition on prepayment of the Notes or any accrued and unpaid interest thereon under any of the Transaction Documents.
- 14.6 No fractional shares shall be issued upon any conversion of Notes and the number of Class B Common Shares issuable upon such conversion shall be rounded to the nearest whole number of shares.
- 14.7 The Company shall, as soon as practicable and legally permissible, issue to the relevant Noteholder, or to its nominee(s), a certificate or certificates for the number of Conversion Shares to which it shall be entitled under the Agreement and the Company shall deliver the same to the relevant Noteholder by post at its address for service of notices determined in accordance with Condition 25.1 of this Schedule 11 (or to such other address as may be specified in the relevant Conversion Notice).

14.8 Each conversion of Notes into Class B Common Shares that is required or permitted to be made pursuant to this Agreement shall be deemed to have been made immediately prior to the close of business on the date of issuance of the share certificate(s) for the relevant Conversion Shares and the Person or Persons entitled to receive the Conversion Shares shall be treated for all purposes as the record holders of such shares on such date.

15. Adjustments to the Relevant Conversion Price (share splits, consolidations etc.)

15.1 If, at any time after the date of this Agreement, the Class B Common Shares shall be subdivided into a greater number of shares or consolidated into a lesser number of shares or an issue of Class B Common Shares by way of capitalisation of profits or reserves including any share premium account or capital redemption reserve shall be made or the Company effects any purchase of its own shares or any other variation in its issued share capital or any distribution of assets in specie occurs (each, a “**Capital Event**”), each Relevant Conversion Price shall be adjusted by multiplying the Relevant Conversion Price in force immediately before such Capital Event (as the same may previously have been adjusted pursuant to this Condition 15 or otherwise) by the following fraction:

$$\frac{A}{B}$$

where:

A is the number of Class B Common Shares in issue immediately before such subdivision, consolidation or capitalisation issue; and

B is the number of Class B Common Shares in issue immediately after such subdivision, consolidation or capitalisation issue.

15.2 The provisions of Condition 15.1 of this Schedule 11 are intended to provide for each Relevant Conversion Price to be adjusted in such a manner as shall place each Noteholder in the same position (as regards the percentage of the equity share capital of the Company which the Noteholder shall be entitled to subscribe pursuant to the conversion on Notes and the aggregate cost of such conversion to the Noteholder) as it would have been in had the relevant Capital Event not taken place.

15.3 In the case of any dispute as to the manner of any adjustment pursuant to this Condition 15.3, the auditors of the Company (acting as experts and not arbitrators) shall determine the same at the request of the Company or the Noteholder and at their joint expense.

15.4 The Company shall not undertake or (so far as it is able) permit to occur any Capital Event which would have the effect of reducing the Relevant Conversion Price (as so adjusted) below the par value amount of a Conversion Share.

16. Company undertakings in respect of the conversion of the Notes

16.1 The Company warrants and undertakes that:

(A) it will maintain sufficient authorised but unissued share capital to enable conversion of Notes in full;

- (B) it will procure that the Directors have at all times the requisite authority to allot and issue Conversion Shares in satisfaction of the conversion rights of all Noteholders; and
- (C) it will procure the waiver of all pre-emption rights in favour of shareholders of the Company whether under the Corporate Articles, any statute or agreement relating to the shares of the Company or otherwise which might otherwise prevent or preclude or delay the full and effective allotment and issue of Conversion Shares; and
- (D) it will procure (so far as it is able) that there is no variation of the rights attaching to shares in the capital of the Company.

17. Noteholder and Shareholder Subscription Rights

- 17.1 Subject to Section 3 of the Corporate Articles, if, at any time after the date of the Agreement, the Company shall make any offer or invitation to its members by way of rights (by reference to a record date) to subscribe for shares in the Company, then each Noteholder shall have the right (exercisable by written notice to the Company) to subscribe for the proportionate number and class of shares in the Company on the same terms and conditions (including as to price) as such offer or invitation as if the Notes held by such Noteholder had been exercised, in the case of a rights issue immediately before such record date or, where the offer or invitation is to a third party immediately before the completion by the third party of the subscription pursuant to such offer or invitation.
- 17.2 Subject to Section 3 of the Corporate Articles, at any time after a Conversion Date but prior to February 24, 2025, unless extended by the Noteholder if the conversion of the Notes are extended pursuant to paragraph 3.6 of Schedule 11, each Shareholder who is not also a Noteholder shall have the right (exercisable by written notice to the Company) to subscribe for up to that number of Common Shares, in the same class as it then currently holds in the Company, which would maintain such Shareholder's pro-rata ownership of the Company as existed immediately prior to the issuance of the Initial Notes, at a price equal to 150% of the Relevant Conversion Price (the "**Catch Up Right**"). In order to facilitate the Catch Up Right, the Company shall deliver written notice to each Shareholder who is also not a Noteholder upon the occurrence of a Conversion Date, which notice shall include the total number of Common Shares issued on such Conversion Date and an updated capitalization table reflecting such issuance. For greater certainty, the Catch Up Right shall only apply in respect of the conversion of Notes issued under the Agreement.

18. Events of Default and Accelerated Repayment

- 18.1 Each of the events or circumstances set out in Schedule 12 to the Agreement is an Event of Default.
- 18.2 Subject to the provisions of paragraph 5 of Schedule 6 of the Agreement (and for any corresponding provisions contained in the Security Documents, once the same have been executed), on and at any time after the occurrence of an Event of Default the Noteholder may, by notice to the Company:

- (A) declare that all or some of the Notes:
 - (i) (together with accrued interest, and all other amounts accrued or outstanding under the Transaction Documents) be immediately due and payable, whereupon they shall become immediately due and payable; and/or
 - (ii) be payable on demand, whereupon they shall immediately become payable on demand by the Noteholder; and/or
- (B) exercise any or all of its rights, remedies, powers or discretions under the Transaction Documents;

19. Default Interest

From the occurrence of an Event of Default, the principal amount due under this Note (together with all accrued and unpaid interest as at the date of the Event of Default) shall bear interest at the Default Rate, compounded quarterly and computed on a 365-day or 366-day year basis on the number of days actually elapsed from the date of the occurrence of such Event of Default until either the cure of such Event of Default by the Company or repayment of the principal amount due under this Note together with accrued interest.

20. No Rights as Shareholder

This Note does not entitle the Noteholder hereof to any voting rights or other rights as a shareholder of the Company prior to the conversion hereof.

21. Surrender of Certificates

- 21.1 If any Noteholder any of whose Notes are liable to be repaid under these Conditions or the Agreement shall fail or refuse to deliver up the certificate or certificates therefor at the time and place fixed for the repayment thereof or shall fail or refuse to accept payment of the redemption monies payable in respect thereof, the monies payable to such Noteholder may be set aside by the Company and paid into a separate interest-bearing bank account and when so paid shall be held by the Company in trust for such Noteholder but without interest (except as hereinafter mentioned), and such setting aside and payment shall be deemed for all purposes of these Conditions to be a payment to such Noteholder and the Company shall thereby be discharged from all obligations in connection with such Notes.
- 21.2 If the Company shall place the monies set aside pursuant to the provisions of Condition 21.1 on deposit at a bank the Company shall not be responsible for the safe custody of such monies or for interest thereon except such interest (if any) as the said monies may earn whilst on deposit less any expenses reasonably incurred by the Company in connection therewith.
- 21.3 Any amount set aside pursuant to the provisions of this Condition 21 which remains unclaimed after a period of twelve years from the time when the same is set aside shall revert to the Company notwithstanding that in the intervening period the obligation to pay the same may have been provided for in the books, accounts and other records of the Company.

22. Damaged Certificates

If any certificate for Notes shall be damaged or defaced or alleged to have been lost, stolen or destroyed, a new certificate representing the same Notes may be issued to the holder upon request subject to delivery up of the old certificate or (if alleged to have been lost, stolen or destroyed) compliance with such conditions as to evidence and indemnity as the Directors may reasonably require. An entry as to the issue of the new certificate and indemnity (if any) shall be made in the Register.

23. Cancellation

All Notes prepaid, repaid or purchased by the Company shall be cancelled and shall not be available for reissue.

24. Payment

24.1 Subject to Condition 4.1 of this Schedule 11, payment of the principal, interest thereon and any other monies payable in respect of any Notes shall be paid by cheque made payable to and sent to the registered holder thereof at its registered address or, in the case of joint registered holders, made payable to and sent to that one of the joint registered holders who is first named on the Register in respect of such Notes at its registered address or made payable to such Person or Persons and sent to such address as the registered holder or all the joint registered holders may in writing direct.

24.2 Every such cheque may be sent through the post at the risk of the registered holder or joint registered holders and payment of any such cheque by the banker upon whom it is drawn shall be a satisfaction of the monies represented thereby.

24.3 All payments of principal and interest and other monies by the Company under these provisions will be made after any deduction or withholding Tax, duty or charge required to be made by law.

24.4 In the event of a failure by the Company to pay any amount when due in respect of the Notes (whether principal, interest or otherwise), the Company shall pay interest compounding annually on such unpaid amount at the Default Rate.

25. Notices

25.1 Any notice or document (including a certificate for Notes) may be served on or delivered to any Noteholder by the Company either personally or by sending it by first class post in a prepaid cover addressed to such Noteholder at its registered address or to the address, if any, supplied by the Noteholder to the Company as its address for the service of notices, or by delivering it to such address addressed as aforesaid, or by facsimile on a facsimile number supplied by the Noteholder to the Company. Any notice or document served on or delivered to that one of the joint holders of any Notes whose name stands first in the Register in respect of such Notes shall be sufficient notice to or service on all the joint holders in their capacity as such.

25.2 Notice may be given to the Persons entitled to any Notes in consequence of the death or bankruptcy of any Noteholder by sending the same by first class post in a pre-paid

envelope addressed to them by name or by the title of the representatives or trustees of such holder at the address (if any) supplied for the purpose by such Persons or, until such address is supplied, by giving in the manner in which it would have been given if the death or bankruptcy had not occurred.

- 25.3 Where a notice or other document is served or sent by post, service or delivery shall be deemed to be effected at the expiration of 24 hours after the time when the cover containing the same is posted, and in proving such service or delivery it shall be sufficient to prove that such cover was properly addressed, stamped and posted.
- 25.4 Where a notice or other document is served by facsimile, delivery shall be deemed to be effected (subject to evidence of effective transmission) on the Business Day on which transmitted.
- 25.5 The Company shall be entitled to rely on any document purporting to be signed by or on behalf of a Noteholder and shall not be obliged to enquire into the authenticity of any such signature.

26. Transmission

- (A) Any Person becoming entitled to Notes in consequence of the death or bankruptcy of a Noteholder may, upon supplying to the Company such evidence as the Directors may reasonably require to show its title to the Notes, elect to be registered itself as holder of such Notes or, subject to these Conditions, the provisions of the Agreement, to transfer such Notes without itself being registered as the holder of such Notes.
- (B) The Company may, in its absolute discretion, withhold payment of any monies payable in respect of Notes until the Person entitled to be registered in respect thereof has been duly registered or, as the case may be, any transfer of such Notes has been registered.

27. Assignment

- 27.1 Subject to these Conditions and the provisions of the Agreement, neither this Note nor any of the rights, interests or obligations hereunder may be assigned, transferred, charged or otherwise dealt in, in whole or in part, by any Party without the prior written consent of the other Parties.
- 27.2 Any purported assignment, transfer, charge or dealing in contravention of this Condition 27 shall be void.
- 27.3 The rights and obligations of the Company and Noteholder shall be binding upon and benefit the successors, assigns, and permitted transferees of the Parties.
- 27.4 Any Noteholder may assign its rights hereunder to one or more of its Affiliates at any time (provided that any such assignment may only be made on the basis that immediately upon any assignee under this Condition 27.4 ceasing to be an Affiliate of the assignor Party, such assignee shall assign back all such rights to the original assignor Party).

28. Severability

If any provision of this Note shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

29. Rights of the Third Parties

No Person who is not a Noteholder shall have any right to enforce any term of this Note.

30. Governing Law and Jurisdiction

30.1 This Note is governed by, and to be construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.

30.2 Each Party hereto agrees (i) that any action or proceeding relating to this Agreement may (but need not) be brought in any court of competent jurisdiction in the Province of Ontario, and for that purpose now irrevocably and unconditionally attorns and submits to the jurisdiction of such Ontario court; (ii) that it irrevocably waives any right to, and shall not, oppose any such Ontario action or proceeding on any jurisdictional basis, including forum non conveniens; and (iii) not to oppose the enforcement against it in any other jurisdiction of any judgment or order duly obtained from an Ontario court as contemplated by this Condition 30.

Schedule 12 Events of Default

1. Non-payment

An Obligor does not pay on the due date any amount payable pursuant to a Transaction Document at the place at and in the currency in which it is expressed to be payable unless:

- (A) its failure to pay is caused by administrative or technical error; and
- (B) payment is made within 5 Business Days of its due date.

2. Covenants

Any material requirement, as determined by Indigo, in its sole discretion, of clause 12 of the Agreement is not satisfied.

3. Other Obligations

- 3.1 An Obligor fails to observe or perform any covenant or other agreement contained in the Transaction Documents or does not comply with any other provision of the Transaction Documents, in each case other than as specified in paragraph 1 above.

4. Misrepresentation

Any material representation or statement made or deemed to be made by an Obligor in the Transaction Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Transaction Document is or proves to have been incorrect or misleading when made or deemed to be made.

5. Cross default

- 5.1 No Event of Default will occur under this paragraph 5 if the action set out in paragraphs 5.3 to 5.5 are cured within any originally applicable grace period, if any, as set out in the document giving rise to such Financial Indebtedness.
- 5.2 Any Financial Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period.
- 5.3 Any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- 5.4 Any commitment for any Financial Indebtedness of any member of the Group is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described).
- 5.5 Any creditor of any member of the Group becomes entitled to declare any Financial Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).

- 5.6 No Event of Default will occur under this paragraph 5 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs 5.2 to 5.5 above is less than U.S.\$100,000 (or its equivalent in any other currency or currencies).

6. Insolvency

- 6.1 A member of the Group is unable or admits inability to generally pay its debts as they fall due, suspends or threatens to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.
- 6.2 A moratorium is declared in respect of any indebtedness of any member of the Group.

7. Insolvency Proceedings

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (A) the suspension of payments, a moratorium of any indebtedness, Winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any member of the Group (other than a solvent liquidation or reorganisation of any member of the Group which is not an Obligor);
 - (B) a composition, compromise, assignment or arrangement with any creditor of any member of the Group;
 - (C) the appointment of a liquidator (other than in respect of a solvent liquidation of a member of the Group which is not an Obligor), receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any member of the Group or any of its assets; or
 - (D) enforcement of any Security over any assets of any member of the Group,
- or any analogous procedure or step is taken in any jurisdiction.

8. Creditors' process

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of a member of the Group having an aggregate value in excess of U.S.\$100,000 (and the amount that is the subject of the related claim is U.S.\$100,000 or more) and the same is not discharged within 15 days.

9. Ownership of the Obligors

- 9.1 The Guarantor is not or ceases to be a direct or indirect wholly-owned Subsidiary of the Company.

10. Unlawfulness

It is or becomes unlawful for an Obligor to perform any of its obligations under the Transaction Documents or any Security created or expressed to be created or evidenced by the Security Documents ceases to be effective.

11. Invalidity

Any obligation or obligations of any Obligor under any Transaction Document are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Noteholder under the Transaction Documents.

12. Cessation of business

Any member of the Group suspends or ceases, or threatens or proposes in writing to suspend or cease, to carry on all or a substantial part of its business.

13. Compulsory acquisition

All or any material part of the property or assets of any member of the Group is seized, nationalised, expropriated or compulsorily acquired by, or by the order of, any central or local governmental authority in respect of which full market compensation is not paid.

14. Repudiation

An Obligor repudiates a Transaction Document or evidences an intention to repudiate a Transaction Document.

15. Material adverse change

Any event or circumstance occurs which is reasonably likely to have a Material Adverse Effect.

16. Miscellaneous

The Company applies any part of the New Note Funds for any purpose not specified in clause 7 of the Agreement.

17. Qualified Audit

The auditors of any Obligor materially qualify their audit.

18. Disputes

Any dispute, litigation, arbitration, expert determination, alternative dispute resolution, regulatory or administrative proceedings or investigations of, or before, any court, arbitral body or agency involving any Obligor or any other member of the Group is commenced which, if adversely determined, would be reasonably likely to have a Material Adverse Effect or which would involve a liability exceeding U.S.\$100,000 (or its equivalent).

19. Regulatory proceeding

Any regulatory proceeding into an Obligor or any other member of the Group is commenced (or any proceedings conducted by any regulatory body having jurisdiction over an Obligor or any other member of the Group are commenced in relation to a third party and that third party seeks to involve, or such proceedings in any way relate to, an Obligor or any other member of the Group), other than any regulatory proceeding by the Agency as a result of the Transaction Documents.

Schedule 13 Covenants

1. Authorisations

Each Obligor shall promptly:

- (A) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (B) if requested, supply certified copies to the Noteholder of,

any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under the Transaction Documents to which it is a party, to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of each such Transaction Document and to own its property and assets and to carry on its business, trade and ordinary activities.

2. Compliance with laws

2.1 Each Obligor shall comply in all respects with all laws to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under the Transaction Documents.

2.2 Each Obligor shall (and the Company shall ensure that each other member of the Group will) at all times comply with:

- (A) the terms of its articles of incorporation (or equivalent) and other constitutional documents from time to time; and
- (B) all laws and regulations applicable to it in respect of the conduct of its business breaches of which would have a significantly unfavourable effect on their activities, their assets and their financial situation.

3. Negative pledge

3.1 Subject to paragraph 3.3 below, no Obligor shall (and the Company shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets except with the prior written consent of Indigo.

3.2 Subject to paragraph 3.3 below, no Obligor shall (and the Company shall ensure that no other member of the Group will):

- (A) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by an Obligor or any other member of the Group save for any assignment of insurances or requisition compensation relating to any aircraft;
- (B) sell, transfer or otherwise dispose of any of its receivables on recourse terms;

(C) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or

(D) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

3.3 Paragraphs 3.1 and 3.2 above do not apply to:

(A) the Security provided pursuant to the Security Documents;

(B) any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;

(C) any lien arising by operation of law and in the ordinary course of business including, without limitation, permitted liens under any aircraft operating lease agreements to which any of the Obligor is a party and any guarantee and assignment of insurances granted by any of the Obligor in connection with such aircraft operating lease agreement (and not as a result of any default or omission by any member of the Group);

(D) any Security over or affecting any asset acquired by a member of the Group after the date of this Agreement if:

(i) the Security was not created in contemplation of the acquisition of that asset by a member of the Group;

(ii) the principal amount secured has not been increased in contemplation of, or since the acquisition of, that asset by a member of the Group; and

(iii) the Security is removed or discharged within 2 months of the date of acquisition of such asset;

(E) any Security over or affecting any asset of any company which becomes a member of the Group after the date of this Agreement, where the Security is created prior to the date on which that company becomes a member of the Group, if:

(i) the Security was not created in contemplation of the acquisition of that company; and

(ii) the principal amount secured has not increased in contemplation of or since the acquisition of that company;

(F) any Security entered into pursuant to any Transaction Document;

(G) any Security arising out of title retention provisions (and not as a result of any default or omission by any member of the Group) in a supplier's standard conditions of supply of goods where the goods in question are supplied on credit

and are acquired by the relevant member of the Group in the ordinary course of trading;

- (H) any Security, as directed by the Board, so long as such Security (i) is not outside of the Ordinary Course of Business, and (ii) such action does not have a Material Adverse Effect; or
- (I) the Security provided pursuant to the Original NPA and the Original Notes.

4. Change of Business

4.1 The Company shall:

- (A) procure that no substantial change is made to the general nature of its business from that carried on at the date of this Agreement;
- (B) maintain, carry on and develop its business in the ordinary and usual course; and
- (C) not take any material act outside its ordinary and normal course of business, and the Company shall procure that each of its Subsidiaries complies with the covenants set forth in paragraphs 4.1(A), 4.1(B) and 4.1(C) in respect of their respective businesses.

5. Trading on arm's length terms

No Obligor shall (and the Company shall ensure that no other member of the Group will) enter into any transaction other than on commercial arm's length terms.

6. Notification of approaches

The Company shall (and the Company shall procure that each other member of the Group will) notify the Noteholder as soon as reasonably practicable following receipt of any approach or offer (unless such offer is made by a member of the Noteholder's group) which could lead to a sale of Company (whether by sale of securities by Company and/or its shareholders or a sale of assets by the Company or any other sale) or an IPO but in any event at least 10 Business Days prior to the execution of a definitive agreement for the same.

7. Distributions and reductions in share capital

For so long as Indigo together with its Permitted Transferees continues to hold not less than 15% of the Fully Diluted Share Capital, no Obligor shall (and the Company shall ensure that no other member of the Group will):

- (A) declare, make or pay any distribution or dividend to its members; or
- (B) repurchase or redeem any of its issued share capital or otherwise reduce its share capital,

except to the extent that (i) such Obligor's Unrestricted Cash Balance, after giving effect to the action set out in (A) or (B) above, is not less than 33^{1/3}% of the Obligor's trailing 12

months revenue or expenses, whichever is greater, and (ii) any action under this paragraph 7 cannot occur more than once per financial year.

8. No incurring of additional Financial Indebtedness

8.1 Subject to paragraph 8.2 below, no Obligor shall (and the Company shall ensure that no other member of the Group will) incur any Financial Indebtedness.

8.2 Paragraph 8.1 above does not apply to any Financial Indebtedness that is incurred:

- (A) under the Transaction Documents or as specifically contemplated or specifically permitted by the Transaction Documents;
- (B) if Indigo (together with its Permitted Transferees) at such time holds at least 15% of the Fully Diluted Share Capital, with the prior written approval of Indigo;
- (C) at the direction of the Board in respect of Financial Indebtedness for amounts not greater than U.S.\$1,000,000, in the aggregate, in any 12 month period;
- (D) Financial Indebtedness relating to expenditures in the Ordinary Course of Business;
- (E) Financial Indebtedness for which an intercreditor agreement is required by such new lender to be entered into between such new lender and Indigo, on terms satisfactory to Indigo;
- (F) Financial Indebtedness which does not have a Material Adverse Effect, as determined by Indigo, acting reasonably; or
- (G) under the Original NPA and the Original Notes.

9. Compliance with the CTA

Each Obligor shall (and the Company shall procure that each other member of the Group will) ensure that the ownership and control of each member of the Group complies at all times with the Ownership and Control Requirements.

10. No Restricted Payments

10.1 For so long as Indigo (together with its Permitted Transferees) continues to hold not less than 15% of the Fully Diluted Share Capital, without the prior written consent of Indigo,

- (A) subject to paragraph 10.2 below, no Obligor shall (and the Company shall ensure that no other member of the Group will) make any payment to:
 - (i) any shareholder of any Obligor (a “**Relevant Shareholder**”);
 - (ii) any family member or relative of any Relevant Shareholder;

- (iii) any trust in which any Relevant Shareholder (or any family member or relative of any Relevant Shareholder) has an interest (whether contingent discretionary or otherwise) or any trustee of such a trust;
 - (iv) any company which is Controlled by any of the Persons or entities falling within paragraph 10.1(A)(i) to (iii) above, or by any two or more of them; or
 - (v) any body corporate, partnership or undertaking in which any of the Persons or entities falling within paragraphs 10.1(A)(i) to (iv) above own (legally or beneficially) more than 30% of the issued and outstanding share capital; and
- (B) notwithstanding any other provision of this Agreement (other than paragraph 10.3 below), no Obligor shall make any payment to any Person:
- (i) unless such payment is of a type which is not outside the Ordinary Course of Business; or
 - (ii) if the effect of such payment (if made) would be to cause:
 - i. the aggregate amount of any type or class of payments made by the Obligors during such period to be outside the Ordinary Course of Business; or
 - ii. the aggregate amount of all payments made by the Obligors during such period to be outside the Ordinary Course of Business;

10.2 Subject to paragraph 10.1(B) above, paragraph 10.1 (A) shall not apply to:

- (A) salary payments by the Obligors to their employees (provided, in each case, that the same are consistent with the relevant employees salary payments over the six (6) months immediately prior to the date of this Agreement);
- (B) any intra-Group payments by the Obligors;
- (C) payments by the Obligors to providers of office space provided that such payments: (i) are not outside the Ordinary Course of Business; and (ii) do not exceed \$2,000,000 in total per annum; and
- (D) any dividend or distribution in respect of any share capital, to the extent permitted or required under the terms of the Transaction Documents.

11. Claims to rank *pari passu*

Each of the Obligors shall procure that Noteholders' claims under this Agreement and the other Transaction Documents rank and will rank at least *pari passu* with all its other unsecured obligations (except for obligations mandatorily preferred by law applying to companies generally).

12. Financing Disclosure

On the fifteenth day of each calendar month prior to the Redemption Date (or, if such day is not a Business Day, the next Business Day thereafter), the Company shall provide the Noteholders with a cash flow forecast of the Company for the next ninety (90) calendar days.

13. Payment of taxes

Each Obligor shall (and the Company shall procure that each other member of the Group will) promptly pay all Taxes due and payable by it to any competent authority or body.

14. Insurance

14.1 Each Obligor shall (and the Company shall procure that each other member of the Group will) insure and keep insured with reputable insurers their respective insurable assets and undertakings to the extent, in the amounts and against the risks which a prudent licensed and operating airline would insure (including, without limitation, all those insurances which are required for a licensed and operating airline) and which are approved by the Board.

14.2 Each Obligor shall (the Company shall procure that no other member of the Group will) maintain directors and officers insurance to the fullest extent permitted by law and in an amount which a prudent licensed and operating airline would insure (including, without limitation, all those insurances which are required for a licensed and operating airline) and which are approved by the Board.

14.3 No Obligor shall (and the Company shall procure that no other member of the Group will), do anything or, as far as practicable suffer anything to be done, whereby any of the insurance policies effected in accordance with paragraph 14.1 shall become void or voidable or an increased premium thereon shall become payable.

14.4 The Company will:

- (A) supply to the Noteholders on request copies of each policy of insurance required to be maintained in accordance with paragraph 14.1 above (the “policies”), together with the current premium receipts relating to the policies;
- (B) promptly notify the Noteholders of any material change to the insurance cover of any member of the Group; and
- (C) promptly notify the Noteholders of any claim under any policy which is for, or is reasonably likely to result in a claim under that policy for, an amount in excess of U.S.\$10,000 (or its equivalent) and keep the Noteholders advised of the progress of any such claim.

15. Confidential Information

Each Obligor shall (and the Company shall procure that each other member of the Group will), take commercially reasonable steps within their respective powers together with such steps which are required or approved by the Lenders to protect information which is confidential to them (or any other member or the Group) or the Noteholders.

Execution Version

AMENDING AGREEMENT NO. 1

THIS AMENDING AGREEMENT NO. 1 (this "**Amending Agreement**") is made as of January 12, 2024 among the parties to the Note Purchase Agreement (as hereinafter defined).

WHEREAS:

A. Reference is made to the bridge note purchase agreement dated as of February 24, 2023 (the "**Note Purchase Agreement**") among Lynx Air Holdings Corporation (formerly known as Enerjet Holdco Inc.) (the "**Company**"), 1263343 Alberta Inc., doing business as Lynx Air (formerly doing business as Enerjet) (the "**Guarantor**"), and Indigo Northern Ventures LP ("**Indigo**")

B. The Company, the Guarantor and Indigo wish to amend the Note Purchase Agreement on the terms and conditions set out herein.

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the mutual covenants and agreements contained in this Amending Agreement and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

ARTICLE 1 INTERPRETATION

1.1 One Amending Agreement. This Amending Agreement amends the Note Purchase Agreement. This Amending Agreement and the Note Purchase Agreement shall be read, interpreted, construed and have effect as, and shall constitute, one agreement with the same effect as if the amendments made by this Amending Agreement had been contained in the Note Purchase Agreement as of the date of this Amending Agreement.

1.2 Defined Terms. In this Amending Agreement, unless something in the subject matter or context is inconsistent:

- (a) terms defined in the description of the parties or in the recitals have the respective meanings given to them in the description or recitals, as applicable; and
- (b) all other capitalized terms have the respective meanings given to them in the Note Purchase Agreement as amended by Article 2 of this Amending Agreement (collectively, the "**Amended Note Purchase Agreement**").

1.3 Headings. The headings of the Articles and Sections of this Amending Agreement are inserted for convenience of reference only and shall not affect the construction or interpretation of this Amending Agreement.

1.4 References. All references to Articles, Sections, Exhibits and Schedules, unless otherwise specified, are to Articles, Sections, Exhibits and Schedules of the Note Purchase Agreement.

ARTICLE 2 AMENDMENTS

2.1 Definitions and Interpretation: Section 1.1 is amended by adding the following in alphabetical order:

“**Flair Term Sheet**” means the term sheet dated as of January 11, 2024 between Flair Airlines Ltd. and the Company;

“**Flair Transaction**” means the transaction as substantially contemplated by the Flair Term Sheet;

2.2 Definitions and Interpretation: The definition of “Redemption Date” in Section 1.1 is deleted in its entirety and replaced with the following:

“**Redemption Date**” shall mean the earlier to occur of: (a) the consummation of the Flair Transaction and (b) the Long Stop Date (as defined in the Flair Term Sheet) ;

2.3 Schedule 11 Conditions. Condition 3.6 of Schedule 11 is deleted in its entirety and replaced with the following:

3.6 If, at the Redemption Date, the Noteholder is not permitted to convert all of their Notes into Class B Common Shares due to the Ownership and Control Requirements, then, in the absolute discretion of the Noteholder, (i) any portion, as determined in the absolute discretion of the Noteholder, of any of the Notes, may be converted into Class B Common Shares to the extent permitted by the Ownership and Control Requirements and the remaining portion of such Notes shall be redeemed by the Company in accordance with Condition 3.2 of this Schedule 11, (ii) such Notes shall be redeemed by the Company in accordance with Condition 3.2 of this Schedule 11, or (iii) the Redemption Date for such Notes that cannot be converted shall be extended until such time as the Noteholder is permitted to convert such Notes.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

3.1 Confirmation of Representations. Each of the Company and the Guarantor represents and warrants that, as at the date of this Amending Agreement and assuming that the amendments made to the Note Purchase Agreement by this Amending Agreement have become effective:

- (a) this Amending Agreement has been duly authorized, executed and delivered by each of such parties;
- (b) the Amended Note Purchase Agreement constitutes a legal, valid and binding obligation of each of the Company and the Guarantor, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditor’s rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law;
- (c) no Default or Event of Default has occurred and is continuing; and

- (d) the representations and warranties contained in Schedule 5 of the Note Purchase Agreement (other than those that are made with respect to a specific date), as modified by the bring-down certificate of an officer of the Company and the Guarantor dated as of the date hereof and addressed to Indigo (the “**Bring Down Certificate**”), are true and correct as if made on the date hereof.

ARTICLE 4 CONDITIONS

4.1 Conditions Precedent. The amendments set out in Article 2 shall become effective if and only if there is receipt by Indigo of:

- (a) a counterpart of this Amending Agreement executed by each party hereto; and
- (b) such legal opinions and supporting materials as may be requested by Indigo.

If such conditions precedent are met, then the effective date of the amendments set out in Article 2 will as set out in Section 1.1.

ARTICLE 5 GENERAL

5.1 Confirmation. Except as specifically stated herein, the Note Purchase Agreement and the other Transaction Documents shall continue in full force and effect in accordance with the provisions thereof. In particular but without limitation:

- (a) the Security Documents and the Security granted thereunder continue in full force and effect in accordance with their terms notwithstanding this Amending Agreement and the amendments to the Note Purchase Agreement effected hereby; and
- (b) the secured liabilities described in the Security Documents include indebtedness, liabilities and obligations arising under or in relation to the Amended Note Purchase Agreement, and the Security granted thereunder extend thereto.

All Secured Indebtedness under the Note Purchase Agreement shall be continuing with only the terms thereof being modified as provided in this Amending Agreement, and this Amending Agreement shall not evidence or result in a novation of such Secured Indebtedness.

5.2 Reservation of Rights. Except as expressly set forth herein, this Amending Agreement shall not by implication or otherwise limit, impair, constitute a waiver of, or otherwise affect the rights and remedies of Indigo under the Note Purchase Agreement or any other Transaction Document. Nothing herein shall be deemed to entitle any other party to a consent to, or a waiver, amendment, modification or other change of, any of the terms, conditions, obligations, covenants or agreements contained in the Note Purchase Agreement or any other Transaction Document in similar or different circumstances.

5.3 Interpretation. All references to “this Agreement” or the “Note Purchase Agreement” and all similar references in any of the other Transaction Documents shall hereafter include, mean and be a reference to the Amended Note Purchase Agreement without any requirement

to amend such Transaction Documents. This Amending Agreement shall constitute a “Note Document” under, and as defined in, the Note Purchase Agreement.

5.4 Binding Nature. This Amending Agreement shall enure to the benefit of and be binding upon the Company, the Guarantor and Indigo and their respective successors and permitted assigns.

5.5 Severability. Any provision of this Amending Agreement which is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Amending Agreement, all without affecting the remaining provisions of this Amending Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

5.6 Conflicts. If, after the date of this Amending Agreement, any provision of this Amending Agreement is inconsistent with any provision of the Note Purchase Agreement, the relevant provision of this Amending Agreement shall prevail.

5.7 Governing Law. This Amending Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

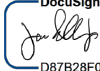
5.8 Counterpart and Facsimile. This Amending Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Amending Agreement by telecopy, emailed pdf. or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Amending Agreement. The words “execution,” “signed,” “signature,” “delivery,” and words of like import in or relating to any document to be signed in connection with this Amending Agreement and the transactions contemplated hereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law.

[signatures on the following pages]

S-1

IN WITNESS WHEREOF the undersigned has caused this Amending Agreement to be duly executed as of the date set out on the first page.

LYNX AIR HOLDINGS CORPORATION

By: 
Name: Jim Sullivan
Title: Interim Chief Executive Officer

1263343 ALBERTA INC.

By: 
Name: Jim Sullivan
Title: Interim Chief Executive Officer

INDIGO NORTHERN VENTURES LP by its
general partner **INDIGO NORTHERN
VENTURES GP, LLC**

By: 
Name: William A. Franke
Title: Managing Member

This is **Exhibit "13"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

Dated: October 26, 2023

LYNX AIR HOLDINGS CORPORATION

and

1263343 ALBERTA INC., DOING BUSINESS AS LYNX AIR

and

INDIGO NORTHERN VENTURES LP

SECOND BRIDGE NOTE PURCHASE AGREEMENT

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STRICTLY PRIVATE & CONFIDENTIAL

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THIS SECOND BRIDGE NOTE PURCHASE AGREEMENT is executed as of October 26, 2023 and made

BETWEEN

- (1) **LYNX AIR HOLDINGS CORPORATION** (the “**Company**”), a company registered under the laws of Alberta whose registered office is at 1400, 350 7th Avenue S.W., Calgary, Alberta T2P 3N9;
- (2) **1263343 ALBERTA INC.**, doing business as Lynx Air (the “**Guarantor**” and also referred to herein as the “**Subsidiary**”), a company registered under the laws of Alberta whose registered office is at 1400, 350 7th Avenue S.W., Calgary, Alberta T2P 3N9; and
- (3) **INDIGO NORTHERN VENTURES LP** (“**Indigo**”), an exempted limited partnership registered under the laws of the Cayman Islands whose registered office is at c/o Maples Corporate Services Limited, PO Box 309, Uglund House, Grand Cayman, KY1-1104, Cayman Islands.

BACKGROUND:

- (A) Indigo has agreed to purchase Notes in the principal amount of \$10,000,000 Canadian Dollars (U.S.\$7,255,840.95) in accordance with the provisions of this Agreement.
- (B) The Parties have agreed to enter into this Agreement to govern the terms on which the Notes are to be issued by the Company and held by the Noteholders.

THE PARTIES AGREE AS FOLLOWS:

In consideration of the premises and the covenants and agreements herein set forth, the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement:

“**Adherence Agreement**” means a joinder to this Agreement substantially in the form set out in Schedule 7;

“**Affiliate**” means, in relation to any Person, a Subsidiary of that Person or any direct or indirect Holding Company of that Person or any other direct or indirect Subsidiary of any such Holding Company;

“**Agency**” means the Canadian Transportation Agency, or any successor agency thereto;

“**Agreement**” means this Second Bridge Note Purchase Agreement dated as of October 26, 2023;

“**Anti-Corruption Laws**” means all laws, rules, and regulations of any jurisdiction applicable to the Company or its Subsidiaries from time to time concerning or relating to bribery or corruption, including, without limitation, the *Corruption of Foreign Public Officials* Acts (Canada) and the U.S. Foreign Corrupt Practices Act.

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“Authorisation” means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;

“Authorised Expenses” means the legal fees of Blake, Cassels & Graydon, LLP, incurred in connection with: (a) the negotiation and documentation of the term sheet relating to this Agreement; and (b) the negotiation and documentation of the Transaction Documents and all ancillary documents connected thereto;

“BIA” means the *Bankruptcy and Insolvency Act* (Canada), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation;

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

“Boeing Order” means the Purchase Agreement No. ABQ-PA-04427 between The Boeing Company (Boeing) and the Guarantor dated as of October 18, 2015, as amended and supplemented from time to time and (a) all rights of the Company in connection with such agreement; (b) all other rights of the Company to receive money due and to become due to in connection with such agreement; (c) all rights of the Company to damages arising out of, or for breach or default in respect of, such agreement; (d) all rights of the Company to perform and exercise all remedies in connection with such agreement; (e) all other rights, entitlements, privileges, benefits, powers, licences and advantages of the Company to be derived from such agreement; and (f) all proceeds thereof;

“Bridge Notes” shall have the meaning ascribed to “Notes” in the Bridge NPA;

“Bridge NPA” means the bridge note purchase agreement dated as of February 24, 2023 among, the Company, the Guarantor and Indigo;

“Business Day” means any day (other than Saturday or Sunday) which is not a public holiday and on which banks are open for normal banking business in Toronto, Ontario, Calgary, Alberta and New York, New York;

“Canadian” shall have the meaning ascribed to such term in the CTA, as supplemented by the Exemption;

“Canadian Benefit Plan” means any plan, fund, program, or policy, whether oral or written, formal or informal, funded or unfunded, insured or uninsured, providing employee benefits, including medical, hospital care, dental, sickness, accident, disability, life insurance, pension, retirement or savings benefits, under which the Company or its Subsidiaries has any liability with respect to any employee or former employee, but excluding any Canadian Pension Plan.

“Canadian Pension Plan” means each pension plan required to be registered under Canadian federal or provincial law that is maintained or contributed to by the Company or its Subsidiaries for its employees or former employees, but does not include the Canada Pension Plan as maintained by the Government of Canada.

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“Capital Event” shall have the meaning ascribed to such term in Condition 15.1 of Schedule 11;

“Cash Equivalents” means any of the following:

- (a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the Government of Canada or of any Canadian province (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the Government of Canada or of such Canadian province), in each case maturing within one year from the date of acquisition thereof;
- (b) investments in certificates of deposit, bankers' acceptances and time deposits maturing within 180 days from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of Canada or of any Canadian province which has a combined capital surplus and undivided profits of not less than \$500,000,000 and a senior unsecured rating of “A-” or better by S&P and “A3” or better by Moody's;
- (c) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the Government of the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the Government of the United States of America), in each case maturing within one year from the date of acquisition thereof;
- (d) marketable and freely tradeable securities evidencing direct obligations of corporations, hospitals, municipal boards or school boards having, at the date of acquisition, a rating from DBRS of A, from Moody's of A 2 or from S&P of A, in each case maturing within 180 days from the date of acquisition thereof; or
- (e) deposits in bank accounts made in the ordinary course of business and otherwise permitted hereunder;

“CCAA” means the *Companies' Creditors Arrangement Act* (Canada), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation;

“Class A Common Shares” shall have the meaning ascribed to such term in the Noteholders' and Shareholders' Agreement;

“Class B Common Shares” shall have the meaning ascribed to such term in the Noteholders' and Shareholders' Agreement;

“Common Shares” shall have the meaning ascribed to such term in the Noteholders' and Shareholders' Agreement;

“Company Bank Account” means the bank account of the Company, the details of which are as follows:

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Account: Lynx Air Holdings Corporation

Bank: ATB Financial
Calgary Stephen Ave Branch
102 8 Ave SW
Calgary AB T2P 1B3

Bank Code: 0219

Transit /Branch 07609

Account: 00390932879

Swift Code: ATBRCA6EXXX

“Completion” means performance of the obligations set forth in clause 4 provided always that Completion shall under no circumstances occur unless the Indigo Note Amount (less the Pre-Completion Expenses) shall have been received in the Company Bank Account for value in immediately available funds;

“Completion Date” means the date on which Completion occurs;

“Conditions” means the conditions and other provisions of the Notes set out in Schedule 11;

“Confidential Information” means any information, whether acquired before or after the date of this Agreement, that relates to:

- (a) this Agreement;
- (b) any member of the Group or their respective businesses;
- (c) any of the Group’s customers, businesses, assets, contracts, employees or affairs; and
- (d) any Party or any of their Affiliates, in each case, in respect of their identity, their being a party to this Agreement and their holdings of Notes and/or Common Shares and making an investment in the Group or any other information relating to any of the foregoing that has been obtained pursuant to the negotiation of this Agreement or any of the documents referred to herein,

save for, in each case:

- (i) information that is independently developed by the relevant Person from information that was neither: (A) provided pursuant to this Agreement; (B) provided by any member of the Group or any Party; nor (C) provided by a third party to the extent that it was provided with any limitation on disclosure or obligation of confidence; or

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- (ii) information which is at the date of disclosure within the public domain (otherwise than as a result of a breach of this Agreement);

“Consent” means a written consent, in form and substance satisfactory to the Noteholder, from The Boeing Company addressed to the Noteholder in respect of a security interest granted by the Guarantor in favour of the Noteholder in the Boeing Order and the assignment of the Boeing Order to the Noteholder in the event that the Noteholder exercises any or all of its rights, remedies, powers or discretions under the Transaction Documents;

“Control” shall have the meaning ascribed to such term in the definition of “Affiliation” in the CTA. **“Controlling”** and **“Controlled”** have meanings correlative thereto;

“Controlling Interest” means a direct or indirect beneficial interest in more than 50% of the Fully Diluted Share Capital, or the ability of any Person, either alone or in conjunction with Persons acting in concert with such Person to control a direct or indirect beneficial interest in more than 50% of the Fully Diluted Share Capital, as the context requires;

“Conversion Date” means, in respect of any conversion of Notes, the date on which the Company is required to issue the Conversion Shares to the relevant Noteholder pursuant to the conversion of such Notes;

“Conversion Shares” means, in respect of any Notes, the Class B Common Shares that would result from the conversion of such Notes in accordance with their terms and the relevant provisions of this Agreement and as calculated in accordance with the provisions of Condition 13.1 of Schedule 11;

“Converting Noteholder” shall have the meaning ascribed to such term in Condition 10.2 of Schedule 11;

“Corporate Articles” means the articles of incorporation of the Company in the Agreed Form;

“Covenants” shall have the meaning ascribed to such term in clause 12.110.2;

“CTA” means the *Canada Transportation Act*, as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation;

“DBRS” means Dominion Bond Rating Service Limited, or its successor.

“Default” means an Event of Default or any event or circumstance specified in Schedule 12 which would (with the expiry of a grace period, the giving of notice, the making of any determination by the Noteholder that it is entitled to make under any of the Transaction Documents or any combination of the foregoing) be an Event of Default;

“Default Rate” means, at any time, the applicable Interest Rate plus 1%;

“Director” means a member of the Board;

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“Dollar”, “Canadian Dollar”, “\$” and “CAD” means the lawful currency of Canada for the time being, unless an explicit reference is made to U.S. or other currency;

“Equivalent Amount” means, with respect to any specified amount of currency other than Canadian Dollars, the amount of Canadian Dollars that may be purchased with such amount of other currency at the spot wholesale transactions buying rate of The Royal Bank of Canada for the purchase of Canadian Dollars with such other currency in effect as of 11:00 a.m. on the Business Day with respect to which such computation is required for the purpose of this Agreement or, in the absence of such a buying rate on such date, using such other rate as the Lender may reasonably select;

“Event of Default” means any event or circumstance specified in Schedule 12;

“Exemption” means the exemption order issued by the Minister of Transport to the Guarantor on December 2, 2016 relating to the CTA;

“Financial Indebtedness” means, without double counting, any indebtedness for or in respect of:

- (a) moneys borrowed or raised (including overdrafts);
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, shares or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a finance or capital lease;
- (e) receivables sold, discounted or factored (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised by the issue of redeemable shares if the shares are redeemable automatically or at the relevant shareholder’s option before the Redemption Date;
- (g) any amount of any liability under an advance or deferred purchase agreement if:
 - (i) one of the primary reasons behind entering into the agreement is to raise financing; or
 - (ii) the agreement is in respect of the supply of material assets or services and payment is due more than 60 days after the date of supply;
- (h) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account);
- (i) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution;

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- (j) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing; and
- (k) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (j) above;

“Fully Diluted Share Capital” means, at any time, the aggregate number of Common Shares that would be issued assuming the conversion (in full) of all Notes (whether or not, on their terms, the same are actually convertible into Common Shares at such time);

“GAAP” means in relation to any Person, the generally accepted accounting principles in Canada, as in effect from time to time with respect to such Person, including International Financial Reporting Standards and the Canadian accounting standards for private enterprises as set out in Part II of the Chartered Professional Accountants of Canada Handbook, as issued by the Accounting Standard Boards in Canada, other than known deviations as previously disclosed to the Noteholder relating to the treatment of leases as a consequence of International Financial Reporting Standards Rule 16;

“Group” means the Company and its Subsidiaries from time to time;

“Holding Company” means, in relation to a corporation, any other corporation in respect of which it is a Subsidiary;

“Indigo Note Amount” shall have the meaning set out in clause 2.1;

“Interest Rate” means 20% per annum;

“Initial Note” means the convertible promissory note (substantially in the form set out in Schedule 9) to be issued by the Company to Indigo pursuant to and in accordance with clause 2.1;

“Interest Payment Date” shall have the meaning ascribed to such term in the Notes.

“IPO” means an initial public offering, whether on a treasury or secondary basis, resulting in the holding of equity of the Company, directly or indirectly, by the public, or a transaction giving rise to a stock market listing on any Recognised Securities Exchange or over-the-counter quotation of equity of the Company, directly or indirectly, and includes an amalgamation, securities exchange take-over bid or other transaction having a similar result, and an offering of units of an income trust or similar offering where the trust, directly or indirectly, owns equity of the Company **“IPO Conversion Notice”** shall have the meaning ascribed to such term in Condition 12.4 of Schedule 11;

“Lenders” means Indigo (and any Person to whom Indigo has transferred any Notes in accordance with the terms of this Agreement);

“Material Adverse Effect” means, in the reasonable opinion of Indigo, a material adverse effect on:

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- (a) the ability of any member of the Group to pay any amount of principal or interest or other amount (if payable in cash) in respect of the Notes or to perform any of its material obligations under this Agreement; or
- (b) the business, operations, property, condition (financial or otherwise) or prospects of the Group taken as a whole;

“Moody’s” means Moody’s Investors Service, Inc.;

“New Note Funds” means the money received by the Company pursuant to the sale of Notes in accordance with clause 2;

“Non-Canadian” means any Person that does not qualify as Canadian;

“Non-Indigo Party” means any Party other than Indigo (and any Person to whom Indigo has transferred any Notes in accordance with the terms of this Agreement);

“Note Conversion Notice” shall have the meaning ascribed to such term in Condition 10.3 of Schedule 11;

“Noteholder” means any holder for the time being of Notes;

“Noteholder Resolution” shall have the meaning ascribed to such term in paragraph 2.1 of Schedule 8;

“Noteholders’ and Shareholders’ Agreement” means the noteholders’ and shareholders’ agreement originally dated as of December 20, 2018 by and between the Company, the Subsidiaries, Indigo, the Noteholders and the Shareholders (in each case, as defined therein), as amended from time to time;

“Notes” means, collectively, the Initial Note and the PIK Notes;

“Obligor” means the Company or the Guarantor, and the term **“Obligors”** means the Company and the Guarantor;

“Obligor Warranties” means, collectively, the statements set out in Schedule 5;

“Ordinary Course of Business” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“Original Notes” shall have the meaning ascribed to “Notes” in the Original NPA;

“Original NPA” means the note purchase agreement dated as of December 20, 2018 among, the Company, the Guarantor and Indigo;

“Outstanding Expenses” shall have the meaning ascribed to such term in clause 10.5(B);

“Ownership and Control Requirements” means the rules or regulations governing the ownership and control of Canadian airlines constituted pursuant to the federal laws of Canada including (without limitation) the CTA, as supplemented by the Exemption;

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“Party” means a party to this Agreement;

“Permitted Transferee” means, in respect of a Lender:

- (a) any Subsidiary or Holding Company of such Lender;
- (b) any company, fund (including any unit trust or investment trust), partnership or other entity which is Controlled by any entity falling within (a) above (or by any two or more such entities);
- (c) any company, fund (including any unit trust or investment trust), partnership or other entity the major part of the assets of which are managed (whether solely or jointly with others) from time to time by any entity falling within (a) and/or (b) above (or by any two or more such entities); or
- (d) any company, fund (including any unit trust or investment trust), partnership or other entity that is managed by or Controlled by the same Person or Persons who manage or Control the Lender at the date of this Agreement;

“Person” includes any natural person, corporation, company, limited liability company, trust, joint venture, association, incorporated organization, partnership, governmental authority or other entity;

“PIK Notes” shall have the meaning ascribed to such term in paragraph 4.1 of Schedule 11;

“Pre-Completion Expenses” shall have the meaning ascribed to such term in clause 10.3(B);

“Proposed Conversion Date” shall have the meaning ascribed to such term in Condition 10.2 of Schedule 11;

“Qualifying Takeover Offer” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“Recognised Securities Exchange” means the Toronto Stock Exchange or any other recognized securities exchange in Canada or the United States of America;

“Redemption Date” shall mean the earlier to occur of: (a) April 26, 2024, (b) the occurrence of such other date as may be determined pursuant to clause 18.3 or Condition 3.6 or 3.7 of Schedule 11 and (c) the date that any Qualifying Takeover Offer is accepted;

“Register” means the register of the Notes required to be maintained by the Company pursuant to clause 9;

“Relevant Conversion Price” means \$0.10, subject to adjustment on a pro-rata basis in the event that the Company effects any share split, consolidation, sub-division or other reorganization of any part of its share capital after the date of this Agreement, which such price shall be equal to the price of the Common Shares on the date of this Agreement;

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“S&P” means Standard & Poor’s Ratings Services, a division of the McGraw-Hill Companies, Inc.

“Sanctions” means, at any time, economic or financial sanctions or trade embargoes imposed, administered or enforced by (a) the Office of Foreign Assets Control of the U.S. Department of Treasury; or (b) any other governmental authority that are applicable to any party at such time.

“Sanctioned Person” means, at any time, any Person with whom any party is prohibited or restricted from transacting or otherwise dealing under any Sanction, whether by reason of designation under such Sanction or otherwise.

“Security” means, (a) with respect to any asset, any mortgage, deed of trust, lien (statutory or otherwise), deemed trust, pledge, hypothec, hypothecation, encumbrance, charge, security interest, royalty interest, adverse claim, defect of title or right of set off in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, title retention agreement or consignment agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to any asset, (c) any purchase option, call or similar right of a third party with respect to such assets, (d) any netting arrangement, defeasance arrangement or reciprocal fee arrangement, and (e) any other arrangement having the effect of providing security;

“Security Documents” means the documents that constitute the Security required to be granted or put in place pursuant to clause 14 and Schedule 6;

“Shareholder” means a shareholder of the Company;

“Subsidiary” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“Takeover Conversion Notice” shall have the meaning ascribed to such term in Condition 11.3 of Schedule 11;

“Takeover Offer” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“Tax” means all taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, harmonized sales, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, real property and personal property taxes, and any other taxes, customs duties, fees, assessments, or similar charges in the nature of a tax, including *Canada Pension Plan* and provincial pension plan contributions, employment insurance payments and workers’ compensation premiums, together with any instalments with respect thereto, and any interest, fines and penalties with respect thereto, imposed by any governmental authority (including federal, state, provincial, municipal and foreign governmental authorities), and whether disputed or not;

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“Transaction Documents” means this Agreement, the Noteholders’ and Shareholders’ Agreement, the Security Documents, and each other agreement or document entered into or executed pursuant to any of the foregoing;

“Transferring Noteholder” shall have the meaning ascribed to such term in Condition 6.1 of Schedule 11;

“Unrestricted Cash Balance” means, at any time, the aggregate amount of unrestricted cash and Cash Equivalents held by an Obligor at such time, in accounts maintained with a financial institution that has executed an account control agreement, blocked account agreement or other similar agreement (in each case, in form and substance satisfactory to Indigo, acting reasonably) in favour of Indigo;

“Winding-Up” means, in respect of any Person,

- (a) that such Person:
- (i) admits in writing that it is insolvent as they generally become due;
 - (ii) commits an act of bankruptcy under the BIA, files a voluntary assignment in bankruptcy under the BIA, makes a proposal (or files a notice of its intention to do so) under the BIA or seeks any other relief in respect of itself under the BIA;
 - (iii) institutes any proceedings seeking relief in respect of itself under the CCAA;
 - (iv) institutes any proceeding seeking relief in respect of itself under the WURA;
 - (v) in addition to the forgoing, institutes any other proceeding seeking: (a) to adjudicate itself an insolvent person or a bankrupt; (b) to liquidate, dissolve or wind-up its business or assets; (c) to compromise, arrange, adjust or declare a moratorium in respect of the payment of, its debts; (d) to stay the rights of creditors generally (or any class of creditors); (e) any other relief in respect of itself under any federal, provincial or foreign applicable Law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, receivership, restructuring of business, assets or debt, reorganization of business, assets or debt or protection of debtors from their creditors (such applicable Law includes any applicable corporations legislation to the extent the relief sought under such corporations legislation relates to or involves the compromise, settlement, adjustment or arrangement of debt); or (f) any other relief which provides for plans or schemes of reorganization, plans or schemes of arrangement or plans or schemes of compromise, in respect of itself, to be submitted or presented to creditors (or any class of creditors);
 - (vi) applies for the appointment of, or has a receiver (either court or privately appointed), interim receiver, receiver/manager (either court or privately appointed), sequestrator, conservator, custodian, administrator, trustee,

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liquidator or other similar official appointed in respect of it, or any substantial part of its property; or

- (vii) threatens to do any of the foregoing, or takes any action, corporate or otherwise, to approve, effect, consent to or authorize any of the actions described in (i) to (vi) above; or
- (b) that any petition is filed, application made or other proceeding instituted against or in respect of any Person:
 - (i) seeking to adjudicate it an insolvent person;
 - (ii) seeking a bankruptcy order against it under the BIA;
 - (iii) seeking to institute proceedings against it under the CCAA;
 - (iv) seeking to institute proceedings against it under the WURA;
 - (v) seeking, in addition to the foregoing: (a) to adjudicate it an insolvent person or a bankrupt; (b) to liquidate, dissolve or wind-up its business or assets; (c) to compromise, arrange, adjust or declare a moratorium in respect of the payment of, its debts; (d) to stay the rights of creditors generally (or any class of creditors); (e) any other relief in respect of it under any federal, provincial or foreign applicable Law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, receivership, restructuring of business, assets or debt, reorganization of business, assets or debt, or protection of debtors from their creditors (such applicable Law includes any applicable corporations legislation to the extent the relief sought under such corporations legislation relates to or involves the compromise, settlement, adjustment or arrangement of debt); or (f) any other relief which provides plans or schemes of reorganization, plans or schemes of arrangement or plans or schemes of compromise in respect of it, to be submitted or presented to creditors (or any class of creditors); or
 - (vi) seeking the issuance of an order for the appointment of a receiver, interim receiver, receiver/manager, sequestrator, conservator, custodian, administrator, trustee, liquidator or other similar official in respect of it or any substantial part of its property; and

“**WURA**” means the *Winding Up and Restructuring Act* (Canada), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

1.2 In this Agreement, unless a contrary indication appears:

- (a) references to “**clauses**” and “**Schedules**” are references to clauses of and schedules to this Agreement, references to “**paragraphs**” are references to paragraphs of the Schedule (or clause) in which the reference appears and references to this Agreement include the Schedules;

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- (b) reference to any gender shall include every other gender;
- (c) the singular shall include the plural and vice versa;
- (d) the headings and sub-headings are inserted for convenience only and shall not affect the construction of this Agreement;
- (e) references to dollars means Canadian Dollars unless an explicit reference is made to U.S. or other currency;
- (f) references to “**indebtedness**” include any obligation (whether incurred as principal, as guarantor or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (g) references to a “**regulation**” include any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or reorganisation;
- (h) references to “**Indigo**”, any “**Noteholder**”, any “**Shareholder**”, any “**Lender**”, and/or any “**Party**” shall be construed so as to include its successors, permitted assigns and permitted transferees;
- (i) references to any document being in “**Agreed Form**” are to that document in the form signed by or on behalf of each of the Lenders, the Company and the Guarantor for the purposes of identification;
- (j) references to “**assets**” include present and future properties, revenues and rights of every description;
- (k) references to any agreement or instrument is a reference to that agreement or instrument as amended, varied, supplemented or novated (however fundamentally) from time to time but excluding for these purposes any amendment, variations, supplement or novation which is contrary to the provisions of any such agreement or instrument;
- (l) references to “**guarantee**” mean any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assure any indebtedness of any Person or to make an investment in or loan to any Person or to purchase assets of any Person where, in each case, such obligation is assumed in order to maintain or assist the ability of such Person to meet its indebtedness (and “guaranteed” and “guarantor” shall be construed accordingly); and
- (m) references to a provision of law are references to that provision as amended or re-enacted and include any subordinate legislation.

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2. SALE OF NOTES

- 2.1 Indigo hereby agrees to purchase the Initial Note at Completion for \$10,000,000 Canadian Dollars (U.S.\$7,255,840.95) (the "**Indigo Note Amount**") on the terms and subject to the conditions set out in this Agreement.
- 2.2 All Notes shall constitute "Notes" for the purpose of the Noteholders' and Shareholders' Agreement.

3. INTEREST

The Notes shall each bear interest at the rate and in accordance with the provisions set forth in Condition 4 of Schedule 11.

4. COMPLETION

- 4.1 Subject to the terms of this Agreement, completion shall take place as soon as reasonably possible after the last of the conditions in clause 5 has been satisfied (or waived in accordance with clause 5.2) provided that this Agreement shall lapse and be of no further force and effect if Completion shall not have occurred by the earlier of.

(A) October 26, 2023; and

(B) the Winding-Up of the Company or any Subsidiary of the Company,

or such later date as Indigo may agree in writing.

- 4.2 Subject to clause 4.3, at Completion:

(A) Indigo will transfer the Indigo Note Amount (less the Pre-Completion Expenses) to the Company Bank Account by direct credit transfer; and

(B) the Company shall execute and deliver to Indigo the Initial Note required to be issued pursuant to clause 2.1 of this Agreement, each of which will be issued in Indigo's name and dated as of the Completion Date.

- 4.3 For all purposes under this Agreement, Completion shall not be deemed to have occurred unless and until all of the obligations set forth in this clause 4 shall have been performed in full in accordance with the provisions set forth herein and the Indigo Note Amount (less the Pre-Completion Expenses) shall have been received in the Company Bank Account for value in immediately available funds.

5. CONDITIONS PRECEDENT

- 5.1 Completion is conditional on:

(A) the Company having delivered (or procured the delivery) to Indigo (or its solicitors on its behalf) the following documents:

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- (i) counterparts of any Adherence Agreement (as defined in the Noteholders' and Shareholders' Agreement) duly executed by each Noteholder not already a party thereto;
 - (ii) a counterpart to a guarantee given by the Guarantor in favour of the Lenders;
 - (iii) a counterpart to a general security agreement given by each of the Company and the Guarantor in favour of the lenders (the "GSA");
 - (iv) a detailed 90-day cash-flow forecast of the Company for the period ending December 31, 2023, and Indigo confirms receipt of such forecast;
 - (v) confirmation from a senior officer of the Company that the forecast referred to in clause 5.1(A)(iv) above remains true, complete and correct as of the Completion Date such that there are no material changes to the information set out therein;
 - (vi) a counterpart by every party thereto to the amendment no. 4 to the Noteholders' and Shareholders' Agreement, such amendment to be entered into to reflect the issuance of the Notes pursuant to this Agreement and all transactions contemplated hereby; and
 - (vii) such legal opinions and supporting materials as may be requested by Indigo;
- (B) Indigo is satisfied with the condition of the Company, in its sole discretion;
- (C) the GSA shall have been registered in all offices in which, in the opinion of Indigo or its counsel, registration is necessary or of advantage to perfect or render opposable to third parties the Security intended to be created thereby;
- (D) [Intentionally Deleted];
- (E) [Intentionally Deleted];
- (F) confirmation by the Company, to the satisfaction of Indigo, that no event or circumstance exists or has occurred which constitutes a default under any agreement or instrument which is binding on it or the Group or to which its or any of the Group's assets are subject which has or might have a Material Adverse Effect;
- (G) [Intentionally Deleted];
- (H) [Intentionally Deleted];
- (I) confirmation by the Company, to the satisfaction of Indigo, that none of the Group's debt (including, without limitation, any debt payable to any Shareholder) which exists as of the date hereof, will be repaid, rescheduled or modified in any way (other than the payments of any accounts payable in the ordinary course of

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business or any interest and principal scheduled under existing terms) unless approved by Indigo in writing;

(J) [Intentionally Deleted]; and

(K) [Intentionally Deleted].

5.2 Indigo may agree to waive all or any part of the conditions in clause 5.1 or to modify such conditions.

6. POST-COMPLETION OBLIGATIONS

6.1 The Company shall (i) promptly and, in any event, prior to November 25, 2023 or such later date as the Noteholder may permit, in its absolute discretion, cause The Boeing Company to provide the Consent and (ii) as soon as reasonably practicable following Completion, comply with its obligations under clause 14.

7. PURPOSE

7.1 Subject to clause 7.3, the Company shall apply the New Note Funds towards:

(A) making intra-group loans to, or equity investments in, the Subsidiary to enable such Subsidiary to discharge amounts referred to in clause 7.2; and/or

(B) general working capital purposes, but not towards the making of acquisitions of or investments in companies, businesses or undertakings other than as contemplated in clause 7.1(A) above.

7.2 For so long as any Notes remain outstanding, the Company shall procure that the New Note Funds are applied as follows:

(A) first, general working capital purposes; and

(B) second, any other purpose approved by the Lenders in writing.

7.3 Notwithstanding any other provision contained in this Agreement, (A) the Guarantor will not engage, and will not use the New Note Funds to engage, to any material extent, in any material business other than business of providing a low fare, low cost airline, and (B) the Company will not, and will not use the New Note Funds to, (i) engage in any business (other than non-operating business and management services, in each case typically conducted by a holding company), (ii) own any assets (other than bank accounts and shares in the Guarantor), (iii) incur any indebtedness (other than that as approved by the Lenders), or (iv) incur any expenses other than customary and reasonable administrative expenses associated with maintaining its corporate existence.

7.4 The Lenders are not bound to monitor or verify the application of any amount borrowed pursuant to this Agreement and the Lenders will not be responsible for, or for the consequences of, any such borrowing.

STRICTLY PRIVATE & CONFIDENTIAL**8. CERTIFICATES**

- 8.1 Every certificate for Notes shall be in the form or substantially in the form set out in Schedule 9 and shall have endorsed thereon or attached thereto:
- (A) a conversion notice in the form or substantially in the form set out in Schedule 10; and
 - (B) a copy of the Conditions.
- 8.2 Every Noteholder shall be entitled, without charge, to one certificate for the Notes held by it save that joint holders shall be entitled to one certificate only in respect of the Notes held by them jointly which certificate shall be delivered to the holder whose name stands first in the Register in respect of such joint holding. The Company shall not be bound to register more than four Persons as joint holders of any Notes.
- 8.3 Where some but not all of the Notes comprised in any certificate are transferred or repaid, the Company shall forthwith issue free of charge to the relevant Noteholder a fresh certificate in accordance with the other provisions of this Agreement for the balance of the Notes retained by such Noteholder.
- 8.4 The Company hereby undertakes and covenants that for such time as any of the Notes remain outstanding, the Company shall carry on and conduct its affairs so as to comply with:
- (A) the provisions contained in the certificates for the Notes;
 - (B) the Conditions;
 - (C) the provisions of this Agreement, including (without limitation) the provisions of:
 - (i) Schedule 6;
 - (ii) Schedule 12; and
 - (iii) Schedule 13,

and the Notes shall be held subject to and with the benefit of such provisions and Conditions all of which shall be deemed to be incorporated in this Agreement and which shall be binding upon the Company and the Noteholders and all Persons claiming through or under them respectively with the intent that the Notes shall enure for the benefit of each Noteholder who shall, for the avoidance of doubt, be entitled to sue for the performance and observance of such provisions and Conditions in respect of any Notes held by such Noteholder.

9. REGISTER

- 9.1 The Company shall keep an accurate register of the Notes at its registered office or at such other place as the Directors may determine from time to time and there shall be entered in the Register:

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- (A) the names, addresses and nationality for the purposes of the Ownership and Control Requirements of the holders for the time being of the Notes;
 - (B) the nominal amount of the Notes held by every registered holder;
 - (C) the date upon which the name of every such registered holder is entered in respect of the Notes standing in its name;
 - (D) the serial number of each Note; and
 - (E) details of any account designated by any Noteholder for the purpose of receiving payments pursuant to the terms of the Notes.
- 9.2 Any change of name, address or nationality on the part of any Noteholder shall be notified as soon as is reasonably practicable to the Company and the Company shall amend the Register accordingly.
- 9.3 Any Noteholder and any Person authorized by any Noteholder shall be at liberty at all reasonable times during office hours to inspect the Register and to take copies of or extracts from the Register or any part thereof and shall be entitled to obtain from the Company by telephone or by facsimile confirmation of its registered address and the aggregate nominal amount of the Notes in issue from time to time.

10. FEES AND EXPENSES

- 10.1 In consideration for Indigo agreeing to enter into this Agreement and for other valuable consideration, the Company will pay (for and on behalf of itself and the Subsidiaries) the following fees and expenses:
- (A) [Intentionally Deleted]; and
 - (B) the Authorised Expenses, in accordance with clauses 10.2 to 10.7 below.
- 10.2 [Intentionally Deleted].
- 10.3 Prior to Completion, Indigo shall deliver to the Company a statement containing an itemised list of the Authorised Expenses as follows:
- (A) those Authorised Expenses actually incurred by Indigo in respect of the period up to Completion (together with invoices or other supporting evidence of the same, which may include a letter from the relevant law firm setting out the amounts due to it by Indigo);
 - (B) a reasonable estimate (if necessary) of any Authorised Expenses that remain to be incurred by Indigo in respect of the period up to Completion;
- (the Authorised Expenses referred to in clauses 10.3(A) and 10.3(B) being the “**Pre-Completion Expenses**”).

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- 10.4 Indigo will deduct the Pre-Completion Expenses from the Indigo Note Amount prior to the transfer of the same to the Company pursuant to clause 2.1 above.
- 10.5 Within 15 Business Days after the execution of the last document required to be executed in connection with the Security, Indigo will submit a final statement to the Company setting out the following:
- (A) the aggregate amount of the Lenders' Authorised Expenses incurred by the Lender; and
 - (B) the amount of Lenders' Authorised Expenses (if any) that remains due to such Lender (the "**Outstanding Expenses**"), being the amount referred to in clause 10.5(A).
- 10.6 If there are Outstanding Expenses, Indigo shall deliver copies of invoices in respect of the outstanding amount and the Company shall settle such invoices within 5 Business Days of receipt of the same.
- 10.7 Any fees, costs and expenses required to be paid or reimbursed to Indigo or any other Affiliates of Indigo by the Company or a Subsidiary pursuant to any of the Transaction Documents shall be paid by the Company to the maximum extent permissible by law or otherwise by the Guarantor.

11. WARRANTIES

- 11.1 The Obligors jointly and severally warrant to each of the Lenders that each of the Obligor Warranties is true and correct on the date of this Agreement in respect of each of the Obligors.
- 11.2 The Obligors each acknowledge to the Lenders that:
- (A) they have agreed to give the Obligor Warranties in respect of itself in consideration of the execution by Indigo of this Agreement and the performance of the obligations contained herein; and
 - (B) Indigo has entered into this Agreement, and the Lenders will perform their obligations in accordance with the provisions of this Agreement, in reliance, inter alia, on the Obligor Warranties.
- 11.3 The Obligors each hereby acknowledge and agree that each of the Obligor Warranties shall be separate and independent and save as expressly provided shall not be limited by reference to any other of the Obligor Warranties or anything in this Agreement.

12. COVENANTS

- 12.1 Each of the Company and the Subsidiary give the covenants set forth in Schedule 13 (the "**Covenants**") to the Lenders and agree the same will remain in force from the date of this Agreement for so long as the Notes remain outstanding, provided that it shall not be a breach of any covenant under this Agreement arising from the Company or any Subsidiary

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complying with any other specific obligation under any of the Transaction Documents apart from the Covenants.

13. [INTENTIONALLY DELETED]**14. SECURITY**

14.1 The Company and the Subsidiary undertake to provide and maintain the Security in favour of the Lenders in accordance with the provisions of Schedule 6.

15. TRANSFERS AND ADHERENCE AGREEMENT REQUIREMENTS

15.1 All transfers of Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) shall be regulated in accordance with Conditions 6 to 9 (inclusive).

15.2 Notwithstanding any other provision contained in this Agreement, no transfer of any Note shall be made by any Person unless the transferee shall have first executed an Adherence Agreement, pursuant to which the transferee agrees to adhere to and be bound by the provisions of this Agreement (including this clause) so far as it binds the transferor of the relevant Note(s).

15.3 Upon the execution of an Adherence Agreement pursuant to clause 15.2 above, the Parties (other than the transferor if the transferor retains no Notes after the relevant transfer) agree to adhere to and be bound by the provisions of this Agreement (including this clause) as if the transferee were an original party to the Agreement in place of the transferor.

15.4 This Agreement shall have effect accordingly, provided that no Adherence Agreement need be executed where the transferee is already a Party in the same capacity.

15.5 Any Party proposing to transfer any Notes in accordance with Conditions 6 to 9 of Schedule 11 (inclusive) or to direct its nominees to do so, shall procure that the transferee or the Person who will become the beneficial owner of the Notes to be transferred shall enter into an Adherence Agreement before the completion of the transfer.

15.6 The Company undertakes to procure, insofar as they are able to procure by the exercise of the voting rights of themselves and their nominees as shareholders of the Company and of their appointed Directors (subject to the fiduciary duties of such Directors) that:

(A) no transfer of any Notes shall be registered unless any Adherence Agreement required by this clause 15.6 has been duly executed and delivered; and

(B) all necessary resolutions required to be passed to effect conversion of any Notes in accordance with the Corporate Articles are duly passed.

15.7 The obligations contained in this Agreement shall be binding upon the personal representatives and successors in title of the Parties but none of them shall be entitled to the benefit of this Agreement unless and until they have entered into an Adherence Agreement.

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16. CONFIDENTIALITY**16.1 Obligations of Confidentiality**

- (A) Each Party shall keep all Confidential Information strictly confidential and secret (and to ensure that each of its Affiliates, and its and their officers, employees, agents and professional and other advisers shall keep all Confidential Information strictly confidential and secret);
- (B) Without limitation to its general obligation of confidentiality:
 - (i) no Party shall disclose to any third party any Confidential Information;
 - (ii) no Party shall use or permit the use of any Confidential Information for any purpose other than assessing its investment in the Group and making decisions in relation to that investment;
 - (iii) each Party shall use its reasonable endeavours to alert the Company and the Lenders as soon as is reasonably practical after it becomes aware of any request from a third party for disclosure of any Confidential Information and upon the Company's reasonable request will join it in asserting against any third party that the Confidential Information and its contents are protected by privilege and that, as against such third party, that privilege has not been waived.

16.2 General Exceptions from Confidentiality Obligations

- (A) The obligations of confidentiality under clauses 16.1(A) and 16.1(B) do not apply to:
 - (i) the disclosure of information solely to the extent required to be disclosed by law, legal process, regulation or any regulatory authority provided always that prior to such disclosure, the Party proposing to disclose information pursuant to this clause 16.2(A)(i) shall immediately inform each of the Lenders and shall co-operate in good faith with the Lenders about the timing and content of such disclosure to the extent reasonably practicable;
 - (ii) the disclosure in confidence to professional advisers, or any Affiliate of a Party, as the case may be, or their respective professional advisers, in each case where the disclosure is for a purpose reasonably incidental to this Agreement or for the purpose of assessing such Person's investment in the Group or any member of it (and only to the extent the disclosed information is reasonably required for such purpose);
 - (iii) any bona fide potential purchaser of any Note or Common Shares from any Lender provided such purchaser shall have entered into a confidentiality undertaking in favour of the seller on substantially the same terms as clause 16.1;

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- (iv) any shareholder or investor (or potential shareholder or investor) in or of any of the Lenders;
 - (v) any present or future financier of any of the Lenders;
 - (vi) the disclosure of information to any tax authority to the extent reasonably required for the purposes of the tax affairs of the Person disclosing the information or any Affiliate of such Person, as the case may be;
 - (vii) the disclosure by any Director, officer, employee, representative or consultant to the Group in the proper performance of their duties or by any employee of the Group making a protected disclosure relating to employment in accordance with applicable law; and
 - (viii) the disclosure by any Lender of Confidential Information to any Affiliate of such Lender.
- (B) Other than in respect of disclosure pursuant to clause 16.2(A)(iv), each Party shall inform (and shall ensure that any Affiliates shall inform) any Person to whom it provides Confidential Information pursuant to clause 16.2(A), that such information is confidential and, in the case of disclosure pursuant to clauses 16.2(A)(ii) shall only provide such Confidential Information to such Person if they agree:
- (i) to keep it confidential on the terms of and otherwise to comply with, this clause; and
 - (ii) not to disclose it to any third party (other than those Persons to whom it has already been disclosed in accordance with the terms of this Agreement).
- (C) A Party may only disclose Confidential Information pursuant to clauses 16.2(A)(iv) and 16.2(A)(v) on the basis that the recipient of such Confidential Information shall have entered into a confidentiality agreement with the disclosing Party on substantially the same terms as clause 16.1.

16.3 Breaches of Confidentiality restrictions

Each Party shall procure that promptly upon becoming aware of any breach (by any Person) of this clause 16, such Party shall promptly notify each of the Lenders of such fact and shall provide such information relating to the breach as any Lender may reasonably request.

17. GENERAL

- 17.1 The provisions of this Agreement shall be enforceable by and enure for the benefit of the Parties and their respective successors and permitted assigns.
- 17.2 Any release, waiver or compromise or any other arrangement of any kind by any Party shall not affect the rights and remedies of the Party concerned as regards any other Party or its rights and remedies against the Party in whose favour the release, waiver,

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compromise or other arrangement is granted or made, except (in any event) to the express extent of the release, waiver, compromise or other arrangement, and no such release, waiver, compromise or other arrangement shall have effect unless granted or made in writing.

- 17.3 If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.
- 17.4 No failure to exercise, nor any delay in exercising, on the part of a Party, any right or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.
- 17.5 The Parties hereto confirm that it is their wish that this Agreement and any other document executed in connection with the transactions contemplated herein be drawn up in the English language only and that all other documents contemplated thereunder or relating thereto, including notices, may also be drawn up in the English language only. *Les Parties aux présentes confirment que c'est leur volonté que cette convention et les autres documents de crédit soient rédigés en langue anglaise seulement et que tous les documents, y compris tous avis, envisagés par cette convention et les autres documents peuvent être rédigés en langue anglaise seulement.*
- 17.6 All payments to be made by the Company under this Agreement shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.
- 17.7 Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- 17.8 During any extension of the due date for payment of any principal or unpaid sum under this Agreement interest is payable on the principal or unpaid sum at the rate payable on the original due date.
- 17.9 Any interest, conversion or fee or compounded return accruing under this Agreement will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days or 366 days, as applicable. For the purposes of the *Interest Act* (Canada) and disclosure thereunder, whenever any interest or any fee to be paid hereunder or in connection herewith is to be calculated on the basis of a 365-day or 366-day year, the yearly rate of interest to which the rate used in such calculation is equivalent is the rate so used multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 365 or 366, as applicable, computed on the basis of the actual number of days elapsed over a year of 365 days or 366 days, as the case may be. The rates of interest under this Agreement are nominal rates, and not effective rates or yields. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement.

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- 17.10 No amendment to, or waiver of, any provision of this Agreement shall be effective unless it is in writing and signed by each of the Parties hereto.
- 17.11 The obligations of the Parties contained in this Agreement shall be several save that the obligations of the Obligors shall be joint and several among the Obligors.
- 17.12 If any provision of this Agreement would oblige the Company to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate which would be prohibited by applicable Law or would result in a receipt by that Lender of "interest" at a "criminal rate" (as such terms are construed under the *Criminal Code* (Canada)), then, notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law or so result in a receipt by that Lender of "interest" at a "criminal rate", such adjustment to be effected, to the extent necessary (but only to the extent necessary), by reducing any fees, commissions, costs, expenses, premiums and other amounts required to be paid to the affected Lender which would constitute interest for purposes of Section 347 of the *Criminal Code* (Canada).

18. REGULATORY PROVISIONS

- 18.1 The Company undertakes to procure, insofar as they are able to procure, that no Non-Canadian Person or entity shall acquire or exercise control over the Company, either alone or in combination with others if, and for so long, as such control would constitute a breach of the Ownership and Control Requirements.
- 18.2 If at any time it is determined by the Agency, a court or a competent regulatory authority that a non-Canadian Person or entity may exercise effective control over the Company, that Person or entity, to the extent that it is a Party, will take immediate steps to ensure that control is no longer effective (provided that this clause 18.2 shall not require any such Non-Canadian Party to convert any Notes or divest itself of any Common Shares, other than pursuant to and on the basis set forth in clause 3 of the Corporate Articles or the Notes). For purposes of this clause 18.2 and clause 18.3, "effective control" shall mean "controlled in fact" as defined in the CTA and interpreted, in practice, by the Agency.
- 18.3 The provisions of this Agreement take effect subject always to this clause 18.3. This Agreement shall not confer on Indigo any rights, and Indigo shall not do or omit to do anything, which would result in Indigo acquiring or exercising Control or effective control, or being deemed to acquire or exercise Control or effective control of the Company. References in this Agreement to "complying with", "not breaching", "acting in accordance with" and "for the purposes of" the Ownership and Control Requirements, or any wording similar to or deriving from such phrases, shall include an obligation on Indigo to ensure that Indigo is not required to file a submission under: (i) any regulations governing the ownership and control of Canadian airlines; or (ii) the *Competition Act* (Canada). To the extent that Notes have been issued and, subsequently, the Agency determines that there is a breach of the Ownership and Control Requirements as a result of such Notes and/or other arrangements between Indigo and any of the Group, the affected Noteholders shall be entitled to redeem their Notes as if it was the Redemption Date.

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19. COUNTERPARTS

This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same agreement.

20. ENTIRE AGREEMENT

- 20.1 This Agreement, the Noteholders' and Shareholders' Agreement, the Corporate Articles, and the Security Documents constitute the entire agreement of the Parties with respect to the subject matter of this Agreement.

21. FURTHER ASSURANCES

The Parties shall (and shall procure that their respective nominees shall) do and execute and perform all further deeds, documents, assurances, acts and things that may reasonably be required to give effect to the terms of this Agreement and the Parties (other than the Company) shall at all times use and exercise the votes that they control (which shall be deemed to include all votes held by their respective nominees and board appointees) at both general meetings and/or Board meetings and/or any meetings of any committee of the Company to ensure, in so far as each is reasonably able to, the maintenance and observance of the terms of this Agreement and the Corporate Articles as may be amended from time to time with the agreement of the Lenders.

22. GOVERNING LAW AND JURISDICTION

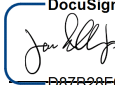
- 22.1 This Agreement is governed by, and to be construed in accordance with the laws of Province of Ontario and the laws of Canada applicable in such Province.
- 22.2 Each Party hereto agrees (i) that any action or proceeding relating to this Agreement may (but need not) be brought in any court of competent jurisdiction in the Province of Ontario, and for that purpose now irrevocably and unconditionally attorns and submits to the jurisdiction of such Ontario court; (ii) that it irrevocably waives any right to, and shall not, oppose any such Ontario action or proceeding on any jurisdictional basis, including forum non conveniens; and (iii) not to oppose the enforcement against it in any other jurisdiction of any judgment or order duly obtained from an Ontario court as contemplated by this clause 22.2.

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[Signature blocks follow on the next page]

IN WITNESS WHEREOF THE Parties hereto have executed this Agreement as of the date first set forth above.

LYNX AIR HOLDINGS CORPORATION

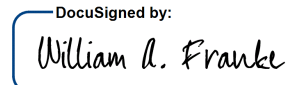
DocuSigned by:

By: _____
Name: **Jim Sullivan**
Title: **Interim Chief Executive Officer**

1263343 ALBERTA INC.

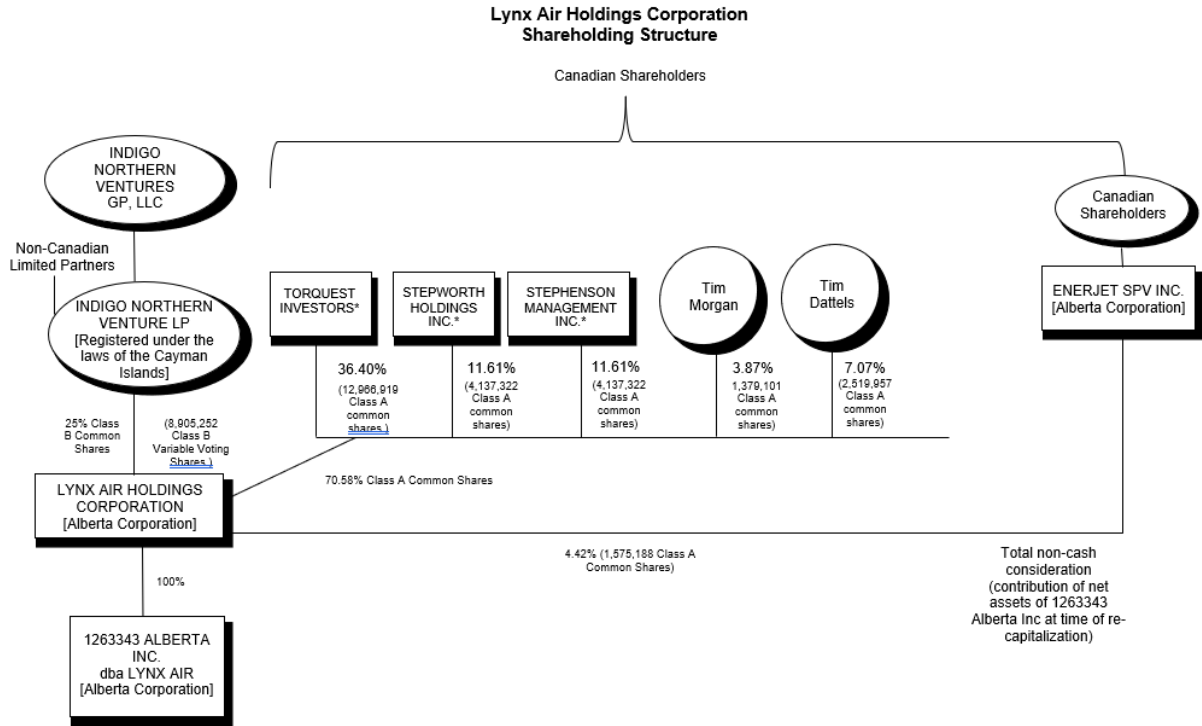
DocuSigned by:

By: _____
Name: **Jim Sullivan**
Title: **Interim Chief Executive Officer**

INDIGO NORTHERN VENTURES LP by its
general partner **INDIGO NORTHERN
VENTURES GP, LLC**

DocuSigned by:

By: _____
Name: **William A. Franke**
Title: **Managing Member**

Schedule 1 Corporate Structure



Schedule 2 Intentionally Deleted

Schedule 3 INTENTIONALLY DELETED

Schedule 4 Post-Closing Holdings

1263343 Alberta Inc (dba "Lynx Air")

Capital Table

As at October 16, 2023

Convertible Debt

Indigo Convertible Shares	C\$	C\$/share	Shares	Comment
Initial Notes	71,242,031	\$1.00	71,242,031	Outstanding
Bridge Loan (Feb-2023)	7,110,000	\$0.25	28,440,000	Outstanding
Bridge Loan (Mar-2023)	5,169,375	\$0.25	20,677,500	Outstanding
Bridge Loan (Oct 2023)	10,000,000	\$0.10	100,000,000	Outstanding
Total	93,521,406	\$0.42	220,359,531	

Capital Table

	Share Equivalents		Ownership		
	Common convertible / Trs Method	Total	Common	Fully Diluted	
Existing Shareholders					
Indigo Northern Ventures	8,905,252	220,359,531	229,264,783	25.000%	89.563%
Torquest Partners	12,966,919	-	12,966,919	36.402%	5.066%
Stephenson Management	4,137,322	-	4,137,322	11.615%	1.616%
Stepworth Holdings	4,137,322	-	4,137,322	11.615%	1.616%
Tim Dattels	2,519,957	-	2,519,957	7.074%	0.984%
Tim Morgan	1,379,101	-	1,379,101	3.872%	0.539%
Enerjet SPV	1,575,190	-	1,575,190	4.422%	0.615%
Option Holders	-	-	0	0.000%	0.000%
Total	35,621,063	220,359,531	255,980,594	100.000%	100.000%

Options

Option Holders	Outstanding	Strike Price (C\$/sh)	In Money?	Option Treatment ⁽¹⁾		Notes
				Dilution Impact (Treasury Method)	Cash Impact Company Funded	
Merren McArthur	801,473	\$1.00	FALSE	-	-	
Tim Morgan	427,452	\$1.00	FALSE	-	-	
Vijay Bathija	427,452	\$1.00	FALSE	-	-	
Michael Holditch	106,863	\$1.00	FALSE	-	-	Expire Dec 2023
Jim Sullivan	427,452	\$1.00	FALSE	-	-	
Greg Melchin	100,000	\$1.00	FALSE	-	-	
Total	2,290,693	\$1.00		-	-	

Illustrative Share Value (C\$/sh) **\$0.10**

1. Note option impact is illustrated in two ways: a) treasury method or cashless, where shares issued post exercise are purchased back at market rates for net dilution, and b) cash payment at the difference between market and strike price.

Schedule 5 Obligor Warranties

1. Status

- (A) It is a company, duly incorporated, validly existing and in good standing under
 - (i) the laws of the Province of Alberta in the case of the Company, and
 - (ii) the laws of the Province of Alberta in the case of the Guarantor.
- (B) It has the power to own its property and assets and carry on its business as it is being conducted.
- (C) It is in compliance with all applicable laws and regulations (including, without limitation, the laws of the provinces of Alberta and Ontario and the federal laws of Canada).

2. Binding Obligations

This Agreement has been duly authorized, executed and delivered by it and is a valid and binding obligation of it enforceable against it in accordance with its terms, subject only to bankruptcy, insolvency, liquidation, reorganization, moratorium and other similar laws generally affecting the enforcement of creditors' rights, and to the fact that equitable remedies (such as specific performance and injunction) are discretionary remedies.

3. Non-Conflict with Other Obligations

The entry into and performance by it of, and the transactions contemplated by, this Agreement, do not and will not conflict with:

- (A) any law or regulation applicable to it;
- (B) its constitutional documents; or
- (C) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (howsoever described) under any such agreement or instrument.

4. Power and Authority

- (A) It has the corporate power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Agreement and the transactions contemplated herein.
- (B) No limit on its corporate powers will be exceeded as a result of the borrowing or the issue of the Notes contemplated pursuant to the terms of this Agreement.

5. Authorisations

All Authorisations, consents, approvals, permits and license of, and registrations or filings with, any governmental agency or authority required:

- (A) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Agreement;
- (B) to ensure that the obligations expressed to be assumed by it in this Agreement are legal, valid, binding and enforceable;
- (C) to make this Agreement admissible in evidence in its jurisdiction of incorporation; and
- (D) for the conduct of its business, trade and ordinary activities in all material respects, have been obtained or effected and are in full force and effect.

6. Governing Law and Enforcement

- (A) The choice of Ontario law as the governing law of this Agreement will be recognised and enforced in its jurisdiction of incorporation.
- (B) Any judgment obtained in Ontario in relation to this Agreement will be recognised and enforced in its jurisdiction of incorporation.

7. No filing or Stamp Taxes

It is not necessary that this Agreement be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar Taxes or fees be paid on or in relation to this Agreement or the transactions contemplated herein.

8. Taxes

- 8.1 It has filed or caused to be filed when due all Tax returns and reports required to have been filed and has paid or caused to be paid when due all Taxes required to have been paid by it (including all instalments with respect to the current period) and has made adequate provision for Taxes for the current period, except Taxes that are being contested in good faith by appropriate proceedings and for which it has set aside on its books adequate reserves.

9. No Default

- (A) Aside from the Guarantor's practice of deferring payables to certain of its suppliers, lessors and service providers and as disclosed in writing to the Board of Directors of the Company and the Guarantor prior to the Completion Date, no Default has occurred and is continuing or reasonably might be expected to occur as a result of the execution or performance of this Agreement by the Parties.
- (B) No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (howsoever described) under any other agreement or instrument which is binding on it or to which its assets are subject which might have a Material Adverse Effect, save as specifically contemplated or specifically permitted by or specifically required to comply with this Agreement.

10. Pari Passu Ranking

Its payment obligations under this Agreement rank at least *pari passu* with (to the fullest extent permitted by law) with all other senior secured creditors of it.

11. No Proceedings Pending or Threatened

No dispute, litigation, arbitration, expert determination, alternative dispute resolution, regulatory or administrative proceedings or investigations of, or before, any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect or which involve a potential liability of any member of the Group exceeding U.S.\$20,000 have been started or (to the best of its knowledge and belief having made due and careful enquiry) threatened in writing (and not withdrawn) against it nor are there any circumstances reasonably likely to give rise to any such dispute, litigation, arbitration, expert determination, alternative dispute resolution, regulatory or administrative proceedings or investigations.

12. No Undisclosed Liabilities

Neither the Company nor any of its Subsidiaries have any Financial Indebtedness, other than arising (i) under this Agreement and the Notes; (ii) pursuant to aircraft or engine leases on commercial terms with third party lessors; (iii) under the Original NPA and the Original Notes; and (iv) under the Bridge NPA and the Bridge Notes.

13. Security

Save with regard to the Security in connection with the Original NPA, the Original Notes, the Bridge NPA, the Bridge Notes, this Agreement, the Notes, and pursuant to aircraft and engine leases on commercial terms with third party lessors, there does not exist any Security over any of its assets or properties.

14. Ownership of Assets

- (A) It has title to its owned personal properties, and with respect to leased personal properties, title to the leasehold estate with respect thereto, pursuant to valid and enforceable leases, free and clear of all Security, other than as set out in paragraph 13 of this Schedule.
- (B) It has indefeasible fee simple title to its owned real properties, and with respect to leased real properties, indefeasible title to the leasehold estate with respect thereto, pursuant to valid and enforceable leases, free and clear of all Security, other than as set out in paragraph 13 of this Schedule.

15. Post-Completion Holdings

- (A) Schedule 4 lists all of the Common Shares and Notes that will be outstanding immediately after Completion.
- (B) The information contained in Schedule 4 is complete and accurate in all respects.

16. Financial Condition

- (A) It has furnished to the Noteholder its consolidated balance sheets and statements of income, retained earnings and changes in its financial position as of and for the month ended August 31, 2023. Such financial statements, present fairly, in all material respects, its consolidated financial position and results of operations and cash flows as of the applicable dates and for the applicable periods in accordance with GAAP.
- (B) Since December 31, 2022, other than events occurring in the ordinary course of business as disclosed to the Board of Directors of the Company and the Guarantor, there has been no event, development or circumstance that has had or could reasonably be expected to have a Material Adverse Effect.
- (C) All information (including that disclosed in all financial statements) pertaining to the Group (other than projections) that has been or will be made available to the Noteholder by the Company, taken as a whole, is or will be, when furnished, complete and correct in all material respects and does not or will not, when furnished, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements are made. The projections that have been or will be made available to the Noteholders by the Company have been or will be prepared in good faith based upon reasonable assumptions.

17. Pension Plan

It does not maintain or contribute to any Canadian Benefit Plan or Canadian Pension Plans.

18. Subsidiaries

As of the date hereof, the Company owns 100% of the common voting shares in the capital of Guarantor (being 985,661 common voting shares) and, Schedule 1 correctly sets forth:

- (A) the legal name of each member of the Group and its form of legal entity and jurisdiction of organization;
- (B) the equity securities issued and outstanding by each member of the Group, and the registered and beneficial owners thereof;
- (C) the equity securities owned by each member of the Group; and
- (D) a corporate organizational chart of the Group.

19. Insurance

It maintains insurance policies and coverage in compliance with Schedule 13. Such insurance coverage (a) is sufficient for compliance with all requirements of applicable law and of all agreements to which any member of the Group is a party, (b) is provided under

valid, outstanding and enforceable policies, (c) provides adequate insurance coverage in at least such amounts and against at least such risks (but including in any event public liability) as are usually insured against in the same general area by Persons engaged in the same or a similar business to the assets and operations of the Group, and (d) will not in any way be affected by, or terminate or lapse by reason of, the entering into of, and the performance of the transactions contemplated by, this Agreement. All such material policies are in full force and effect, all premiums with respect thereto have been paid in accordance with their respective terms, and no notice of cancellation or termination has been received with respect to any such policy.

20. Solvency

No member of the Group is an “insolvent person” within the meaning of the BIA.

21. Tax

It is a resident of Canada for the purposes of the *Income Tax Act* (Canada).

22. Fiscal Year

Its fiscal year ends on December 31 of each calendar year, and the fiscal quarters end on the last day of each of December, March, June and September of each calendar year.

23. Anti-Corruption Laws and Sanctions.

Each member of the Group has implemented and maintains in effect policies and procedures designed to ensure compliance by such member and its directors, officers, employees and relevant agents with Anti-Corruption Laws and Sanctions. Each member of the Group and its directors, officers, employees and relevant agents is in compliance with Anti-Corruption Laws and Sanctions. No member of the Group or any of its directors, officers or employees or relevant agents is a Sanctioned Person or is engaged in any activity that would reasonably be expected to result in such member being designated as a Sanctioned Person. No use of proceeds or other transaction contemplated by this Agreement will violate Anti-Corruption Laws or Sanctions.

24. Canadian Ownership

No breach of the Ownership and Control Requirements has occurred or is reasonably expected to occur as a result of the execution or performance of this Agreement by the Parties.

Schedule 6 Security

1. Definitions

1.1 In this Schedule 6:

“Enforcement Action” means, in relation to any Secured Indebtedness, any action whatsoever to: (a) demand payment, declare prematurely due and payable or otherwise seek to accelerate payment of or place on demand all or any part of the Secured Indebtedness; (b) recover all or any part of the Secured Indebtedness (including by exercising any right of set-off or combination of accounts); (c) exercise or enforce any security rights against sureties or any other rights under any other document or agreement against any Security Provider in relation to (or given in support of) all or any part of the Secured Indebtedness (including under any security document); (d) petition for (or take any other steps which may lead to) an insolvency event in relation to any Security Provider; or (e) commence legal proceedings against any Security Provider (but excluding, any action whatsoever in respect of any other document or agreement);

“Note Documents” means this Agreement, the Notes and any document entered into in connection herewith or therewith;

“Secured Indebtedness” means all money and liabilities now or in the future due, owing or incurred to the Noteholders by any member of the Group in respect of the Note Documents in any currency, whether actual or contingent, whether incurred solely or jointly with any other Person and whether as principal or surety, together with all accruing interest and all related costs, charges and expenses; and

“Security Provider” means any member of the Group or any other Person that grants any security or guarantee in respect of, or otherwise becomes liable for, any Secured Indebtedness (being initially each member of the Group as at the date of this Agreement).

2. Guarantees – General

2.1 Guarantees of the Secured Indebtedness are to be provided by each Security Provider in accordance with the agreed principles set out in this Schedule 6.

3. Security – General

3.1 Security for the Secured Indebtedness is to be provided by each Security Provider in accordance with the agreed security principles set out in this Schedule 6.

4. Guarantees And Security – Agreed Principles

4.1 This Schedule 6 addresses (among other things) the manner in which the agreed principles will impact on the guarantees and security proposed to be taken in relation to the Secured Indebtedness.

4.2 In determining the extent of the security, the form of each security document and the extent of the perfection of the security, Indigo agrees to take into account the costs to the relevant Security Provider of providing such security and the proportionate benefit accruing to

Indigo and the impact, if any, of the grant of such security and any restrictions therein on the operations of the grantor of such security.

- 4.3 The extent of the security from each member of the Group will be determined by Indigo (acting reasonably). It is the current intention of Indigo that security will be taken over all material assets of each member of the Group from time to time, according to the principles set out herein, including (without limitation) over all land and buildings, shares, receivables, insurance policies, material contracts and claims, intellectual property and bank accounts of each member of the Group.
- 4.4 The Obligors and Indigo agree to negotiate the form of each security document in good faith. Each security document will be drafted by counsel to Indigo and will be in the form customary for the relevant security and jurisdiction.
- 4.5 It will be the Company's responsibility to ensure that any security interest created under any security document is duly created and perfected in favour of Indigo from time to time within applicable time limits. Costs incurred in respect of the execution of any such security document, or any updating, registration or re-registration to be made for the purpose of complying with such obligations, shall be borne by the Company.
- 4.6 Where a member of the Group which is a Security Provider acquires assets of material value or significance (in the opinion of the Lenders (acting reasonably) or, absent agreement between the Lenders, by Indigo (acting reasonably)) after the date on which it initially grants security, such Security Provider shall grant security in accordance with these agreed principles in respect of such assets if they are of a type which if owned on the date on which it initially grants security would have been secured in accordance with these agreed principles.
- 4.7 All security will be granted to Indigo from time to time or to any security agent or trustee appointed by Indigo to act for them.

5. Enforcement of Debts

Notwithstanding any other provision or principle in this Schedule 6, Indigo shall be entitled to enforce any rights against the Company or member of the Group under this Agreement or relating to the Notes to the extent such rights relate to monies due and owing to Indigo provided that such amounts outstanding and owing to Indigo exceed \$100,000 in aggregate and provided further that such amounts have been outstanding and owing to Indigo for more than 60 days following written notice of the failure to pay such amounts due and owing served on the Company with a copy to Indigo.

Schedule 7 Form of Adherence Agreement

THIS ADHERENCE AGREEMENT is made on the _____ of _____ 202_ by [•] (the “**Transferee**”).

THE PARTIES AGREE as follows:

1. The Transferee confirms that it has read a copy of the second bridge note purchase agreement dated October 26, 2023 made between: the Company, the Guarantor and Indigo (which agreement is herein referred to as the “**Note Purchase Agreement**”) and hereby covenants to each of the Persons referred to in paragraph 2(a) and paragraph 2(b) to be bound by the Note Purchase Agreement in all respects as if the Transferee were a party to the Note Purchase Agreement as one of the Noteholders and to perform all the obligations imposed on such a party to the Note Purchase Agreement, to be performed on, as on, or after the date hereof.
2. This Agreement is made for the benefit of:
 - (a) the parties to the Note Purchase Agreement as at the date of the Note Purchase Agreement; and
 - (b) any other Person or Persons who may after the date of the Note Purchase Agreement (and whether prior to or after the date hereof) assume any rights or obligations under the Note Purchase Agreement and be permitted to do so by the terms thereof.
3. Save as expressly set out in the Note Purchase Agreement in favour in the Transferee, the Company does not:
 - (a) make any representations or warranty or assumes any responsibility with respect to the legality, validity, effectiveness, adequacy or enforceability of the Note Purchase Agreement or any agreement entered into pursuant thereto;
 - (b) make any representation or warranty or assumes any responsibility with respect to the content of any information regarding the Company or any member of the Group or otherwise related to the acquisition of shares in the Company;
 - (c) assume any responsibility for the financial condition of the Company or any member of the Group or any other party to the Note Purchase Agreement or any other document; or
 - (d) assume any responsibility for the performance and observance by the Company or any other party to the Note Purchase Agreement or any other document (save as expressly provided therein),

and any and all conditions and warranties, whether express or implied by law or otherwise, are to the extent legally possible excluded.

For the purposes of the Note Purchase Agreement, the Transferee’s address and other details for notices shall be:

Address:

Email address:

For the attention of:

4. Words and expressions defined in the Note Purchase Agreement shall bear the same meanings herein.
5. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereon.

DULY DELIVERED as on the date and year first above written.

EXECUTED)
and **DELIVERED** by)
[Insert name of Transferee])
)

Schedule 8 Noteholders' Resolutions

1. Powers of Noteholders

1.1 Noteholders may, by Noteholder Resolution:

- (A) at the request of the Board, authorize the Company to amalgamate or consolidate with any other Person, or permit any other Person to merge into or amalgamate or consolidate with it, or liquidate or dissolve;
- (B) at the request of the Board, authorize the exchange of the Notes, or any portion thereof, for, or the conversion of the Notes into, any Common Shares, stock, debentures, debenture stock or other obligations or securities of the Company or any other company formed or to be formed;
- (C) at the request of the Board, authorize any modification, abrogation or compromise of or arrangement in respect of the rights that arise under this Agreement or the certificates for the Notes or otherwise;
- (D) assent to any modification or abrogation of the Conditions to which the Notes are subject and/or of the provisions contained in this Agreement and authorise the execution of any supplemental deed embodying any such modification or abrogation; and
- (E) appoint any Persons (whether Noteholders or not) as a committee to represent the interests of the Noteholders and confer upon such committee any powers or discretions which the Noteholders could themselves exercise.

2. Noteholders' Resolutions

- 2.1 The expression "**Noteholder Resolution**" where used in this Schedule 8 shall mean a written resolution duly executed by or on behalf of Noteholders holding at least 15% of the fully diluted share capital or such higher percentage as may be approved in writing by Indigo.

Schedule 9 Form of Certificate for the Notes

LYNX AIR HOLDINGS CORPORATION

(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

<u>Certificate No.</u>	<u>Principal Amount</u>
[•]	\${•}

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 2023

THIS IS TO CERTIFY THAT [NAME]

Of [address]

is/are the registered holder(s) of \$10,000,000 Canadian Dollars (U.S.\$ 7,255,840.95) in nominal amount of the secured convertible loan notes which are constituted by an agreement dated October 26, 2023 made between Lynx Air Holdings Corporation (the "**Company**"), 1263343 Alberta Inc. (the "**Guarantor**") and Indigo Northern Ventures LP (as amended, supplemented or restated from time to time, the "**Agreement**") and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.

Interest is payable on the Notes represented by this certificate semi-annually in arrears (each such date, an "**Interest Payment Date**") in each year.

The Notes shall be redeemed in accordance with Condition 3 of Schedule 11 on April 26, 2024, subject to such other redemption date or conversion in accordance with the Conditions.

Dated: October 26, 2023

LYNX AIR HOLDINGS CORPORATION

By _____

Name:

Title:

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and

only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.

- (B) No transfer of the whole or any part of the Notes represented by this certificate will be registered without the production of this certificate at the registered office of the Company or at such other place as the Company may from time to time designate.
- (C) Each transfer in point of time of the whole or any part of the Notes represented by this certificate will be registered free of charge.
- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.

Schedule 10 Form of Conversion Notice

To: The Directors of [●]

Notes

I/We, the registered holder(s) of \$[●] in principal nominal amount of Notes, hereby give notice of my/our desire that:

- the Company convert [% of][]* principal nominal amount of such Notes held by me/us;
- that such conversion be effected on [or prior] to []*

and that such conversion be effected in accordance with the Conditions, at the price and on the terms set out in the Conditions.

[Include any further information required to be specified in the relevant notice.]

(Name)

(Address)

Signature(s) of
Noteholders(s)

.....
In the case of joint holdings, all Noteholder(s) must sign. In the case of a corporation this form must be signed by a duly authorised officer of the corporation.

DATED

Schedule 11 Conditions

1. Form and Status

- 1.1 The Notes are issued in amounts or multiples of \$1 in nominal value and constitute secured obligations of the Company.
- 1.2 The aggregate principal amount of the Notes is limited to \$10,000,000 Canadian Dollars (U.S.\$7,255,840.95).
- 1.3 The Notes shall be issued in denominations and integral amounts of \$1 in principal amount subject to and with the benefit of the provisions of this Agreement.
- 1.4 The Notes, when issued, shall rank *pari passu* equally and rateably without discrimination or preference in all respects.
- 1.5 Upon execution of the Security Documents, the Notes will have the benefit of the Security (subject to the provisions of the Security Documents).
- 1.6 Any Notes which have been repaid or otherwise satisfied in accordance with the terms of this Agreement shall be cancelled and shall not be available for re-issue by the Company.

2. Interpretation

- 2.1 In these Conditions, the “**Agreement**” means the agreement constituting the Notes between the Company, and Indigo (in each case, as such terms are defined therein).
- 2.2 Capitalised terms not otherwise defined in these Conditions shall have the meaning given in the Agreement.

3. Redemption

- 3.1 Unless previously converted into Class B Common Shares, repaid or purchased in accordance with these Conditions and the Agreement, including, without limiting, Condition 11 of this Schedule 11, Condition 18.2 of this Schedule 11, or extended pursuant to Condition 3.6 or 3.7 of this Schedule 11, the Company shall redeem all outstanding Notes in full on the Redemption Date.
- 3.2 Upon any redemption of Notes the Company shall pay to each Noteholder an amount equal to the greater of:
 - (A) the fair market value of the corresponding Conversion Shares; and
 - (B) the aggregate of (i) the principal nominal amount of the Notes held by such Noteholder; and (ii) the accrued and unpaid interest on the Notes held by such Noteholder (calculated in accordance with Condition 4 of this Schedule 11) from (and including) the date of issue of such Notes to (and including) the date of redemption of such Notes.
- 3.3 All amounts payable on redemption of any Notes shall be paid subject to any deduction or withholding required by law in respect of any Tax, duty or charge. The Company's

payment obligations pursuant to the Agreement and the Notes are absolute, irrevocable and unconditional and irrespective of any contingency (including, without limitation, rights of set-off or counterclaim).

- 3.4 Subject to the provisions of clause 14 and Schedule 6 of the Agreement and to the provisions of the Security Documents (once the same have been entered into), at any time after the Notes shall have become redeemable in accordance with the terms of this Agreement, the Noteholder or any of them may, without further notice, institute such proceedings as they or any of them may think fit to enforce payment of the monies due in respect of the Notes and the performance of the Company's other obligations contained in these Conditions or the Agreement.
- 3.5 Save as otherwise expressly provided in these Conditions or the Noteholders' and Shareholders' Agreement, the Company may not pre-pay the Notes or redeem the same prior to the Redemption Date.
- 3.6 If, at the Redemption Date, the Noteholder is not permitted to convert all of their Notes into Class B Common Shares due to the Ownership and Control Requirements, then, in the absolute discretion of the Noteholder, (i) any portion, as determined in the absolute discretion of the Noteholder, of any of the Notes, may be converted into Class B Common Shares to the extent permitted by the Ownership and Control Requirements and the remaining portion of such Notes shall be redeemed by the Company in accordance with Condition 3.2 of this Schedule 11, (ii) such Notes shall be redeemed by the Company in accordance with Condition 3.2 of this Schedule 11, or (iii) the Redemption Date for such Notes that cannot be converted shall be extended until such time as the Noteholder is permitted to convert such Notes.
- 3.7 At any time prior to the Redemption Date, the Noteholder may, in its absolute discretion, extend the Redemption Date to such other day not later than October 26, 2028.

4. Interest

- 4.1 Subject to Condition 19 of this Schedule 11, interest on the principal amount outstanding in respect of the Notes shall accrue at the Interest Rate on the basis of the actual number of days elapsed and a year of 365 days or 366 days, as applicable, and shall be payable in-kind, in arrears, on each applicable Interest Payment Date. On each Interest Payment Date, the applicable interest shall be paid by issuing additional Notes under this Agreement on the same terms and conditions as the Notes to which the interest payment relates in a principal amount equal to the interest payable (the "**PIK Notes**"). For greater certainty, any such PIK Notes shall be dated as of the applicable Interest Payment Date and shall bear interest from and after such date.

5. Title

- 5.1 The Company shall:
 - (A) recognise the registered holder of any Notes as the absolute owner thereof; and

(B) not be bound (unless ordered to do so by a court of competent jurisdiction) to take notice of, or see to the execution of, any trust whether express, implied or constructive to which any Notes may be subject.

- 5.2 The receipt by the registered holder of any Notes or, if two or more Persons are registered as joint holders of any Notes or are entitled jointly to any Notes in consequence of the death or bankruptcy of the Noteholder, the receipt by any of them, of the principal, any interest or other monies payable on or in respect of such Notes or payment of a cheque sent in accordance with the Conditions or any instructions contained in the relative Notice of Repayment shall be a valid receipt and a good discharge to the Company notwithstanding any notice (whether express or implied) which any of them may have of any right, title, interest or claim of any other Person to or in respect of such Notes, interest or monies.
- 5.3 No notice of any trust, express, implied or constructive, shall (except as aforesaid) be entered in the Register in respect of any Notes.
- 5.4 Every Noteholder will be recognised by the Company as entitled to its Notes free from any equity set-off or cross-claim on the part of the Company against the original or any intermediate holder of the Notes.
- 5.5 As applicable, in the case of the death of a Noteholder (if applicable), the survivors or survivor, where the deceased was a joint holder, and the executors or administrators of the deceased, where they were a sole or only surviving holder, shall be the only Persons recognised by the Company as having any title to the interest in the Notes.

6. Transfer of Notes

All transfers of Notes shall be regulated in accordance with this Agreement and clause 5 of the Noteholders' and Shareholders' Agreement.

7. Transfer of Notes Pursuant to a Takeover Offer

There shall be no restriction on any transfer of Notes made pursuant to and in accordance with clause 9 of the Noteholders' and Shareholders' Agreement in connection with (and pursuant to and in accordance with the terms of) a Takeover Offer provided that such Takeover Offer constitutes a "Qualifying Takeover Offer", as such term is defined in the Noteholders' and Shareholders' Agreement.

8. Permitted Transfers of Notes

- 8.1 Notwithstanding the provisions of Condition 6 of this Schedule 11, a Noteholder may at any time transfer any of the Notes held by it:
- (A) to any Affiliate of such Noteholder;
 - (B) to its limited partners, in the case of a limited partnership;
 - (C) to any Person in connection with the sale of all or substantially all of the assets of the Noteholder;

- (D) to any Person or Persons in connection with the dissolution or Winding-up of the Noteholder, or the liquidation of its assets;
- (E) to a financial institution which carries on the business of providing equity financing as part of a sale of a portfolio of equity interests; or
- (F) to any Person if it is required by law to do so.

8.2 Any Person to whom Notes have been validly transferred pursuant to Condition 8.1 of this Schedule 11 may, at any time, transfer all or any Notes back to the original transferor or to any other Person to whom the original transferor, if it still held such Notes, would have been able to transfer them pursuant to Condition 8.1 of this Schedule 11.

8.3 In the event that any Person to whom Notes are transferred pursuant to Condition 8.1 of this Schedule 11 ceases to be within the required relationship to the original holder of such Notes, the holder of such Notes shall without delay notify the Company that such change of relationship has occurred and within ten (10) Business Days of such change of relationship transfer such Notes back to the member who originally held them or to such other Person if any (designated by such original member) to whom such original member, if it still held such Notes, would have been able to transfer pursuant to Condition 8.1 of this Schedule 11.

8.4 In the event that any Noteholder which is a corporation holding Notes transferred to it pursuant to Condition 8.1 of this Schedule 11 passes a resolution to commence a liquidation or winding up or has a winding up petition presented which is not discharged or contested in good faith within sixty (60) Business Days or has a receiver or administrator appointed to it (or any analogous proceedings in any jurisdiction), the holder of such Notes shall without delay notify the Company of such event and within ten (10) Business Days of such event shall transfer such Notes back to the member who originally held such Notes or to such other Person if any (designated by such member) to whom such original Noteholder, if it still held such Notes, could transfer such Notes pursuant to Condition 8.1 of this Schedule 11.

9. Transfers of Notes: Mechanics and Other Provisions

9.1 The Notes shall be transferable by instrument in writing in any usual or common form (or in any other form acceptable to the Board) and need not be executed as a deed.

9.2 Every instrument of transfer must be signed by or on behalf of the transferor but need not be signed by or on behalf of the transferee. The transferor shall remain the holder of the Notes concerned until the name of the transferee is entered in the Register in respect thereof.

9.3 Every instrument of transfer must be delivered for registration to the registered office of the Company or to such other place as the Company may appoint from time to time (or which it may notify to a Noteholder for the purposes of any specific transfer) accompanied by the certificate for the Notes to be transferred and, if the transferor is not the registered holder of such Notes, such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer and, if the instrument of transfer is executed by some other Person on behalf of the transferor, the authority of that Person so to do.

- 9.4 All instruments of transfer which are registered may be retained by the Company for so long as it thinks fit together with the cancelled certificates for the Notes.
- 9.5 No fee shall be charged by the Company in respect of the registration of any transfer in point of time of the whole or part of any Notes issued by the Company to any Noteholder or any probate or letters of administration or certificate of marriage or death, or power of attorney or other document relating to or affecting the title to any Notes at any time.

10. General Conversion Rights

- 10.1 Notwithstanding any other provision of these Conditions, no Notes shall be converted into Class B Common Shares (or any other shares in the Company) to the extent that such conversion would result in any breach of Section 3 of the Corporate Articles.
- 10.2 Subject to Condition 10.1 of this Schedule 11, a holder of the Notes (a “**Converting Noteholder**”) may, at any time, require the Company to convert all (or some only) of its Notes (or any portion of any Note, as determined by the Noteholder in its absolute discretion) into fully paid and non-assessable Class B Common Shares. All accrued and unpaid interest thereon shall be satisfied by a payment in cash by the Company to Indigo.
- 10.3 In order to exercise the conversion rights pursuant to Condition 10.2 of this Schedule 11, a holder of Notes shall serve a notice (substantially in the form set out in Schedule 10) (a “**Note Conversion Notice**”) on the Company and the Noteholder not less than 10 Business Days (nor more than 60 Business Days) prior to the date on which the Company is required to convert the Notes, or portion thereof, specified in the Note Conversion Notice (the “**Proposed Conversion Date**”).
- 10.4 A Note Conversion Notice shall specify:
- (A) the Proposed Conversion Date; and
 - (B) the percentage of the Notes, or portion of any Note, then held by the Converting Noteholder required to be converted pursuant to this Condition 10.
- 10.5 Subject to Condition 10.1 above, on the proposed Conversion Date, the Company shall simultaneously convert all of the Notes, or portion thereof, specified in the Note Conversion Notice.

11. Conversion Rights in Relation to a Takeover Offer

- 11.1 If, at any time prior to the conversion or redemption of the Notes and payment of all accrued and unpaid interest thereon (in full in accordance with the terms of these Conditions and the Agreement), a Qualifying Takeover Offer is made:
- (A) the Company shall notify the Noteholder of such Qualifying Takeover Offer in accordance with the relevant provisions of the Noteholders’ and Shareholders’ Agreement; and
 - (B) the provisions of this Condition 11 shall apply (subject always to Condition 10.1 of this Schedule 11).

- 11.2 A Noteholder may, at its option (exercisable in its absolute discretion) at any time after receiving a notification pursuant to Condition 11.1 of this Schedule 11 require the conversion of all (or some only) of its Notes (or any portion of any Note, as determined by the Noteholder in its absolute discretion) into fully paid and non-assessable Class B Common Shares in the capital of the Company in accordance with (but subject to any restrictions contained in) this Condition 11. All accrued and unpaid interest thereon shall be satisfied by a payment in cash by the Company to Indigo.
- 11.3 In order to effect a conversion of the Notes pursuant to Conditions 11.1 and 11.2 of this Schedule 11, the Noteholder shall serve a notice on the Company (substantially in the form set out in Schedule 10) (a “**Takeover Conversion Notice**”).
- 11.4 A Takeover Conversion Notice:
- (A) must be served by the Noteholder not less than 5 Business Days prior to the proposed completion date for first acquisition of Common Shares pursuant to the Qualifying Takeover Offer (as notified to the Noteholder by the Company in accordance with the provisions of the Noteholders’ and Shareholders’ Agreement);
 - (B) shall be irrevocable save that the Noteholder may specify that such Takeover Conversion Notice is conditional upon a transfer of shares that together constitute a Controlling Interest occurring pursuant to and in the terms of such Qualifying Takeover Offer; and
 - (C) shall specify the principal amount of Notes or, if applicable, portion of any Note that the Company is required to convert and that the Company is required to convert such Notes, or portion thereof, (and all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to this Condition 11.
- 11.5 The Company shall:
- (A) procure that each Noteholder is given the opportunity to convert its Notes or any portion thereof (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to this Condition 11 prior to the occurrence of any transfer of Common Shares pursuant to a Qualifying Takeover Offer; and
 - (B) procure that in the event of any Qualifying Takeover Offer being accepted in accordance with the relevant provisions of the Noteholders and Shareholders’ Agreement:
 - (i) the Conversion Shares resulting from any conversion of Notes or any portion thereof pursuant to this Condition 11 are sold or transferred pursuant to such Qualifying Takeover Offer (at the same price and, save as set out below, on the same terms as the Common Shares held by the Shareholders);
 - (ii) the Noteholder shall not be required to give any representations or warranties pursuant to such Qualifying Takeover Offer (save with respect

to title, absence of encumbrances on any shares to be sold or transferred and capacity); and

- (iii) the Company shall refuse to register any transfer of shares pursuant to such Qualifying Takeover Offer) unless the Company has fully adhered to its obligations under Condition 11.5(B) of this Schedule 11.

11.6 Upon completion of any transfer of Common Shares pursuant to (and on the terms of) a Qualifying Takeover Offer:

- (A) any Notes or portion of any Notes not converted pursuant to the foregoing provisions of this Condition 11, shall cease to be capable of conversion into Class B Common Shares (or any other class of shares in the capital of the Company or securities of the Company); and
- (B) the Company shall be entitled to pre-pay the Notes or any portion thereof (together with all accrued and unpaid interest calculated in accordance with Condition 4.1 of this Schedule 11 thereon which shall be satisfied by a payment in cash by the Company to Indigo) at any time after the completion of any transfer of Common Shares pursuant to a Qualifying Takeover Offer on not less than 5 Business Days written notice to the relevant Noteholder(s).

12. Conversion Rights in Relation to an IPO

12.1 If, at any time prior to the conversion or redemption of the Notes (and all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) (in full in accordance with the terms of these Conditions and the Agreement), the Board passes any resolution to facilitate an IPO or that may result in an IPO occurring, the provisions of this Condition 12 shall apply.

12.2 The Company shall give each Noteholder not less than 20 Business Days' notice of any proposed IPO.

12.3 Each holder of the Notes (in respect of the maximum amount of Notes capable of being converted under the Ownership and Control Requirements) may, at its option (exercisable in its absolute discretion) require the conversion of all (or some only) of its Notes, (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo), into fully paid and non-assessable Class B Common Shares in the capital of the Company in accordance with this Condition 12:

- (A) at any time during the period from the notification pursuant to Condition 12.2 of this Schedule 11 up to the 3:00pm (Mountain time) on the Business Day prior to the occurrence of the IPO (such that the relevant Conversion Shares issued to each such Noteholder are listed pursuant to such IPO); or
- (B) at any time after the occurrence of such IPO, by notice served in accordance with Condition 12.5 of this Schedule 11.

12.4 In order to effect a conversion of Notes (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant

to Condition 12.3 of this Schedule 11, a Noteholder shall serve a notice on the Company (substantially in the form set out in Schedule 10) (an “**IPO Conversion Notice**”).

12.5 An IPO Conversion Notice:

- (A) must be served by the Noteholder:
 - (i) not less than 5 Business Days prior to the proposed date for the IPO (as notified to the Noteholder pursuant to Condition 12.2 of this Schedule 11), if the Noteholder requires the Note(s) to be converted on or immediately prior to the completion of the IPO; or
 - (ii) not less than 10 Business Days prior to the date on which the Noteholder requires the Note(s) to be converted, if the Noteholder requires the Note(s) to be converted after the occurrence of the IPO;
- (B) shall be irrevocable (unless the Noteholder serves such IPO Conversion Notice at least 5 Business Day prior to the proposed completion date of the IPO, as notified to the Noteholder by the Company in the notice required to be served by it pursuant to Condition 12.2 of this Schedule 11, in which case, the Noteholder may specify that such IPO Conversion Notice is conditional upon the IPO occurring);
- (C) shall specify:
 - (i) the principal amount of Notes that such Noteholder requires to be converted;
 - (ii) that the Noteholder requires the Company to convert the Notes (and all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to Condition 12.3 of this Schedule 11; and
 - (iii) the date on or by which such conversion is to be effected (provided that the Noteholder shall comply with the provisions of Condition 12.5(A) of this Schedule 11).

12.6 The Company shall:

- (A) procure that the Noteholder is given a reasonable opportunity to convert its Notes (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to this Condition 12 prior to the occurrence of an IPO;
- (B) procure that in the event of an IPO occurring:
 - (i) the Conversion Shares issued to the Noteholder upon a conversion of Notes pursuant to this Condition 12 are listed pursuant to the IPO; and

- (ii) the Noteholder shall not be required to give any representations or warranties in connection with such IPO or agree to any lock-up period or other orderly marketing arrangements in relation to such IPO.

- 12.7 The Company shall not permit any of its shares to be listed pursuant to an IPO unless it has fully adhered to its obligations under this Condition 12 prior to the occurrence of such IPO.
- 12.8 To the extent the Noteholders is unable to convert their Notes pursuant to this Condition 12 as a result of the Ownership and Control Requirements, the Board and the Lenders shall each use best efforts to create a path to liquidity for the Noteholder.
- 12.9 Nothing in these Conditions shall oblige the Noteholder to convert its Notes.

13. Calculation of Conversion Shares

- 13.1 Upon any conversion of Notes or portion thereof, the number of Class B Common Shares required to be issued by the Company to the relevant Noteholder (the “**Conversion Shares**”) shall be calculated using the following equation:

$$A = \frac{B}{C}$$

where:

- A is the number of Conversion Shares;
- B is the principal amount of the Notes or portion of any Note required to be converted (including any accrued and unpaid interest thereon);
- C is the Relevant Conversion Price (subject to adjustment in accordance with Condition 15 of this Schedule 11).

14. Mechanics of Conversion

- 14.1 Each conversion of Notes or portion thereof into Class B Common Shares that is required or permitted to be made pursuant to this Agreement shall be effected by the Company repaying the principal amount of the relevant Notes or portion thereof in full on the Conversion Date and immediately applying such repayment monies to subscribe for the Conversion Shares, or by any such other method as the Board may determine in accordance with all applicable laws and the Corporate Articles. All accrued and unpaid interest thereon shall be satisfied by a payment in cash to Indigo.
- 14.2 All Conversion Shares shall be credited as fully paid at the time the same are issued to the relevant Noteholder;
- 14.3 A Conversion Notice must be accompanied by the certificate(s) relating to the Notes to be converted.

- 14.4 Conversion Shares arising pursuant to a conversion of Notes or portion thereof shall carry the right to participate in full in all dividends and other distributions accruing on such shares from the Conversion Date. In all other respects, Conversion Shares arising on conversion shall rank *pari passu* and form one class with the shares of that class then in issue.
- 14.5 A conversion of Notes or portion thereof into Class B Common Shares that is required or permitted to be made pursuant to this Agreement shall not constitute a breach of any prohibition on prepayment of the Notes or any accrued and unpaid interest thereon under any of the Transaction Documents.
- 14.6 No fractional shares shall be issued upon any conversion of Notes or portion thereof and the number of Class B Common Shares issuable upon such conversion shall be rounded to the nearest whole number of shares.
- 14.7 The Company shall, as soon as practicable and legally permissible, issue to the relevant Noteholder, or to its nominee(s), a certificate or certificates for the number of Conversion Shares to which it shall be entitled under the Agreement and the Company shall deliver the same to the relevant Noteholder by post at its address for service of notices determined in accordance with Condition 25.1 of this Schedule 11 (or to such other address as may be specified in the relevant Conversion Notice).
- 14.8 Each conversion of Notes or portion thereof into Class B Common Shares that is required or permitted to be made pursuant to this Agreement shall be deemed to have been made immediately prior to the close of business on the date of issuance of the share certificate(s) for the relevant Conversion Shares and the Person or Persons entitled to receive the Conversion Shares shall be treated for all purposes as the record holders of such shares on such date.

15. Adjustments to the Relevant Conversion Price (share splits, consolidations etc.)

- 15.1 If, at any time after the date of this Agreement, the Class B Common Shares shall be subdivided into a greater number of shares or consolidated into a lesser number of shares or an issue of Class B Common Shares by way of capitalisation of profits or reserves including any share premium account or capital redemption reserve shall be made or the Company effects any purchase of its own shares or any other variation in its issued share capital or any distribution of assets in specie occurs (each, a “**Capital Event**”), each Relevant Conversion Price shall be adjusted by multiplying the Relevant Conversion Price in force immediately before such Capital Event (as the same may previously have been adjusted pursuant to this Condition 15 or otherwise) by the following fraction:

$$\frac{A}{B}$$

where:

- A is the number of Class B Common Shares in issue immediately before such subdivision, consolidation or capitalisation issue; and

B is the number of Class B Common Shares in issue immediately after such subdivision, consolidation or capitalisation issue.

15.2 The provisions of Condition 15.1 of this Schedule 11 are intended to provide for each Relevant Conversion Price to be adjusted in such a manner as shall place each Noteholder in the same position (as regards the percentage of the equity share capital of the Company which the Noteholder shall be entitled to subscribe pursuant to the conversion on Notes or portion thereof and the aggregate cost of such conversion to the Noteholder) as it would have been in had the relevant Capital Event not taken place.

15.3 In the case of any dispute as to the manner of any adjustment pursuant to this Condition 15.3, the auditors of the Company (acting as experts and not arbitrators) shall determine the same at the request of the Company or the Noteholder and at their joint expense.

15.4 The Company shall not undertake or (so far as it is able) permit to occur any Capital Event which would have the effect of reducing the Relevant Conversion Price (as so adjusted) below the par value amount of a Conversion Share.

16. Company undertakings in respect of the conversion of the Notes

16.1 The Company warrants and undertakes that:

(A) it will maintain sufficient authorised but unissued share capital to enable conversion of Notes in full;

(B) it will procure that the Directors have at all times the requisite authority to allot and issue Conversion Shares in satisfaction of the conversion rights of the Noteholder; and

(C) it will procure the waiver of all pre-emption rights in favour of shareholders of the Company whether under the Corporate Articles, any statute or agreement relating to the shares of the Company or otherwise which might otherwise prevent or preclude or delay the full and effective allotment and issue of Conversion Shares; and

(D) it will procure (so far as it is able) that there is no variation of the rights attaching to shares in the capital of the Company.

17. Noteholder and Shareholder Subscription Rights

17.1 Subject to Section 3 of the Corporate Articles, if, at any time after the date of the Agreement, the Company shall make any offer or invitation to its members by way of rights (by reference to a record date) to subscribe for shares in the Company, then each Noteholder shall have the right (exercisable by written notice to the Company) to subscribe for the proportionate number and class of shares in the Company on the same terms and conditions (including as to price) as such offer or invitation as if the Notes held by such Noteholder had been exercised, in the case of a rights issue immediately before such record date or, where the offer or invitation is to a third party immediately before the completion by the third party of the subscription pursuant to such offer or invitation.

18. Events of Default and Accelerated Repayment

- 18.1 Each of the events or circumstances set out in Schedule 12 to the Agreement is an Event of Default.
- 18.2 Subject to the provisions of paragraph 5 of Schedule 6 of the Agreement (and for any corresponding provisions contained in the Security Documents, once the same have been executed), on and at any time after the occurrence of an Event of Default the Noteholder may, by notice to the Company:
- (A) declare that all or some of the Notes:
 - (i) (together with accrued interest, and all other amounts accrued or outstanding under the Transaction Documents) be immediately due and payable, whereupon they shall become immediately due and payable; and/or
 - (ii) be payable on demand, whereupon they shall immediately become payable on demand by the Noteholder; and/or
 - (B) exercise any or all of its rights, remedies, powers or discretions under the Transaction Documents;

19. Default Interest

From the occurrence of an Event of Default, the principal amount due under this Note (together with all accrued and unpaid interest as at the date of the Event of Default) shall bear interest at the Default Rate, compounded quarterly and computed on a 365-day or 366-day year basis on the number of days actually elapsed from the date of the occurrence of such Event of Default until either the cure of such Event of Default by the Company or repayment of the principal amount due under this Note together with accrued interest.

20. No Rights as Shareholder

This Note does not entitle the Noteholder hereof to any voting rights or other rights as a shareholder of the Company prior to the conversion hereof.

21. Surrender of Certificates

- 21.1 If any Noteholder any of whose Notes are liable to be repaid under these Conditions or the Agreement shall fail or refuse to deliver up the certificate or certificates therefor at the time and place fixed for the repayment thereof or shall fail or refuse to accept payment of the redemption monies payable in respect thereof, the monies payable to such Noteholder may be set aside by the Company and paid into a separate interest-bearing bank account and when so paid shall be held by the Company in trust for such Noteholder but without interest (except as hereinafter mentioned), and such setting aside and payment shall be deemed for all purposes of these Conditions to be a payment to such Noteholder and the Company shall thereby be discharged from all obligations in connection with such Notes.

- 21.2 If the Company shall place the monies set aside pursuant to the provisions of Condition 21.1 on deposit at a bank the Company shall not be responsible for the safe custody of such monies or for interest thereon except such interest (if any) as the said monies may earn whilst on deposit less any expenses reasonably incurred by the Company in connection therewith.
- 21.3 Any amount set aside pursuant to the provisions of this Condition 21 which remains unclaimed after a period of twelve years from the time when the same is set aside shall revert to the Company notwithstanding that in the intervening period the obligation to pay the same may have been provided for in the books, accounts and other records of the Company.

22. Damaged Certificates

If any certificate for Notes shall be damaged or defaced or alleged to have been lost, stolen or destroyed, a new certificate representing the same Notes may be issued to the holder upon request subject to delivery up of the old certificate or (if alleged to have been lost, stolen or destroyed) compliance with such conditions as to evidence and indemnity as the Directors may reasonably require. An entry as to the issue of the new certificate and indemnity (if any) shall be made in the Register.

23. Cancellation

All Notes prepaid, repaid or purchased by the Company shall be cancelled and shall not be available for reissue.

24. Payment

- 24.1 Subject to Condition 4.1 of this Schedule 11, payment of the principal, interest thereon and any other monies payable in respect of any Notes shall be paid by cheque made payable to and sent to the registered holder thereof at its registered address or, in the case of joint registered holders, made payable to and sent to that one of the joint registered holders who is first named on the Register in respect of such Notes at its registered address or made payable to such Person or Persons and sent to such address as the registered holder or all the joint registered holders may in writing direct.
- 24.2 Every such cheque may be sent through the post at the risk of the registered holder or joint registered holders and payment of any such cheque by the banker upon whom it is drawn shall be a satisfaction of the monies represented thereby.
- 24.3 All payments of principal and interest and other monies by the Company under these provisions will be made after any deduction or withholding Tax, duty or charge required to be made by law.
- 24.4 In the event of a failure by the Company to pay any amount when due in respect of the Notes (whether principal, interest or otherwise), the Company shall pay interest compounding annually on such unpaid amount at the Default Rate.

25. Notices

- 25.1 Any notice or document (including a certificate for Notes) may be served on or delivered to any Noteholder by the Company either personally or by sending it by first class post in a prepaid cover addressed to such Noteholder at its registered address or to the address, if any, supplied by the Noteholder to the Company as its address for the service of notices, or by delivering it to such address addressed as aforesaid, or by facsimile on a facsimile number supplied by the Noteholder to the Company. Any notice or document served on or delivered to that one of the joint holders of any Notes whose name stands first in the Register in respect of such Notes shall be sufficient notice to or service on all the joint holders in their capacity as such.
- 25.2 Notice may be given to the Persons entitled to any Notes in consequence of the death or bankruptcy of any Noteholder by sending the same by first class post in a pre-paid envelope addressed to them by name or by the title of the representatives or trustees of such holder at the address (if any) supplied for the purpose by such Persons or, until such address is supplied, by giving in the manner in which it would have been given if the death or bankruptcy had not occurred.
- 25.3 Where a notice or other document is served or sent by post, service or delivery shall be deemed to be effected at the expiration of 24 hours after the time when the cover containing the same is posted, and in proving such service or delivery it shall be sufficient to prove that such cover was properly addressed, stamped and posted.
- 25.4 Where a notice or other document is served by facsimile, delivery shall be deemed to be effected (subject to evidence of effective transmission) on the Business Day on which transmitted.
- 25.5 The Company shall be entitled to rely on any document purporting to be signed by or on behalf of a Noteholder and shall not be obliged to enquire into the authenticity of any such signature.

26. Transmission

- (A) Any Person becoming entitled to Notes in consequence of the death or bankruptcy of a Noteholder may, upon supplying to the Company such evidence as the Directors may reasonably require to show its title to the Notes, elect to be registered itself as holder of such Notes or, subject to these Conditions, the provisions of the Agreement, to transfer such Notes without itself being registered as the holder of such Notes.
- (B) The Company may, in its absolute discretion, withhold payment of any monies payable in respect of Notes until the Person entitled to be registered in respect thereof has been duly registered or, as the case may be, any transfer of such Notes has been registered.

27. Assignment

- 27.1 Subject to these Conditions and the provisions of the Agreement, neither this Note nor any of the rights, interests or obligations hereunder may be assigned, transferred, charged

or otherwise dealt in, in whole or in part, by any Party without the prior written consent of the other Parties.

- 27.2 Any purported assignment, transfer, charge or dealing in contravention of this Condition 27 shall be void.
- 27.3 The rights and obligations of the Company and Noteholder shall be binding upon and benefit the successors, assigns, and permitted transferees of the Parties.
- 27.4 Any Noteholder may assign its rights hereunder to one or more of its Affiliates at any time (provided that any such assignment may only be made on the basis that immediately upon any assignee under this Condition 27.4 ceasing to be an Affiliate of the assignor Party, such assignee shall assign back all such rights to the original assignor Party).

28. Severability

If any provision of this Note shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

29. Rights of the Third Parties

No Person who is not a Noteholder shall have any right to enforce any term of this Note.

30. Governing Law and Jurisdiction

- 30.1 This Note is governed by, and to be construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.
- 30.2 Each Party hereto agrees (i) that any action or proceeding relating to this Agreement may (but need not) be brought in any court of competent jurisdiction in the Province of Ontario, and for that purpose now irrevocably and unconditionally attorns and submits to the jurisdiction of such Ontario court; (ii) that it irrevocably waives any right to, and shall not, oppose any such Ontario action or proceeding on any jurisdictional basis, including forum non conveniens; and (iii) not to oppose the enforcement against it in any other jurisdiction of any judgment or order duly obtained from an Ontario court as contemplated by this Condition 30.

Schedule 12 Events of Default

1. Non-payment

An Obligor does not pay on the due date any amount payable pursuant to a Transaction Document at the place at and in the currency in which it is expressed to be payable unless:

- (A) its failure to pay is caused by administrative or technical error; and
- (B) payment is made within 5 Business Days of its due date.

2. Covenants

Any material requirement, as determined by Indigo, in its sole discretion, of clause 12 of the Agreement is not satisfied.

3. Other Obligations

- 3.1 An Obligor fails to observe or perform any covenant or other agreement contained in the Transaction Documents, including, without limitation, any failure or delay in obtaining the Consent on the terms of Section 6.1 of the Agreement, or does not comply with any other provision of the Transaction Documents, in each case other than as specified in paragraph 1 above.

4. Misrepresentation

Any material representation or statement made or deemed to be made by an Obligor in the Transaction Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Transaction Document is or proves to have been incorrect or misleading when made or deemed to be made.

5. Cross default

- 5.1 No Event of Default will occur under this paragraph 5 if the action set out in paragraphs 5.3 to 5.5 are cured within any originally applicable grace period, if any, as set out in the document giving rise to such Financial Indebtedness.
- 5.2 Any Financial Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period.
- 5.3 Any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- 5.4 Any commitment for any Financial Indebtedness of any member of the Group is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described).
- 5.5 Any creditor of any member of the Group becomes entitled to declare any Financial Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).

- 5.6 No Event of Default will occur under this paragraph 5 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs 5.2 to 5.5 above is less than U.S.\$100,000 (or its equivalent in any other currency or currencies).

6. Insolvency

- 6.1 A member of the Group is unable or admits inability to generally pay its debts as they fall due, suspends or threatens to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.
- 6.2 A moratorium is declared in respect of any indebtedness of any member of the Group.

7. Insolvency Proceedings

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (A) the suspension of payments, a moratorium of any indebtedness, Winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any member of the Group (other than a solvent liquidation or reorganisation of any member of the Group which is not an Obligor);
- (B) a composition, compromise, assignment or arrangement with any creditor of any member of the Group;
- (C) the appointment of a liquidator (other than in respect of a solvent liquidation of a member of the Group which is not an Obligor), receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any member of the Group or any of its assets; or
- (D) enforcement of any Security over any assets of any member of the Group,

or any analogous procedure or step is taken in any jurisdiction.

8. Creditors' process

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of a member of the Group having an aggregate value in excess of U.S.\$100,000 (and the amount that is the subject of the related claim is U.S.\$100,000 or more) and the same is not discharged within 15 days.

9. Ownership of the Obligors

- 9.1 The Guarantor is not or ceases to be a direct or indirect wholly-owned Subsidiary of the Company.

10. Unlawfulness

It is or becomes unlawful for an Obligor to perform any of its obligations under the Transaction Documents or any Security created or expressed to be created or evidenced by the Security Documents ceases to be effective.

11. Invalidity

Any obligation or obligations of any Obligor under any Transaction Document are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Noteholder under the Transaction Documents.

12. Cessation of business

Any member of the Group suspends or ceases, or threatens or proposes in writing to suspend or cease, to carry on all or a substantial part of its business.

13. Compulsory acquisition

All or any material part of the property or assets of any member of the Group is seized, nationalised, expropriated or compulsorily acquired by, or by the order of, any central or local governmental authority in respect of which full market compensation is not paid.

14. Repudiation

An Obligor repudiates a Transaction Document or evidences an intention to repudiate a Transaction Document.

15. Material adverse change

Any event or circumstance occurs which is reasonably likely to have a Material Adverse Effect.

16. Miscellaneous

The Company applies any part of the New Note Funds for any purpose not specified in clause 7 of the Agreement.

17. Qualified Audit

The auditors of any Obligor materially qualify their audit.

18. Disputes

Any dispute, litigation, arbitration, expert determination, alternative dispute resolution, regulatory or administrative proceedings or investigations of, or before, any court, arbitral body or agency involving any Obligor or any other member of the Group is commenced which, if adversely determined, would be reasonably likely to have a Material Adverse Effect or which would involve a liability exceeding U.S.\$100,000 (or its equivalent).

19. Regulatory proceeding

Any regulatory proceeding into an Obligor or any other member of the Group is commenced (or any proceedings conducted by any regulatory body having jurisdiction over an Obligor or any other member of the Group are commenced in relation to a third party and that third party seeks to involve, or such proceedings in any way relate to, an Obligor or any other member of the Group), other than any regulatory proceeding by the Agency as a result of the Transaction Documents.

Schedule 13 Covenants

1. Authorisations

Each Obligor shall promptly:

- (A) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (B) if requested, supply certified copies to the Noteholder of,

any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under the Transaction Documents to which it is a party, to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of each such Transaction Document and to own its property and assets and to carry on its business, trade and ordinary activities.

2. Compliance with laws

2.1 Each Obligor shall comply in all respects with all laws to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under the Transaction Documents.

2.2 Each Obligor shall (and the Company shall ensure that each other member of the Group will) at all times comply with:

- (A) the terms of its articles of incorporation (or equivalent) and other constitutional documents from time to time; and
- (B) all laws and regulations applicable to it in respect of the conduct of its business breaches of which would have a significantly unfavourable effect on their activities, their assets and their financial situation.

3. Negative pledge

3.1 Subject to paragraph 3.3 below, no Obligor shall (and the Company shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets except with the prior written consent of Indigo.

3.2 Subject to paragraph 3.3 below, no Obligor shall (and the Company shall ensure that no other member of the Group will):

- (A) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by an Obligor or any other member of the Group save for any assignment of insurances or requisition compensation relating to any aircraft;
- (B) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
- (C) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or

(D) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

3.3 Paragraphs 3.1 and 3.2 above do not apply to:

(A) the Security provided pursuant to the Security Documents;

(B) any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;

(C) any lien arising by operation of law and in the ordinary course of business including, without limitation, permitted liens under any aircraft operating lease agreements to which any of the Obligors is a party and any guarantee and assignment of insurances granted by any of the Obligors in connection with such aircraft operating lease agreement (and not as a result of any default or omission by any member of the Group);

(D) any Security over or affecting any asset acquired by a member of the Group after the date of this Agreement if:

(i) the Security was not created in contemplation of the acquisition of that asset by a member of the Group;

(ii) the principal amount secured has not been increased in contemplation of, or since the acquisition of, that asset by a member of the Group; and

(iii) the Security is removed or discharged within 2 months of the date of acquisition of such asset;

(E) any Security over or affecting any asset of any company which becomes a member of the Group after the date of this Agreement, where the Security is created prior to the date on which that company becomes a member of the Group, if:

(i) the Security was not created in contemplation of the acquisition of that company; and

(ii) the principal amount secured has not increased in contemplation of or since the acquisition of that company;

(F) any Security entered into pursuant to any Transaction Document;

(G) any Security arising out of title retention provisions (and not as a result of any default or omission by any member of the Group) in a supplier's standard conditions of supply of goods where the goods in question are supplied on credit and are acquired by the relevant member of the Group in the ordinary course of trading;

- (H) any Security, as directed by the Board, so long as such Security (i) is not outside of the Ordinary Course of Business, and (ii) such action does not have a Material Adverse Effect; or
- (I) the Security provided pursuant to the Original NPA, the Original Notes, the Bridge NPA and the Bridge Notes.

4. Change of Business

4.1 The Company shall:

- (A) procure that no substantial change is made to the general nature of its business from that carried on at the date of this Agreement;
- (B) maintain, carry on and develop its business in the ordinary and usual course; and
- (C) not take any material act outside its ordinary and normal course of business, and the Company shall procure that each of its Subsidiaries complies with the covenants set forth in paragraphs 4.1(A), 4.1(B) and 4.1(C) in respect of their respective businesses.

5. Trading on arm's length terms

No Obligor shall (and the Company shall ensure that no other member of the Group will) enter into any transaction other than on commercial arm's length terms.

6. Notification of approaches

The Company shall (and the Company shall procure that each other member of the Group will) notify the Noteholder as soon as reasonably practicable following receipt of any approach or offer (unless such offer is made by a member of the Noteholder's group) which could lead to a sale of Company (whether by sale of securities by Company and/or its shareholders or a sale of assets by the Company or any other sale) or an IPO but in any event at least 10 Business Days prior to the execution of a definitive agreement for the same.

7. Distributions and reductions in share capital

For so long as Indigo together with its Permitted Transferees continues to hold not less than 15% of the Fully Diluted Share Capital, no Obligor shall (and the Company shall ensure that no other member of the Group will):

- (A) declare, make or pay any distribution or dividend to its members; or
- (B) repurchase or redeem any of its issued share capital or otherwise reduce its share capital,

except to the extent that (i) such Obligor's Unrestricted Cash Balance, after giving effect to the action set out in (A) or (B) above, is not less than 33^{1/3}% of the Obligor's trailing 12

months revenue or expenses, whichever is greater, and (ii) any action under this paragraph 7 cannot occur more than once per financial year.

8. No incurring of additional Financial Indebtedness

8.1 Subject to paragraph 8.2 below, no Obligor shall (and the Company shall ensure that no other member of the Group will) incur any Financial Indebtedness.

8.2 Paragraph 8.1 above does not apply to any Financial Indebtedness that is incurred:

- (A) under the Transaction Documents or as specifically contemplated or specifically permitted by the Transaction Documents;
- (B) if Indigo (together with its Permitted Transferees) at such time holds at least 15% of the Fully Diluted Share Capital, with the prior written approval of Indigo;
- (C) at the direction of the Board in respect of Financial Indebtedness for amounts not greater than U.S.\$1,000,000, in the aggregate, in any 12 month period;
- (D) Financial Indebtedness relating to expenditures in the Ordinary Course of Business;
- (E) Financial Indebtedness for which an intercreditor agreement is required by such new lender to be entered into between such new lender and Indigo, on terms satisfactory to Indigo;
- (F) Financial Indebtedness which does not have a Material Adverse Effect, as determined by Indigo, acting reasonably; or
- (G) under the Original NPA, the Original Notes, the Bridge NPA and the Bridge Notes.

9. Compliance with the CTA

Each Obligor shall (and the Company shall procure that each other member of the Group will) ensure that the ownership and control of each member of the Group complies at all times with the Ownership and Control Requirements.

10. No Restricted Payments

10.1 For so long as Indigo (together with its Permitted Transferees) continues to hold not less than 15% of the Fully Diluted Share Capital, without the prior written consent of Indigo,

- (A) subject to paragraph 10.2 below, no Obligor shall (and the Company shall ensure that no other member of the Group will) make any payment to:
 - (i) any shareholder of any Obligor (a “**Relevant Shareholder**”);
 - (ii) any family member or relative of any Relevant Shareholder;

- (iii) any trust in which any Relevant Shareholder (or any family member or relative of any Relevant Shareholder) has an interest (whether contingent discretionary or otherwise) or any trustee of such a trust;
 - (iv) any company which is Controlled by any of the Persons or entities falling within paragraph 10.1(A)(i) to (iii) above, or by any two or more of them; or
 - (v) any body corporate, partnership or undertaking in which any of the Persons or entities falling within paragraphs 10.1(A)(i) to (iv) above own (legally or beneficially) more than 30% of the issued and outstanding share capital; and
- (B) notwithstanding any other provision of this Agreement (other than paragraph 10.3 below), no Obligor shall make any payment to any Person:
- (i) unless such payment is of a type which is not outside the Ordinary Course of Business; or
 - (ii) if the effect of such payment (if made) would be to cause:
 - i. the aggregate amount of any type or class of payments made by the Obligors during such period to be outside the Ordinary Course of Business; or
 - ii. the aggregate amount of all payments made by the Obligors during such period to be outside the Ordinary Course of Business;

10.2 Subject to paragraph 10.1(B) above, paragraph 10.1 (A) shall not apply to:

- (A) salary payments by the Obligors to their employees (provided, in each case, that the same are consistent with the relevant employees salary payments over the six (6) months immediately prior to the date of this Agreement);
- (B) any intra-Group payments by the Obligors;
- (C) payments by the Obligors to providers of office space provided that such payments: (i) are not outside the Ordinary Course of Business; and (ii) do not exceed \$2,000,000 in total per annum; and
- (D) any dividend or distribution in respect of any share capital, to the extent permitted or required under the terms of the Transaction Documents.

11. Claims to rank *pari passu*

Each of the Obligors shall procure that Noteholders' claims under this Agreement and the other Transaction Documents rank and will rank at least *pari passu* with all its other unsecured obligations (except for obligations mandatorily preferred by law applying to companies generally).

12. Financing Disclosure

On the fifteenth day of each calendar month prior to the Redemption Date (or, if such day is not a Business Day, the next Business Day thereafter), the Company shall provide the Noteholders with a cash flow forecast of the Company for the next ninety (90) calendar days.

13. Payment of taxes

Each Obligor shall (and the Company shall procure that each other member of the Group will) promptly pay all Taxes due and payable by it to any competent authority or body.

14. Insurance

14.1 Each Obligor shall (and the Company shall procure that each other member of the Group will) insure and keep insured with reputable insurers their respective insurable assets and undertakings to the extent, in the amounts and against the risks which a prudent licensed and operating airline would insure (including, without limitation, all those insurances which are required for a licensed and operating airline) and which are approved by the Board.

14.2 Each Obligor shall (the Company shall procure that no other member of the Group will) maintain directors and officers insurance to the fullest extent permitted by law and in an amount which a prudent licensed and operating airline would insure (including, without limitation, all those insurances which are required for a licensed and operating airline) and which are approved by the Board.

14.3 No Obligor shall (and the Company shall procure that no other member of the Group will), do anything or, as far as practicable suffer anything to be done, whereby any of the insurance policies effected in accordance with paragraph 14.1 shall become void or voidable or an increased premium thereon shall become payable.

14.4 The Company will:

- (A) supply to the Noteholders on request copies of each policy of insurance required to be maintained in accordance with paragraph 14.1 above (the "**policies**"), together with the current premium receipts relating to the policies;
- (B) promptly notify the Noteholders of any material change to the insurance cover of any member of the Group; and
- (C) promptly notify the Noteholders of any claim under any policy which is for, or is reasonably likely to result in a claim under that policy for, an amount in excess of U.S.\$10,000 (or its equivalent) and keep the Noteholders advised of the progress of any such claim.

15. Confidential Information

Each Obligor shall (and the Company shall procure that each other member of the Group will), take commercially reasonable steps within their respective powers together with such

steps which are required or approved by the Lenders to protect information which is confidential to them (or any other member or the Group) or the Noteholders.

AMENDING AGREEMENT NO. 1

THIS AMENDING AGREEMENT NO. 1 (this "**Amending Agreement**") is made as of January 12, 2024 among the parties to the Note Purchase Agreement (as hereinafter defined).

WHEREAS:

A. Reference is made to the second bridge note purchase agreement dated as of October 26, 2023 (the "**Note Purchase Agreement**") among Lynx Air Holdings Corporation (formerly known as Enerjet Holdco Inc.) (the "**Company**"), 1263343 Alberta Inc., doing business as Lynx Air (formerly doing business as Enerjet) (the "**Guarantor**"), and Indigo Northern Ventures LP ("**Indigo**")

B. The Company, the Guarantor and Indigo wish to amend the Note Purchase Agreement on the terms and conditions set out herein.

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the mutual covenants and agreements contained in this Amending Agreement and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

ARTICLE 1 INTERPRETATION

1.1 One Amending Agreement. This Amending Agreement amends the Note Purchase Agreement. This Amending Agreement and the Note Purchase Agreement shall be read, interpreted, construed and have effect as, and shall constitute, one agreement with the same effect as if the amendments made by this Amending Agreement had been contained in the Note Purchase Agreement: (a) in respect of the amendment set out in Sections 2.1 and 2.3 of this Amending Agreement, as of the date of this Amending Agreement, and (b) in respect of the amendment set out in Sections 2.2 and 2.4 of this Amending Agreement, as of November 25, 2023.

1.2 Defined Terms. In this Amending Agreement, unless something in the subject matter or context is inconsistent:

- (a) terms defined in the description of the parties or in the recitals have the respective meanings given to them in the description or recitals, as applicable; and
- (b) all other capitalized terms have the respective meanings given to them in the Note Purchase Agreement as amended by Article 2 of this Amending Agreement (collectively, the "**Amended Note Purchase Agreement**").

1.3 Headings. The headings of the Articles and Sections of this Amending Agreement are inserted for convenience of reference only and shall not affect the construction or interpretation of this Amending Agreement.

1.4 References. All references to Articles, Sections, Exhibits and Schedules, unless otherwise specified, are to Articles, Sections, Exhibits and Schedules of the Note Purchase Agreement.

ARTICLE 2 AMENDMENTS

2.1 Definitions and Interpretation: Section 1.1 is amended by adding the following in alphabetical order:

“Flair Term Sheet” means the term sheet dated as of January 11, 2024 between Flair Airlines Ltd. and the Company;

“Flair Transaction” means the transaction as substantially contemplated by the Flair Term Sheet;

2.2 Definitions and Interpretation: The definition of “Boeing Order” in Section 1.1 is deleted in its entirety and replaced with the following:

“Boeing Order” means the Purchase Agreement No. ABQ-PA-04427 between The Boeing Company and the Guarantor dated as of October 18, 2015, as amended and supplemented from time to time, including, without limitation, by way of all exhibits, schedules, letter agreements, proprietary letter agreements and supplemental agreements with The Boeing Company, and (a) all rights of the Company in connection with such agreement; (b) all other rights of the Company to receive money due and to become due to in connection with such agreement; (c) all rights of the Company to damages arising out of, or for breach or default in respect of, such agreement; (d) all rights of the Company to perform and exercise all remedies in connection with such agreement; (e) all other rights, entitlements, privileges, benefits, powers, licences and advantages of the Company to be derived from such agreement; and (f) all proceeds thereof;

2.3 Definitions and Interpretation: The definition of “Redemption Date” in Section 1.1 is deleted in its entirety and replaced with the following:

“Redemption Date” shall mean the earlier to occur of: (a) the consummation of the Flair Transaction and (b) the Long Stop Date (as defined in the Flair Term Sheet) ;

2.4 Post-Completion Obligations. Section 6.1 is deleted in its entirety and replaced with the following:

6.1 The Company shall (i) promptly and, in any event, prior to February 12, 2024 or such later date as the Noteholder may permit, in its absolute discretion, cause The Boeing Company to provide the Consent and (ii) as soon as reasonably practicable following Completion, comply with its obligations under clause 14.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

3.1 Confirmation of Representations. Each of the Company and the Guarantor represents and warrants that, as at the date of this Amending Agreement and assuming that the

amendments made to the Note Purchase Agreement by this Amending Agreement have become effective:

- (a) this Amending Agreement has been duly authorized, executed and delivered by each of such parties;
- (b) the Amended Note Purchase Agreement constitutes a legal, valid and binding obligation of each of the Company and the Guarantor, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditor's rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law;
- (c) no Default or Event of Default has occurred and is continuing; and
- (d) the representations and warranties contained in Schedule 5 of the Note Purchase Agreement (other than those that are made with respect to a specific date), as modified by the bring-down certificate of an officer of the Company and the Guarantor dated as of the date hereof and addressed to Indigo (the "**Bring Down Certificate**"), are true and correct as if made on the date hereof.

ARTICLE 4 CONDITIONS

4.1 Conditions Precedent. The amendments set out in Article 2 shall become effective if and only if there is receipt by Indigo of:

- (a) a counterpart of this Amending Agreement executed by each party hereto; and
- (b) such legal opinions and supporting materials as may be requested by Indigo.

If such conditions precedent are met, then the effective date of the amendments set out in Article 2 will as set out in Section 1.1.

ARTICLE 5 GENERAL

5.1 Confirmation. Except as specifically stated herein, the Note Purchase Agreement and the other Transaction Documents shall continue in full force and effect in accordance with the provisions thereof. In particular but without limitation:

- (a) the Security Documents and the Security granted thereunder continue in full force and effect in accordance with their terms notwithstanding this Amending Agreement and the amendments to the Note Purchase Agreement effected hereby; and
- (b) the secured liabilities described in the Security Documents include indebtedness, liabilities and obligations arising under or in relation to the Amended Note Purchase Agreement, and the Security granted thereunder extend thereto.

All Secured Indebtedness under the Note Purchase Agreement shall be continuing with only the terms thereof being modified as provided in this Amending Agreement, and this Amending Agreement shall not evidence or result in a novation of such Secured Indebtedness.

5.2 Reservation of Rights. Except as expressly set forth herein, this Amending Agreement shall not by implication or otherwise limit, impair, constitute a waiver of, or otherwise affect the rights and remedies of Indigo under the Note Purchase Agreement or any other Transaction Document. Nothing herein shall be deemed to entitle any other party to a consent to, or a waiver, amendment, modification or other change of, any of the terms, conditions, obligations, covenants or agreements contained in the Note Purchase Agreement or any other Transaction Document in similar or different circumstances.

5.3 Interpretation. All references to “this Agreement” or the “Note Purchase Agreement” and all similar references in any of the other Transaction Documents shall hereafter include, mean and be a reference to the Amended Note Purchase Agreement without any requirement to amend such Transaction Documents. This Amending Agreement shall constitute a “Note Document” under, and as defined in, the Note Purchase Agreement.

5.4 Binding Nature. This Amending Agreement shall enure to the benefit of and be binding upon the Company, the Guarantor and Indigo and their respective successors and permitted assigns.

5.5 Severability. Any provision of this Amending Agreement which is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Amending Agreement, all without affecting the remaining provisions of this Amending Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

5.6 Conflicts. If, after the date of this Amending Agreement, any provision of this Amending Agreement is inconsistent with any provision of the Note Purchase Agreement, the relevant provision of this Amending Agreement shall prevail.

5.7 Governing Law. This Amending Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

5.8 Counterpart and Facsimile. This Amending Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Amending Agreement by telecopy, emailed pdf. or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Amending Agreement. The words “execution,” “signed,” “signature,” “delivery,” and words of like import in or relating to any document to be signed in connection with this Amending Agreement and the transactions contemplated hereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed

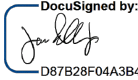
signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law.

[signatures on the following pages]

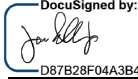
S-1

IN WITNESS WHEREOF the undersigned has caused this Amending Agreement to be duly executed as of the date set out on the first page.


LYNX AIR HOLDINGS CORPORATION

By: 
Name: Jim Sullivan
Title: Interim Chief Executive Officer

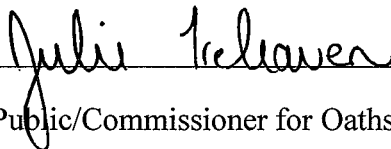
1263343 ALBERTA INC.

By: 
Name: Jim Sullivan
Title: Interim Chief Executive Officer

INDIGO NORTHERN VENTURES LP by its
general partner **INDIGO NORTHERN
VENTURES GP, LLC**

By: 
Name: William A. Franke
Title: Managing Member

This is **Exhibit "14"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

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Dated: January 12, 2024

LYNX AIR HOLDINGS CORPORATION

and

1263343 ALBERTA INC., DOING BUSINESS AS LYNX AIR

and

INDIGO NORTHERN VENTURES LP

THIRD BRIDGE NOTE PURCHASE AGREEMENT

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THIS THIRD BRIDGE NOTE PURCHASE AGREEMENT is executed as of January 12, 2024 and made

BETWEEN

- (1) **LYNX AIR HOLDINGS CORPORATION** (the “**Company**”), a company registered under the laws of Alberta whose registered office is at 1400, 350 7th Avenue S.W., Calgary, Alberta T2P 3N9;
- (2) **1263343 ALBERTA INC.**, doing business as Lynx Air (the “**Guarantor**” and also referred to herein as the “**Subsidiary**”), a company registered under the laws of Alberta whose registered office is at 1400, 350 7th Avenue S.W., Calgary, Alberta T2P 3N9; and
- (3) **INDIGO NORTHERN VENTURES LP** (“**Indigo**”), an exempted limited partnership registered under the laws of the Cayman Islands whose registered office is at c/o Maples Corporate Services Limited, PO Box 309, Uglund House, Grand Cayman, KY1-1104, Cayman Islands.

BACKGROUND:

- (A) Indigo has agreed to purchase a Note in a principal amount equal to the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000 in accordance with the provisions of this Agreement.
- (B) It is in the intention of the Company, the Guarantor and Indigo that the New Note Funds be used by the Company in accordance with Article 7 hereof, in order to provide the Company with operating capital while the Company pursues the consummation of the transaction referred to in clause (b) of the definition of “Redemption Date”, which transaction the Parties agree and acknowledge is in the best interest of each of them.
- (B) The Parties have agreed to enter into this Agreement to govern the terms on which the Notes are to be issued by the Company and held by the Noteholders.

THE PARTIES AGREE AS FOLLOWS:

In consideration of the premises and the covenants and agreements herein set forth, the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement:

“**Adherence Agreement**” means a joinder to this Agreement substantially in the form set out in Schedule 7;

“**Affiliate**” means, in relation to any Person, a Subsidiary of that Person or any direct or indirect Holding Company of that Person or any other direct or indirect Subsidiary of any such Holding Company;

“**Agency**” means the Canadian Transportation Agency, or any successor agency thereto;

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“Agreement” means this Third Bridge Note Purchase Agreement dated as of January 11, 2024;

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Company or its Subsidiaries from time to time concerning or relating to bribery or corruption, including, without limitation, the *Corruption of Foreign Public Officials Acts* (Canada) and the U.S. Foreign Corrupt Practices Act;

“Authorisation” means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;

“Authorised Expenses” means the legal fees of Blake, Cassels & Graydon, LLP, incurred in connection with: (a) the negotiation and documentation of the term sheet relating to this Agreement; and (b) the negotiation and documentation of the Transaction Documents and all ancillary documents connected thereto;

“BIA” means the *Bankruptcy and Insolvency Act* (Canada), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation;

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

“Boeing Order” means the Purchase Agreement No. ABQ-PA-04427 between The Boeing Company and the Guarantor dated as of October 18, 2015, as amended and supplemented from time to time, including, without limitation, by way of all exhibits, schedules, letter agreements, proprietary letter agreements and supplemental agreements with The Boeing Company, and (a) all rights of the Company in connection with such agreement; (b) all other rights of the Company to receive money due and to become due to in connection with such agreement; (c) all rights of the Company to damages arising out of, or for breach or default in respect of, such agreement; (d) all rights of the Company to perform and exercise all remedies in connection with such agreement; (e) all other rights, entitlements, privileges, benefits, powers, licences and advantages of the Company to be derived from such agreement; and (f) all proceeds thereof;

“Bridge Notes” shall have the meaning ascribed to “Notes” in the Bridge NPA;

“Bridge NPA” means the bridge note purchase agreement dated as of February 24, 2023 among, the Company, the Guarantor and Indigo, as amended from time to time;

“Business Day” means any day (other than Saturday or Sunday) which is not a public holiday and on which banks are open for normal banking business in Toronto, Ontario, Calgary, Alberta and New York, New York;

“Canadian” shall have the meaning ascribed to such term in the CTA, as supplemented by the Exemption;

“Canadian Benefit Plan” means any plan, fund, program, or policy, whether oral or written, formal or informal, funded or unfunded, insured or uninsured, providing employee benefits, including medical, hospital care, dental, sickness, accident, disability, life

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insurance, pension, retirement or savings benefits, under which the Company or its Subsidiaries has any liability with respect to any employee or former employee, but excluding any Canadian Pension Plan;

“Canadian Pension Plan” means each pension plan required to be registered under Canadian federal or provincial law that is maintained or contributed to by the Company or its Subsidiaries for its employees or former employees, but does not include the Canada Pension Plan as maintained by the Government of Canada;

“Capital Event” shall have the meaning ascribed to such term in Condition 15.1 of Schedule 11;

“Cash Equivalents” means any of the following:

- (a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the Government of Canada or of any Canadian province (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the Government of Canada or of such Canadian province), in each case maturing within one year from the date of acquisition thereof;
- (b) investments in certificates of deposit, bankers' acceptances and time deposits maturing within 180 days from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of Canada or of any Canadian province which has a combined capital surplus and undivided profits of not less than \$500,000,000 and a senior unsecured rating of “A-” or better by S&P and “A3” or better by Moody's;
- (c) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the Government of the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the Government of the United States of America), in each case maturing within one year from the date of acquisition thereof;
- (d) marketable and freely tradeable securities evidencing direct obligations of corporations, hospitals, municipal boards or school boards having, at the date of acquisition, a rating from DBRS of A, from Moody's of A 2 or from S&P of A, in each case maturing within 180 days from the date of acquisition thereof; or
- (e) deposits in bank accounts made in the ordinary course of business and otherwise permitted hereunder;

“CCAA” means the *Companies' Creditors Arrangement Act* (Canada), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation;

“Class A Common Shares” shall have the meaning ascribed to such term in the Noteholders' and Shareholders' Agreement;

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“Class B Common Shares” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“Common Shares” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“Company Bank Account” means the bank account of the Company, the details of which are as follows:

Account:	Lynx Air Holdings Corporation
Bank:	ATB Financial Calgary Stephen Ave Branch 102 8 Ave SW Calgary AB T2P 1B3
Bank Code:	0219
Transit /Branch	07609
Account:	00390932879
Swift Code:	ATBRCA6EXXX

“Completion” means performance of the obligations set forth in clause 4 provided always that Completion shall under no circumstances occur unless the Indigo Note Amount (less the Pre-Completion Expenses) shall have been received in the Company Bank Account for value in immediately available funds;

“Completion Date” means the date on which Completion occurs;

“Conditions” means the conditions and other provisions of the Notes set out in Schedule 11;

“Confidential Information” means any information, whether acquired before or after the date of this Agreement, that relates to:

- (a) this Agreement;
- (b) any member of the Group or their respective businesses;
- (c) any of the Group’s customers, businesses, assets, contracts, employees or affairs; and
- (d) any Party or any of their Affiliates, in each case, in respect of their identity, their being a party to this Agreement and their holdings of Notes and/or Common Shares and making an investment in the Group or any other information relating

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to any of the foregoing that has been obtained pursuant to the negotiation of this Agreement or any of the documents referred to herein,

save for, in each case:

- (i) information that is independently developed by the relevant Person from information that was neither: (A) provided pursuant to this Agreement; (B) provided by any member of the Group or any Party; nor (C) provided by a third party to the extent that it was provided with any limitation on disclosure or obligation of confidence; or
- (ii) information which is at the date of disclosure within the public domain (otherwise than as a result of a breach of this Agreement);

“Consent” means a written consent, in form and substance satisfactory to the Noteholder, from The Boeing Company addressed to the Noteholder in respect of a security interest granted by the Guarantor in favour of the Noteholder in the Boeing Order and the assignment of the Boeing Order to the Noteholder in the event that the Noteholder exercises any or all of its rights, remedies, powers or discretions under the Transaction Documents;

“Control” shall have the meaning ascribed to such term in the definition of “Affiliation” in the CTA. **“Controlling”** and **“Controlled”** have meanings correlative thereto;

“Controlling Interest” means a direct or indirect beneficial interest in more than 50% of the Fully Diluted Share Capital, or the ability of any Person, either alone or in conjunction with Persons acting in concert with such Person to control a direct or indirect beneficial interest in more than 50% of the Fully Diluted Share Capital, as the context requires;

“Conversion Date” means, in respect of any conversion of Notes, the date on which the Company is required to issue the Conversion Shares to the relevant Noteholder pursuant to the conversion of such Notes;

“Conversion Shares” means, in respect of any Notes, the Class B Common Shares that would result from the conversion of such Notes in accordance with their terms and the relevant provisions of this Agreement and as calculated in accordance with the provisions of Condition 13.1 of Schedule 11;

“Converting Noteholder” shall have the meaning ascribed to such term in Condition 10.2 of Schedule 11;

“Corporate Articles” means the articles of incorporation of the Company in the Agreed Form;

“Covenants” shall have the meaning ascribed to such term in clause 12.110.2;

“CTA” means the *Canada Transportation Act*, as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation;

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“**DBRS**” means Dominion Bond Rating Service Limited, or its successor;

“**Default**” means an Event of Default or any event or circumstance specified in Schedule 12 which would (with the expiry of a grace period, the giving of notice, the making of any determination by the Noteholder that it is entitled to make under any of the Transaction Documents or any combination of the foregoing) be an Event of Default;

“**Default Rate**” means, at any time, the applicable Interest Rate plus 1%;

“**Director**” means a member of the Board;

“**Dollar**”, “**Canadian Dollar**”, “**\$**” and “**CAD**” means the lawful currency of Canada for the time being, unless an explicit reference is made to U.S. or other currency;

“**Equivalent Amount**” means, with respect to any specified amount of currency other than Canadian Dollars, the amount of Canadian Dollars that may be purchased with such amount of other currency at the spot wholesale transactions buying rate of The Royal Bank of Canada for the purchase of Canadian Dollars with such other currency in effect as of 11:00 a.m. on the Business Day with respect to which such computation is required for the purpose of this Agreement or, in the absence of such a buying rate on such date, using such other rate as the Lender may reasonably select;

“**Event of Default**” means any event or circumstance specified in Schedule 12;

“**Exemption**” means the exemption order issued by the Minister of Transport to the Guarantor on December 2, 2016 relating to the CTA;

“**Financial Indebtedness**” means, without double counting, any indebtedness for or in respect of:

- (a) moneys borrowed or raised (including overdrafts);
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, shares or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a finance or capital lease;
- (e) receivables sold, discounted or factored (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised by the issue of redeemable shares if the shares are redeemable automatically or at the relevant shareholder’s option before the Redemption Date;
- (g) any amount of any liability under an advance or deferred purchase agreement if:
 - (i) one of the primary reasons behind entering into the agreement is to raise

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financing; or (ii) the agreement is in respect of the supply of material assets or services and payment is due more than 60 days after the date of supply;

- (h) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account);
- (i) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution;
- (j) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing; and
- (k) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (j) above;

“Flair Term Sheet” means the term sheet dated as of January 11, 2024 between Flair Airlines Ltd. and the Company;

“Flair Transaction” means the transaction as substantially contemplated by the Flair Term Sheet;

“Fully Diluted Share Capital” means, at any time, the aggregate number of Common Shares that would be issued assuming the conversion (in full) of all Notes (whether or not, on their terms, the same are actually convertible into Common Shares at such time);

“GAAP” means in relation to any Person, the generally accepted accounting principles in Canada, as in effect from time to time with respect to such Person, including International Financial Reporting Standards and the Canadian accounting standards for private enterprises as set out in Part II of the Chartered Professional Accountants of Canada Handbook, as issued by the Accounting Standard Boards in Canada, other than known deviations as previously disclosed to the Noteholder relating to the treatment of leases as a consequence of International Financial Reporting Standards Rule 16;

“Group” means the Company and its Subsidiaries from time to time;

“Holding Company” means, in relation to a corporation, any other corporation in respect of which it is a Subsidiary;

“Indigo Note Amount” shall have the meaning set out in clause 2.1;

“Interest Rate” means 20% per annum;

“Initial Note” means the convertible promissory note (substantially in the form set out in Schedule 9) to be issued by the Company to Indigo pursuant to and in accordance with clause 2.1;

“Interest Payment Date” shall have the meaning ascribed to such term in the Notes.

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“IPO” means an initial public offering, whether on a treasury or secondary basis, resulting in the holding of equity of the Company, directly or indirectly, by the public, or a transaction giving rise to a stock market listing on any Recognised Securities Exchange or over-the-counter quotation of equity of the Company, directly or indirectly, and includes an amalgamation, securities exchange take-over bid or other transaction having a similar result, and an offering of units of an income trust or similar offering where the trust, directly or indirectly, owns equity of the Company **“IPO Conversion Notice”** shall have the meaning ascribed to such term in Condition 12.4 of Schedule 11;

“Lenders” means Indigo (and any Person to whom Indigo has transferred any Notes in accordance with the terms of this Agreement);

“Material Adverse Effect” means, in the reasonable opinion of Indigo, a material adverse effect on:

- (a) the ability of any member of the Group to pay any amount of principal or interest or other amount (if payable in cash) in respect of the Notes or to perform any of its material obligations under this Agreement; or
- (b) the business, operations, property, condition (financial or otherwise) or prospects of the Group taken as a whole;

“Moody’s” means Moody’s Investors Service, Inc.;

“New Note Funds” means the money received by the Company pursuant to the sale of Notes in accordance with clause 2;

“Non-Canadian” means any Person that does not qualify as Canadian;

“Non-Indigo Party” means any Party other than Indigo (and any Person to whom Indigo has transferred any Notes in accordance with the terms of this Agreement);

“Note Conversion Notice” shall have the meaning ascribed to such term in Condition 10.3 of Schedule 11;

“Noteholder” means any holder for the time being of Notes;

“Noteholder Resolution” shall have the meaning ascribed to such term in paragraph 2.1 of Schedule 8;

“Noteholders’ and Shareholders’ Agreement” means the noteholders’ and shareholders’ agreement originally dated as of December 20, 2018 by and between the Company, the Subsidiaries, Indigo, the Noteholders and the Shareholders (in each case, as defined therein), as amended from time to time;

“Notes” means, collectively, the Initial Note and the PIK Notes;

“Obligor” means the Company or the Guarantor, and the term **“Obligors”** means the Company and the Guarantor;

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“**Obligor Warranties**” means, collectively, the statements set out in Schedule 5;

“**Ordinary Course of Business**” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“**Original Notes**” shall have the meaning ascribed to “Notes” in the Original NPA;

“**Original NPA**” means the note purchase agreement dated as of December 20, 2018 among, the Company, the Guarantor and Indigo, as amended from time to time;

“**Outstanding Expenses**” shall have the meaning ascribed to such term in clause 10.5(B);

“**Ownership and Control Requirements**” means the rules or regulations governing the ownership and control of Canadian airlines constituted pursuant to the federal laws of Canada including (without limitation) the CTA, as supplemented by the Exemption;

“**Party**” means a party to this Agreement;

“**Permitted Transferee**” means, in respect of a Lender:

- (a) any Subsidiary or Holding Company of such Lender;
- (b) any company, fund (including any unit trust or investment trust), partnership or other entity which is Controlled by any entity falling within (a) above (or by any two or more such entities);
- (c) any company, fund (including any unit trust or investment trust), partnership or other entity the major part of the assets of which are managed (whether solely or jointly with others) from time to time by any entity falling within (a) and/or (b) above (or by any two or more such entities); or
- (d) any company, fund (including any unit trust or investment trust), partnership or other entity that is managed by or Controlled by the same Person or Persons who manage or Control the Lender at the date of this Agreement;

“**Person**” includes any natural person, corporation, company, limited liability company, trust, joint venture, association, incorporated organization, partnership, governmental authority or other entity;

“**PIK Notes**” shall have the meaning ascribed to such term in paragraph 4.1 of Schedule 11;

“**Pre-Completion Expenses**” shall have the meaning ascribed to such term in clause 10.3(B);

“**Proposed Conversion Date**” shall have the meaning ascribed to such term in Condition 10.2 of Schedule 11;

“**Qualifying Takeover Offer**” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

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“Recognised Securities Exchange” means the Toronto Stock Exchange or any other recognized securities exchange in Canada or the United States of America;

“Redemption Date” shall mean the earlier to occur of: (a) the consummation of the Flair Transaction and (b) the Long Stop Date (as defined in the Flair Term Sheet);

“Register” means the register of the Notes required to be maintained by the Company pursuant to clause 9;

“Relevant Conversion Price” means \$0.10, subject to adjustment on a pro-rata basis in the event that the Company effects any share split, consolidation, sub-division or other reorganization of any part of its share capital after the date of this Agreement, which such price shall be equal to the price of the Common Shares on the date of this Agreement;

“S&P” means Standard & Poor’s Ratings Services, a division of the McGraw-Hill Companies, Inc;

“Sanctions” means, at any time, economic or financial sanctions or trade embargoes imposed, administered or enforced by (a) the Office of Foreign Assets Control of the U.S. Department of Treasury; or (b) any other governmental authority that are applicable to any party at such time;

“Sanctioned Person” means, at any time, any Person with whom any party is prohibited or restricted from transacting or otherwise dealing under any Sanction, whether by reason of designation under such Sanction or otherwise;

“Second Bridge NPA” means the second bridge note purchase agreement dated as of October 26, 2023 among, the Company, the Guarantor and Indigo, as amended from time to time;

“Second Bridge Notes” shall have the meaning ascribed to “Notes” in the Second Bridge NPA;

“Security” means, (a) with respect to any asset, any mortgage, deed of trust, lien (statutory or otherwise), deemed trust, pledge, hypothec, hypothecation, encumbrance, charge, security interest, royalty interest, adverse claim, defect of title or right of set off in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, title retention agreement or consignment agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to any asset, (c) any purchase option, call or similar right of a third party with respect to such assets, (d) any netting arrangement, defeasance arrangement or reciprocal fee arrangement, and (e) any other arrangement having the effect of providing security;

“Security Documents” means the documents that constitute the Security required to be granted or put in place pursuant to clause 14 and Schedule 6;

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“Shareholder” means a shareholder of the Company;

“Subsidiary” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“Takeover Conversion Notice” shall have the meaning ascribed to such term in Condition 11.3 of Schedule 11;

“Takeover Offer” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“Tax” means all taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, harmonized sales, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, real property and personal property taxes, and any other taxes, customs duties, fees, assessments, or similar charges in the nature of a tax, including *Canada Pension Plan* and provincial pension plan contributions, employment insurance payments and workers’ compensation premiums, together with any instalments with respect thereto, and any interest, fines and penalties with respect thereto, imposed by any governmental authority (including federal, state, provincial, municipal and foreign governmental authorities), and whether disputed or not;

“Transaction Documents” means this Agreement, the Noteholders’ and Shareholders’ Agreement, the Security Documents, and each other agreement or document entered into or executed pursuant to any of the foregoing;

“Transferring Noteholder” shall have the meaning ascribed to such term in Condition 6.1 of Schedule 11;

“Unrestricted Cash Balance” means, at any time, the aggregate amount of unrestricted cash and Cash Equivalents held by an Obligor at such time, in accounts maintained with a financial institution that has executed an account control agreement, blocked account agreement or other similar agreement (in each case, in form and substance satisfactory to Indigo, acting reasonably) in favour of Indigo;

“Winding-Up” means, in respect of any Person,

(a) that such Person:

- (i) admits in writing that it is insolvent or unable to pay its liabilities as they generally become due;
- (ii) commits an act of bankruptcy under the BIA, files a voluntary assignment in bankruptcy under the BIA, makes a proposal (or files a notice of its intention to do so) under the BIA or seeks any other relief in respect of itself under the BIA;
- (iii) institutes any proceedings seeking relief in respect of itself under the CCAA;

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- (iv) institutes any proceeding seeking relief in respect of itself under the WURA;
 - (v) in addition to the forgoing, institutes any other proceeding seeking: (a) to adjudicate itself an insolvent person or a bankrupt; (b) to liquidate, dissolve or wind-up its business or assets; (c) to compromise, arrange, adjust or declare a moratorium in respect of the payment of, its debts; (d) to stay the rights of creditors generally (or any class of creditors); (e) any other relief in respect of itself under any federal, provincial or foreign applicable Law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, receivership, restructuring of business, assets or debt, reorganization of business, assets or debt or protection of debtors from their creditors (such applicable Law includes any applicable corporations legislation to the extent the relief sought under such corporations legislation relates to or involves the compromise, settlement, adjustment or arrangement of debt); or (f) any other relief which provides for plans or schemes of reorganization, plans or schemes of arrangement or plans or schemes of compromise, in respect of itself, to be submitted or presented to creditors (or any class of creditors);
 - (vi) applies for the appointment of, or has a receiver (either court or privately appointed), interim receiver, receiver/manager (either court or privately appointed), sequestrator, conservator, custodian, administrator, trustee, liquidator or other similar official appointed in respect of it, or any substantial part of its property; or
 - (vii) threatens to do any of the foregoing, or takes any action, corporate or otherwise, to approve, effect, consent to or authorize any of the actions described in (i) to (vi) above; or
- (b) that any petition is filed, application made or other proceeding instituted against or in respect of any Person:
- (i) seeking to adjudicate it an insolvent person;
 - (ii) seeking a bankruptcy order against it under the BIA;
 - (iii) seeking to institute proceedings against it under the CCAA;
 - (iv) seeking to institute proceedings against it under the WURA;
 - (v) seeking, in addition to the forgoing: (a) to adjudicate it an insolvent person or a bankrupt; (b) to liquidate, dissolve or wind-up its business or assets; (c) to compromise, arrange, adjust or declare a moratorium in respect of the payment of, its debts; (d) to stay the rights of creditors generally (or any class of creditors); (e) any other relief in respect of it under any federal, provincial or foreign applicable Law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, receivership, restructuring of business, assets or debt, reorganization of business, assets or debt, or protection of debtors from their creditors (such applicable Law includes any

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applicable corporations legislation to the extent the relief sought under such corporations legislation relates to or involves the compromise, settlement, adjustment or arrangement of debt); or (f) any other relief which provides plans or schemes of reorganization, plans or schemes of arrangement or plans or schemes of compromise in respect of it, to be submitted or presented to creditors (or any class of creditors); or

- (vi) seeking the issuance of an order for the appointment of a receiver, interim receiver, receiver/manager, sequestrator, conservator, custodian, administrator, trustee, liquidator or other similar official in respect of it or any substantial part of its property; and

“**WURA**” means the *Winding Up and Restructuring Act* (Canada), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

1.2 In this Agreement, unless a contrary indication appears:

- (a) references to “**clauses**” and “**Schedules**” are references to clauses of and schedules to this Agreement, references to “**paragraphs**” are references to paragraphs of the Schedule (or clause) in which the reference appears and references to this Agreement include the Schedules;
- (b) reference to any gender shall include every other gender;
- (c) the singular shall include the plural and vice versa;
- (d) the headings and sub-headings are inserted for convenience only and shall not affect the construction of this Agreement;
- (e) references to dollars means Canadian Dollars unless an explicit reference is made to U.S. or other currency;
- (f) references to “**indebtedness**” include any obligation (whether incurred as principal, as guarantor or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (g) references to a “**regulation**” include any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or reorganisation;
- (h) references to “**Indigo**”, any “**Noteholder**”, any “**Shareholder**”, any “**Lender**”, and/or any “**Party**” shall be construed so as to include its successors, permitted assigns and permitted transferees;
- (i) references to any document being in “**Agreed Form**” are to that document in the form signed by or on behalf of each of the Lenders, the Company and the Guarantor for the purposes of identification;

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- (j) references to “**assets**” include present and future properties, revenues and rights of every description;
- (k) references to any agreement or instrument is a reference to that agreement or instrument as amended, varied, supplemented or novated (however fundamentally) from time to time but excluding for these purposes any amendment, variations, supplement or novation which is contrary to the provisions of any such agreement or instrument;
- (l) references to “**guarantee**” mean any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assure any indebtedness of any Person or to make an investment in or loan to any Person or to purchase assets of any Person where, in each case, such obligation is assumed in order to maintain or assist the ability of such Person to meet its indebtedness (and “guaranteed” and “guarantor” shall be construed accordingly); and
- (m) references to a provision of law are references to that provision as amended or re-enacted and include any subordinate legislation.

2. SALE OF NOTES

- 2.1 Indigo hereby agrees to purchase the Initial Note at Completion for U.S.\$5,000,000 (the “**Indigo Note Amount**”) on the terms and subject to the conditions set out in this Agreement.
- 2.2 All Notes shall constitute “Notes” for the purpose of the Noteholders’ and Shareholders’ Agreement.
- 2.3 The Financial Indebtedness arising under this Agreement and the Notes, the Bridge NPA and the Bridge Notes, and the Second Bridge NPA and the Second Bridge Notes rank in priority to all of the Company’s and the Guarantor’s other secured Financial Indebtedness, including, without limitation, under the Original NPA and the Original Notes.

3. INTEREST

The Notes shall each bear interest at the rate and in accordance with the provisions set forth in Condition 4 of Schedule 11.

4. COMPLETION

- 4.1 Subject to the terms of this Agreement, completion shall take place as soon as reasonably possible after the last of the conditions in clause 5 has been satisfied (or waived in accordance with clause 5.2) provided that this Agreement shall lapse and be of no further force and effect if Completion shall not have occurred by the earlier of:
 - (A) January 12, 2024; and
 - (B) the Winding-Up of the Company or any Subsidiary of the Company,

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or such later date as Indigo may agree in writing.

4.2 Subject to clause 4.3, at Completion:

- (A) Indigo will transfer the Indigo Note Amount (less the Pre-Completion Expenses) to the Company Bank Account by direct credit transfer; and
- (B) the Company shall execute and deliver to Indigo the Initial Note required to be issued pursuant to clause 2.1 of this Agreement, each of which will be issued in Indigo's name and dated as of the Completion Date.

4.3 For all purposes under this Agreement, Completion shall not be deemed to have occurred unless and until all of the obligations set forth in this clause 4 shall have been performed in full in accordance with the provisions set forth herein and the Indigo Note Amount (less the Pre-Completion Expenses) shall have been received in the Company Bank Account for value in immediately available funds.

5. CONDITIONS PRECEDENT

5.1 Completion is conditional on:

- (A) the Company having delivered (or procured the delivery) to Indigo (or its solicitors on its behalf) the following documents:
 - (i) counterparts of any Adherence Agreement (as defined in the Noteholders' and Shareholders' Agreement) duly executed by each Noteholder not already a party thereto;
 - (ii) a counterpart to a guarantee given by the Guarantor in favour of the Lenders;
 - (iii) a counterpart to a general security agreement given by each of the Company and the Guarantor in favour of the lenders (the "GSA");
 - (iv) a detailed 90-day cash-flow forecast of the Company for the period ending March 31, 2024, and Indigo confirms receipt of such forecast;
 - (v) confirmation from a senior officer of the Company that the forecast referred to in clause 5.1(A)(iv) above remains true, complete and correct as of the Completion Date such that there are no material changes to the information set out therein;
 - (vi) a counterpart by every party thereto to the amendment no. 5 to the Noteholders' and Shareholders' Agreement, such amendment to be entered into to reflect the issuance of the Notes pursuant to this Agreement and all transactions contemplated hereby; and
 - (vii) such legal opinions and supporting materials as may be requested by Indigo;

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- (B) Indigo is satisfied with the condition of the Company, in its sole discretion;
 - (C) the GSA shall have been registered in all offices in which, in the opinion of Indigo or its counsel, registration is necessary or of advantage to perfect or render opposable to third parties the Security intended to be created thereby;
 - (D) [Intentionally Deleted];
 - (E) [Intentionally Deleted];
 - (F) confirmation by the Company, to the satisfaction of Indigo, that no event or circumstance exists or has occurred which constitutes a default under any agreement or instrument which is binding on it or the Group or to which its or any of the Group's assets are subject which has or might have a Material Adverse Effect, other than the Company failing to redeem the Original Notes on December 20, 2023 as required pursuant to the terms of the Original NPA, which the Company and Indigo hereby acknowledge constitutes a Default under the Original NPA, which Default is not waived by Indigo and in respect of which Default Indigo reserves all rights;
 - (G) [Intentionally Deleted];
 - (H) [Intentionally Deleted];
 - (I) confirmation by the Company, to the satisfaction of Indigo, that none of the Group's debt (including, without limitation, any debt payable to any Shareholder) which exists as of the date hereof, will be repaid, rescheduled or modified in any way (other than the payments of any accounts payable in the ordinary course of business or any interest and principal scheduled under existing terms) unless approved by Indigo in writing;
 - (J) [Intentionally Deleted]; and
 - (K) [Intentionally Deleted].
- 5.2 Indigo may agree to waive all or any part of the conditions in clause 5.1 or to modify such conditions.

6. POST-COMPLETION OBLIGATIONS

- 6.1 The Company shall promptly and, in any event, prior to February 12, 2024 or such later date as the Noteholder may permit, in its absolute discretion, cause The Boeing Company to provide the Consent.

7. PURPOSE

- 7.1 Subject to clause 7.3, the Company shall apply the New Note Funds towards:
- (A) making intra-group loans to, or equity investments in, the Subsidiary to enable such Subsidiary to discharge amounts referred to in clause 7.2; and

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- (B) general working capital purposes, but not towards the making of acquisitions of or investments in companies, businesses or undertakings other than as contemplated in clause 7.1(A) above.
- 7.2 For so long as any Notes remain outstanding, the Company shall procure that the New Note Funds are applied as follows:
 - (A) first, general working capital purposes; and
 - (B) second, any other purpose approved by the Lenders in writing.
- 7.3 Notwithstanding any other provision contained in this Agreement, (A) the Guarantor will not engage, and will not use the New Note Funds to engage, to any material extent, in any material business other than business of providing a low fare, low cost airline, and (B) the Company will not, and will not use the New Note Funds to, (i) engage in any business (other than non-operating business and management services, in each case typically conducted by a holding company), (ii) own any assets (other than bank accounts and shares in the Guarantor), (iii) incur any indebtedness (other than that as approved by the Lenders), or (iv) incur any expenses other than customary and reasonable administrative expenses associated with maintaining its corporate existence.
- 7.4 The Lenders are not bound to monitor or verify the application of any amount borrowed pursuant to this Agreement and the Lenders will not be responsible for, or for the consequences of, any such borrowing.

8. CERTIFICATES

- 8.1 Every certificate for Notes shall be in the form or substantially in the form set out in Schedule 9 and shall have endorsed thereon or attached thereto:
 - (A) a conversion notice in the form or substantially in the form set out in Schedule 10; and
 - (B) a copy of the Conditions.
- 8.2 Every Noteholder shall be entitled, without charge, to one certificate for the Notes held by it save that joint holders shall be entitled to one certificate only in respect of the Notes held by them jointly which certificate shall be delivered to the holder whose name stands first in the Register in respect of such joint holding. The Company shall not be bound to register more than four Persons as joint holders of any Notes.
- 8.3 Where some but not all of the Notes comprised in any certificate are transferred or repaid, the Company shall forthwith issue free of charge to the relevant Noteholder a fresh certificate in accordance with the other provisions of this Agreement for the balance of the Notes retained by such Noteholder.
- 8.4 The Company hereby undertakes and covenants that for such time as any of the Notes remain outstanding, the Company shall carry on and conduct its affairs so as to comply with:

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- (A) the provisions contained in the certificates for the Notes;
- (B) the Conditions;
- (C) the provisions of this Agreement, including (without limitation) the provisions of:
 - (i) Schedule 6;
 - (ii) Schedule 12; and
 - (iii) Schedule 13,

and the Notes shall be held subject to and with the benefit of such provisions and Conditions all of which shall be deemed to be incorporated in this Agreement and which shall be binding upon the Company and the Noteholders and all Persons claiming through or under them respectively with the intent that the Notes shall enure for the benefit of each Noteholder who shall, for the avoidance of doubt, be entitled to sue for the performance and observance of such provisions and Conditions in respect of any Notes held by such Noteholder.

9. REGISTER

- 9.1 The Company shall keep an accurate register of the Notes at its registered office or at such other place as the Directors may determine from time to time and there shall be entered in the Register:
- (A) the names, addresses and nationality for the purposes of the Ownership and Control Requirements of the holders for the time being of the Notes;
 - (B) the nominal amount of the Notes held by every registered holder;
 - (C) the date upon which the name of every such registered holder is entered in respect of the Notes standing in its name;
 - (D) the serial number of each Note; and
 - (E) details of any account designated by any Noteholder for the purpose of receiving payments pursuant to the terms of the Notes.
- 9.2 Any change of name, address or nationality on the part of any Noteholder shall be notified as soon as is reasonably practicable to the Company and the Company shall amend the Register accordingly.
- 9.3 Any Noteholder and any Person authorized by any Noteholder shall be at liberty at all reasonable times during office hours to inspect the Register and to take copies of or extracts from the Register or any part thereof and shall be entitled to obtain from the Company by telephone or by facsimile confirmation of its registered address and the aggregate nominal amount of the Notes in issue from time to time.

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10. FEES AND EXPENSES

10.1 In consideration for Indigo agreeing to enter into this Agreement and for other valuable consideration, the Company will pay (for and on behalf of itself and the Subsidiaries) the following fees and expenses:

- (A) [Intentionally Deleted]; and
- (B) the Authorised Expenses, in accordance with clauses 10.2 to 10.7 below.

10.2 [Intentionally Deleted].

10.3 Prior to Completion, Indigo shall deliver to the Company a statement containing an itemised list of the Authorised Expenses as follows:

- (A) those Authorised Expenses actually incurred by Indigo in respect of the period up to Completion (together with invoices or other supporting evidence of the same, which may include a letter from the relevant law firm setting out the amounts due to it by Indigo);
- (B) a reasonable estimate (if necessary) of any Authorised Expenses that remain to be incurred by Indigo in respect of the period up to Completion;

(the Authorised Expenses referred to in clauses 10.3(A) and 10.3(B) being the “**Pre-Completion Expenses**”).

10.4 Indigo will deduct the Pre-Completion Expenses from the Indigo Note Amount prior to the transfer of the same to the Company pursuant to clause 2.1 above.

10.5 Within 15 Business Days after the execution of the last document required to be executed in connection with the Security, Indigo will submit a final statement to the Company setting out the following:

- (A) the aggregate amount of the Lenders' Authorised Expenses incurred by the Lender; and
- (B) the amount of Lenders' Authorised Expenses (if any) that remains due to such Lender (the “**Outstanding Expenses**”), being the amount referred to in clause 10.5(A).

10.6 If there are Outstanding Expenses, Indigo shall deliver copies of invoices in respect of the outstanding amount and the Company shall settle such invoices within 5 Business Days of receipt of the same.

10.7 Any fees, costs and expenses required to be paid or reimbursed to Indigo or any other Affiliates of Indigo by the Company or a Subsidiary pursuant to any of the Transaction Documents shall be paid by the Company to the maximum extent permissible by law or otherwise by the Guarantor.

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11. WARRANTIES

- 11.1 The Obligors jointly and severally warrant to each of the Lenders that each of the Obligor Warranties is true and correct on the date of this Agreement in respect of each of the Obligors.
- 11.2 The Obligors each acknowledge to the Lenders that:
- (A) they have agreed to give the Obligor Warranties in respect of itself in consideration of the execution by Indigo of this Agreement and the performance of the obligations contained herein; and
 - (B) Indigo has entered into this Agreement, and the Lenders will perform their obligations in accordance with the provisions of this Agreement, in reliance, inter alia, on the Obligor Warranties.
- 11.3 The Obligors each hereby acknowledge and agree that each of the Obligor Warranties shall be separate and independent and save as expressly provided shall not be limited by reference to any other of the Obligor Warranties or anything in this Agreement.

12. COVENANTS

- 12.1 Each of the Company and the Subsidiary give the covenants set forth in Schedule 13 (the “**Covenants**”) to the Lenders and agree the same will remain in force from the date of this Agreement for so long as the Notes remain outstanding, provided that it shall not be a breach of any covenant under this Agreement arising from the Company or any Subsidiary complying with any other specific obligation under any of the Transaction Documents apart from the Covenants.

13. [INTENTIONALLY DELETED]

14. SECURITY

- 14.1 The Company and the Subsidiary undertake to provide and maintain the Security in favour of the Lenders in accordance with the provisions of Schedule 6.

15. TRANSFERS AND ADHERENCE AGREEMENT REQUIREMENTS

- 15.1 All transfers of Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) shall be regulated in accordance with Conditions 6 to 9 (inclusive).
- 15.2 Notwithstanding any other provision contained in this Agreement, no transfer of any Note shall be made by any Person unless the transferee shall have first executed an Adherence Agreement, pursuant to which the transferee agrees to adhere to and be bound by the provisions of this Agreement (including this clause) so far as it binds the transferor of the relevant Note(s).
- 15.3 Upon the execution of an Adherence Agreement pursuant to clause 15.2 above, the Parties (other than the transferor if the transferor retains no Notes after the relevant

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transfer) agree to adhere to and be bound by the provisions of this Agreement (including this clause) as if the transferee were an original party to the Agreement in place of the transferor.

- 15.4 This Agreement shall have effect accordingly, provided that no Adherence Agreement need be executed where the transferee is already a Party in the same capacity.
- 15.5 Any Party proposing to transfer any Notes in accordance with Conditions 6 to 9 of Schedule 11 (inclusive) or to direct its nominees to do so, shall procure that the transferee or the Person who will become the beneficial owner of the Notes to be transferred shall enter into an Adherence Agreement before the completion of the transfer.
- 15.6 The Company undertakes to procure, insofar as they are able to procure by the exercise of the voting rights of themselves and their nominees as shareholders of the Company and of their appointed Directors (subject to the fiduciary duties of such Directors) that:
- (A) no transfer of any Notes shall be registered unless any Adherence Agreement required by this clause 15.6 has been duly executed and delivered; and
 - (B) all necessary resolutions required to be passed to effect conversion of any Notes in accordance with the Corporate Articles are duly passed.
- 15.7 The obligations contained in this Agreement shall be binding upon the personal representatives and successors in title of the Parties but none of them shall be entitled to the benefit of this Agreement unless and until they have entered into an Adherence Agreement.

16. CONFIDENTIALITY

16.1 Obligations of Confidentiality

- (A) Each Party shall keep all Confidential Information strictly confidential and secret (and to ensure that each of its Affiliates, and its and their officers, employees, agents and professional and other advisers shall keep all Confidential Information strictly confidential and secret);
- (B) Without limitation to its general obligation of confidentiality:
 - (i) no Party shall disclose to any third party any Confidential Information;
 - (ii) no Party shall use or permit the use of any Confidential Information for any purpose other than assessing its investment in the Group and making decisions in relation to that investment;
 - (iii) each Party shall use its reasonable endeavours to alert the Company and the Lenders as soon as is reasonably practical after it becomes aware of any request from a third party for disclosure of any Confidential Information and upon the Company's reasonable request will join it in asserting against any third party that the Confidential Information and its contents are

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protected by privilege and that, as against such third party, that privilege has not been waived.

16.2 General Exceptions from Confidentiality Obligations

- (A) The obligations of confidentiality under clauses 16.1(A) and 16.1(B) do not apply to:
- (i) the disclosure of information solely to the extent required to be disclosed by law, legal process, regulation or any regulatory authority provided always that prior to such disclosure, the Party proposing to disclose information pursuant to this clause 16.2(A)(i) shall immediately inform each of the Lenders and shall co-operate in good faith with the Lenders about the timing and content of such disclosure to the extent reasonably practicable;
 - (ii) the disclosure in confidence to professional advisers, or any Affiliate of a Party, as the case may be, or their respective professional advisers, in each case where the disclosure is for a purpose reasonably incidental to this Agreement or for the purpose of assessing such Person's investment in the Group or any member of it (and only to the extent the disclosed information is reasonably required for such purpose);
 - (iii) any bona fide potential purchaser of any Note or Common Shares from any Lender provided such purchaser shall have entered into a confidentiality undertaking in favour of the seller on substantially the same terms as clause 16.1;
 - (iv) any shareholder or investor (or potential shareholder or investor) in or of any of the Lenders;
 - (v) any present or future financier of any of the Lenders;
 - (vi) the disclosure of information to any tax authority to the extent reasonably required for the purposes of the tax affairs of the Person disclosing the information or any Affiliate of such Person, as the case may be;
 - (vii) the disclosure by any Director, officer, employee, representative or consultant to the Group in the proper performance of their duties or by any employee of the Group making a protected disclosure relating to employment in accordance with applicable law; and
 - (viii) the disclosure by any Lender of Confidential Information to any Affiliate of such Lender.
- (B) Other than in respect of disclosure pursuant to clause 16.2(A)(iv), each Party shall inform (and shall ensure that any Affiliates shall inform) any Person to whom it provides Confidential Information pursuant to clause 16.2(A), that such information

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is confidential and, in the case of disclosure pursuant to clauses 16.2(A)(ii) shall only provide such Confidential Information to such Person if they agree:

- (i) to keep it confidential on the terms of and otherwise to comply with, this clause; and
 - (ii) not to disclose it to any third party (other than those Persons to whom it has already been disclosed in accordance with the terms of this Agreement).
- (C) A Party may only disclose Confidential Information pursuant to clauses 16.2(A)(iv) and 16.2(A)(v) on the basis that the recipient of such Confidential Information shall have entered into a confidentiality agreement with the disclosing Party on substantially the same terms as clause 16.1.

16.3 Breaches of Confidentiality restrictions

Each Party shall procure that promptly upon becoming aware of any breach (by any Person) of this clause 16, such Party shall promptly notify each of the Lenders of such fact and shall provide such information relating to the breach as any Lender may reasonably request.

17. GENERAL

- 17.1 The provisions of this Agreement shall be enforceable by and enure for the benefit of the Parties and their respective successors and permitted assigns.
- 17.2 Any release, waiver or compromise or any other arrangement of any kind by any Party shall not affect the rights and remedies of the Party concerned as regards any other Party or its rights and remedies against the Party in whose favour the release, waiver, compromise or other arrangement is granted or made, except (in any event) to the express extent of the release, waiver, compromise or other arrangement, and no such release, waiver, compromise or other arrangement shall have effect unless granted or made in writing.
- 17.3 If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.
- 17.4 No failure to exercise, nor any delay in exercising, on the part of a Party, any right or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.
- 17.5 The Parties hereto confirm that it is their wish that this Agreement and any other document executed in connection with the transactions contemplated herein be drawn up in the

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English language only and that all other documents contemplated thereunder or relating thereto, including notices, may also be drawn up in the English language only. *Les Parties aux présentes confirment que c'est leur volonté que cette convention et les autres documents de crédit soient rédigés en langue anglaise seulement et que tous les documents, y compris tous avis, envisagés par cette convention et les autres documents peuvent être rédigés en langue anglaise seulement.*

- 17.6 All payments to be made by the Company under this Agreement shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.
- 17.7 Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- 17.8 During any extension of the due date for payment of any principal or unpaid sum under this Agreement interest is payable on the principal or unpaid sum at the rate payable on the original due date.
- 17.9 Any interest, conversion or fee or compounded return accruing under this Agreement will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days or 366 days, as applicable. For the purposes of the *Interest Act* (Canada) and disclosure thereunder, whenever any interest or any fee to be paid hereunder or in connection herewith is to be calculated on the basis of a 365-day or 366-day year, the yearly rate of interest to which the rate used in such calculation is equivalent is the rate so used multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 365 or 366, as applicable, computed on the basis of the actual number of days elapsed over a year of 365 days or 366 days, as the case may be. The rates of interest under this Agreement are nominal rates, and not effective rates or yields. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement.
- 17.10 No amendment to, or waiver of, any provision of this Agreement shall be effective unless it is in writing and signed by each of the Parties hereto.
- 17.11 The obligations of the Parties contained in this Agreement shall be several save that the obligations of the Obligors shall be joint and several among the Obligors.
- 17.12 If any provision of this Agreement would oblige the Company to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate which would be prohibited by applicable Law or would result in a receipt by that Lender of "interest" at a "criminal rate" (as such terms are construed under the *Criminal Code* (Canada)), then, notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law or so result in a receipt by that Lender of "interest" at a "criminal rate", such adjustment to be effected, to the extent necessary (but only to the extent necessary), by reducing any fees, commissions, costs, expenses, premiums and other amounts required to be paid to the affected Lender which would constitute interest for purposes of Section 347 of the *Criminal Code* (Canada).

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18. REGULATORY PROVISIONS

- 18.1 The Company undertakes to procure, insofar as they are able to procure, that no Non-Canadian Person or entity shall acquire or exercise control over the Company, either alone or in combination with others if, and for so long, as such control would constitute a breach of the Ownership and Control Requirements.
- 18.2 If at any time it is determined by the Agency, a court or a competent regulatory authority that a non-Canadian Person or entity may exercise effective control over the Company, that Person or entity, to the extent that it is a Party, will take immediate steps to ensure that control is no longer effective (provided that this clause 18.2 shall not require any such Non-Canadian Party to convert any Notes or divest itself of any Common Shares, other than pursuant to and on the basis set forth in clause 3 of the Corporate Articles or the Notes). For purposes of this clause 18.2 and clause 18.3, “effective control” shall mean “controlled in fact” as defined in the CTA and interpreted, in practice, by the Agency.
- 18.3 The provisions of this Agreement take effect subject always to this clause 18.3. This Agreement shall not confer on Indigo any rights, and Indigo shall not do or omit to do anything, which would result in Indigo acquiring or exercising Control or effective control, or being deemed to acquire or exercise Control or effective control of the Company. References in this Agreement to “complying with”, “not breaching”, “acting in accordance with” and “for the purposes of” the Ownership and Control Requirements, or any wording similar to or deriving from such phrases, shall include an obligation on Indigo to ensure that Indigo is not required to file a submission under: (i) any regulations governing the ownership and control of Canadian airlines; or (ii) the *Competition Act* (Canada). To the extent that Notes have been issued and, subsequently, the Agency determines that there is a breach of the Ownership and Control Requirements as a result of such Notes and/or other arrangements between Indigo and any of the Group, the affected Noteholders shall be entitled to redeem their Notes as if it was the Redemption Date.

19. COUNTERPARTS

This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same agreement.

20. ENTIRE AGREEMENT

- 20.1 This Agreement, the Noteholders’ and Shareholders’ Agreement, the Corporate Articles, and the Security Documents constitute the entire agreement of the Parties with respect to the subject matter of this Agreement.

21. FURTHER ASSURANCES

The Parties shall (and shall procure that their respective nominees shall) do and execute and perform all further deeds, documents, assurances, acts and things that may reasonably be required to give effect to the terms of this Agreement and the Parties (other than the Company) shall at all times use and exercise the votes that they control (which shall be deemed to include all votes held by their respective nominees and board appointees) at both general meetings and/or Board meetings and/or any meetings of any

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committee of the Company to ensure, in so far as each is reasonably able to, the maintenance and observance of the terms of this Agreement and the Corporate Articles as may be amended from time to time with the agreement of the Lenders.

22. GOVERNING LAW AND JURISDICTION

22.1 This Agreement is governed by, and to be construed in accordance with the laws of Province of Ontario and the laws of Canada applicable in such Province.

22.2 Each Party hereto agrees (i) that any action or proceeding relating to this Agreement may (but need not) be brought in any court of competent jurisdiction in the Province of Ontario, and for that purpose now irrevocably and unconditionally attorns and submits to the jurisdiction of such Ontario court; (ii) that it irrevocably waives any right to, and shall not, oppose any such Ontario action or proceeding on any jurisdictional basis, including forum non conveniens; and (iii) not to oppose the enforcement against it in any other jurisdiction of any judgment or order duly obtained from an Ontario court as contemplated by this clause 22.2.

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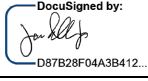
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IN WITNESS WHEREOF THE Parties hereto have executed this Agreement as of the date first set forth above.

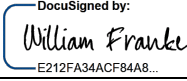
LYNX AIR HOLDINGS CORPORATION

By: 
Name: Jim Sullivan
Title: Interim Chief Executive Officer

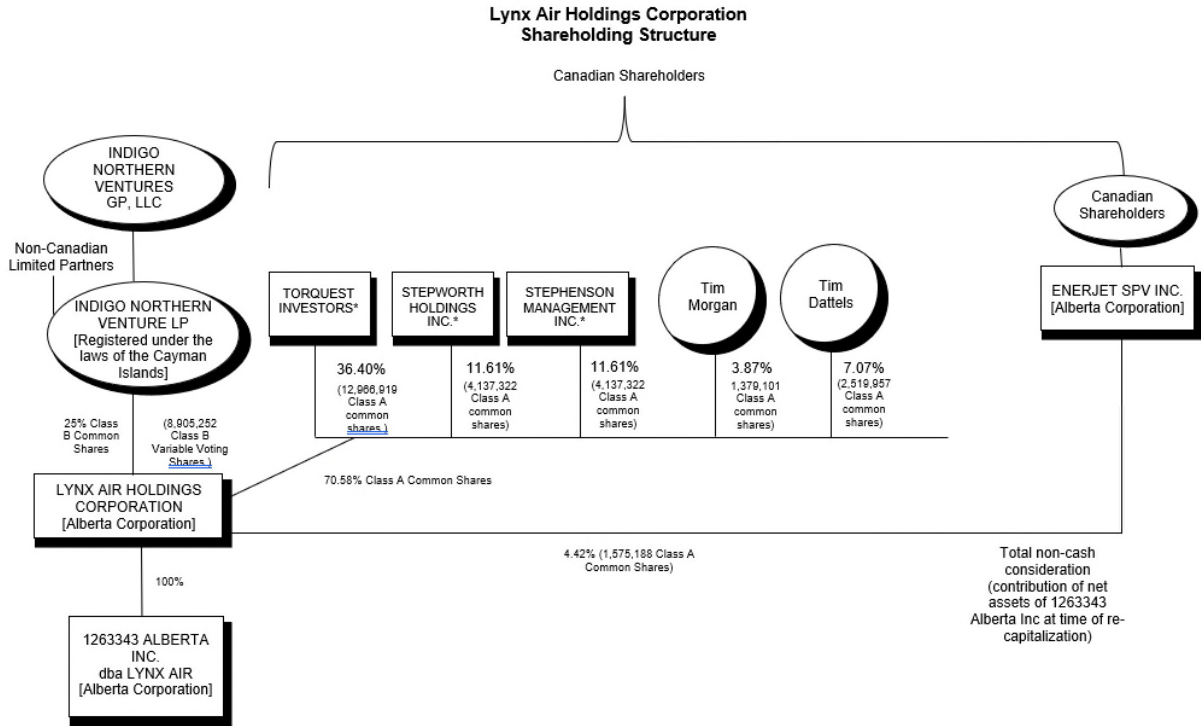
1263343 ALBERTA INC.

By: 
Name: Jim Sullivan
Title: Interim Chief Executive Officer

INDIGO NORTHERN VENTURES LP by its
general partner **INDIGO NORTHERN
VENTURES GP, LLC**

By: 
Name: William A. Franke
Title: Managing Member

Schedule 1 Corporate Structure



Schedule 2 Intentionally Deleted

Schedule 3 INTENTIONALLY DELETED

Schedule 4 Post-Closing Holdings

Lynx Air

Capital Table

As at January 11, 2024

Convertible Debt

Indigo Convertible Shares	C\$	C\$/share	Shares	Comment	Redemption Date	Note
Initial Notes	71,242,031	\$1.00	71,242,031	Outstanding	12/20/2023	
Bridge Loan (Feb-2023)	7,110,000	\$0.25	28,440,000	Outstanding	See Note 1	
Bridge Loan (Mar-2023)	5,169,375	\$0.25	20,677,500	Outstanding	See Note 1	
Bridge Loan (Oct 2023)	10,000,000	\$0.10	100,000,000	Outstanding	See Note 1	
Bridge Loan (Jan 2024)	6,695,500	\$0.10	66,955,000	Outstanding	See Note 1	See Note 2
Total	100,216,906	\$0.35	287,314,531			

Capital Table

	Share Equivalents			Ownership	
	Common	Fully Diluted	Total	Common	Fully Diluted
Existing Shareholders					
Indigo Northern Ventures	8,905,252	287,314,531	296,219,783	25.000%	91.111%
Torquest Partners	12,966,919	-	12,966,919	36.402%	3.988%
Stephenson Management	4,137,322	-	4,137,322	11.615%	1.273%
Stepworth Holdings	4,137,322	-	4,137,322	11.615%	1.273%
Tim Dattels	2,519,957	-	2,519,957	7.074%	0.775%
Tim Morgan	1,379,101	-	1,379,101	3.872%	0.424%
Enerjet SPV	1,575,190	-	1,575,190	4.422%	0.484%
Option Holders (Strike @ \$1/sh)	-	2,183,829	2,183,829	0.000%	0.672%
Total	35,621,063	289,498,360	325,119,423	100.000%	100.000%

Options

Option Holders	Outstanding	Strike Price (C\$/sh)	In Money?	Option Treatment ⁽³⁾		Notes
				Dilution Impact (Treasury Method)	Cash Impact Company Funded	
Merren McArthur	801,473	\$1.00	FALSE	-	-	
Tim Morgan	427,452	\$1.00	FALSE	-	-	
Vijay Bathija	427,452	\$1.00	FALSE	-	-	
Michael Holditch	-	\$1.00	FALSE	-	-	Expired Dec 2023
Jim Sullivan	427,452	\$1.00	FALSE	-	-	
Greg Melchin	100,000	\$1.00	FALSE	-	-	
Total	2,183,829	\$1.00		-	-	

Illustrative Share Value (C\$/sh) \$0.75

1. "Redemption Date" shall mean the earlier to occur of: (a) the consummation of the Flair Transaction and (b) the Long Stop Date (as defined in the Flair Term Sheet)

2. "6,695,500" is the "the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000"

3. Note option impact is illustrated in two ways: a) treasury method or cashless, where shares issued post exercise are purchased back at market rates for net dilution, and b) cash payment at the difference between market and strike price.

Schedule 5 Obligor Warranties

1. Status

- (A) It is a company, duly incorporated, validly existing and in good standing under
 - (i) the laws of the Province of Alberta in the case of the Company, and
 - (ii) the laws of the Province of Alberta in the case of the Guarantor.
- (B) It has the power to own its property and assets and carry on its business as it is being conducted.
- (C) It is in compliance with all applicable laws and regulations (including, without limitation, the laws of the provinces of Alberta and Ontario and the federal laws of Canada).

2. Binding Obligations

This Agreement has been duly authorized, executed and delivered by it and is a valid and binding obligation of it enforceable against it in accordance with its terms, subject only to bankruptcy, insolvency, liquidation, reorganization, moratorium and other similar laws generally affecting the enforcement of creditors' rights, and to the fact that equitable remedies (such as specific performance and injunction) are discretionary remedies.

3. Non-Conflict with Other Obligations

The entry into and performance by it of, and the transactions contemplated by, this Agreement, do not and will not conflict with:

- (A) any law or regulation applicable to it;
- (B) its constitutional documents; or
- (C) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (howsoever described) under any such agreement or instrument.

4. Power and Authority

- (A) It has the corporate power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Agreement and the transactions contemplated herein.
- (B) No limit on its corporate powers will be exceeded as a result of the borrowing or the issue of the Notes contemplated pursuant to the terms of this Agreement.

5. Authorisations

All Authorisations, consents, approvals, permits and license of, and registrations or filings with, any governmental agency or authority required:

- (A) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Agreement;
- (B) to ensure that the obligations expressed to be assumed by it in this Agreement are legal, valid, binding and enforceable;
- (C) to make this Agreement admissible in evidence in its jurisdiction of incorporation; and
- (D) for the conduct of its business, trade and ordinary activities in all material respects, have been obtained or effected and are in full force and effect.

6. Governing Law and Enforcement

- (A) The choice of Ontario law as the governing law of this Agreement will be recognised and enforced in its jurisdiction of incorporation.
- (B) Any judgment obtained in Ontario in relation to this Agreement will be recognised and enforced in its jurisdiction of incorporation.

7. No filing or Stamp Taxes

It is not necessary that this Agreement be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar Taxes or fees be paid on or in relation to this Agreement or the transactions contemplated herein.

8. Taxes

- 8.1 It has filed or caused to be filed when due all Tax returns and reports required to have been filed and has paid or caused to be paid when due all Taxes required to have been paid by it (including all instalments with respect to the current period) and has made adequate provision for Taxes for the current period, except Taxes that are being contested in good faith by appropriate proceedings and for which it has set aside on its books adequate reserves.

9. No Default

- (A) Aside from the Guarantor's practice of deferring payables to certain of its suppliers, lessors and service providers and as disclosed in writing to the Board of Directors of the Company and the Guarantor prior to the Completion Date, no Default has occurred and is continuing or reasonably might be expected to occur as a result of the execution or performance of this Agreement by the Parties.
- (B) No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination

event (howsoever described) under any other agreement or instrument which is binding on it or to which its assets are subject which might have a Material Adverse Effect, (i) other than the Company failing to redeem the Original Notes on December 20, 2023 as required pursuant to the terms of the Original NPA, which the Company and Indigo hereby acknowledge constitutes a Default under the Original NPA, which Default is not waived by Indigo and in respect of which Default Indigo reserves all rights, and (ii) save as otherwise specifically contemplated or specifically permitted by or specifically required to comply with this Agreement.

10. Pari Passu Ranking

Its payment obligations under this Agreement rank at least *pari passu* with (to the fullest extent permitted by law) with all other senior secured creditors of it.

11. No Proceedings Pending or Threatened

No dispute, litigation, arbitration, expert determination, alternative dispute resolution, regulatory or administrative proceedings or investigations of, or before, any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect or which involve a potential liability of any member of the Group exceeding U.S.\$20,000 have been started or (to the best of its knowledge and belief having made due and careful enquiry) threatened in writing (and not withdrawn) against it nor are there any circumstances reasonably likely to give rise to any such dispute, litigation, arbitration, expert determination, alternative dispute resolution, regulatory or administrative proceedings or investigations.

12. No Undisclosed Liabilities

Neither the Company nor any of its Subsidiaries have any Financial Indebtedness, other than arising (i) under this Agreement and the Notes; (ii) pursuant to aircraft or engine leases on commercial terms with third party lessors; (iii) under the Original NPA and the Original Notes; (iv) under the Bridge NPA and the Bridge Notes; and (v) under the Second Bridge NPA and the Second Bridge Notes.

13. Security

Save with regard to the Security in connection with the Original NPA, the Original Notes, the Bridge NPA, the Bridge Notes, the Second Bridge NPA, the Second Bridge Notes, this Agreement, the Notes, and pursuant to aircraft and engine leases on commercial terms with third party lessors, there does not exist any Security over any of its assets or properties.

14. Ownership of Assets

(A) It has title to its owned personal properties, and with respect to leased personal properties, title to the leasehold estate with respect thereto, pursuant to valid and enforceable leases, free and clear of all Security, other than as set out in paragraph 13 of this Schedule.

- (B) It has indefeasible fee simple title to its owned real properties, and with respect to leased real properties, indefeasible title to the leasehold estate with respect thereto, pursuant to valid and enforceable leases, free and clear of all Security, other than as set out in paragraph 13 of this Schedule.

15. Post-Completion Holdings

- (A) Schedule 4 lists all of the Common Shares and Notes that will be outstanding immediately after Completion.
- (B) The information contained in Schedule 4 is complete and accurate in all respects.

16. Financial Condition

- (A) It has furnished to the Noteholder its consolidated balance sheets and statements of income, retained earnings and changes in its financial position as of and for the month ended November 30, 2023. Such financial statements, present fairly, in all material respects, its consolidated financial position and results of operations and cash flows as of the applicable dates and for the applicable periods in accordance with GAAP.
- (B) Since December 31, 2022, other than events occurring in the ordinary course of business as disclosed to the Board of Directors of the Company and the Guarantor, there has been no event, development or circumstance that has had or could reasonably be expected to have a Material Adverse Effect.
- (C) All information (including that disclosed in all financial statements) pertaining to the Group (other than projections) that has been or will be made available to the Noteholder by the Company, taken as a whole, is or will be, when furnished, complete and correct in all material respects and does not or will not, when furnished, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements are made. The projections that have been or will be made available to the Noteholders by the Company have been or will be prepared in good faith based upon reasonable assumptions.

17. Pension Plan

It does not maintain or contribute to any Canadian Benefit Plan or Canadian Pension Plans.

18. Subsidiaries

As of the date hereof, the Company owns 100% of the common voting shares in the capital of Guarantor (being 985,661 common voting shares) and, Schedule 1 correctly sets forth:

- (A) the legal name of each member of the Group and its form of legal entity and jurisdiction of organization;

- (B) the equity securities issued and outstanding by each member of the Group, and the registered and beneficial owners thereof;
- (C) the equity securities owned by each member of the Group; and
- (D) a corporate organizational chart of the Group.

19. Insurance

It maintains insurance policies and coverage in compliance with Schedule 13. Such insurance coverage (a) is sufficient for compliance with all requirements of applicable law and of all agreements to which any member of the Group is a party, (b) is provided under valid, outstanding and enforceable policies, (c) provides adequate insurance coverage in at least such amounts and against at least such risks (but including in any event public liability) as are usually insured against in the same general area by Persons engaged in the same or a similar business to the assets and operations of the Group, and (d) will not in any way be affected by, or terminate or lapse by reason of, the entering into of, and the performance of the transactions contemplated by, this Agreement. All such material policies are in full force and effect, all premiums with respect thereto have been paid in accordance with their respective terms, and no notice of cancellation or termination has been received with respect to any such policy.

20. Solvency

No member of the Group is an “insolvent person” within the meaning of the BIA.

21. Tax

It is a resident of Canada for the purposes of the *Income Tax Act* (Canada).

22. Fiscal Year

The Company’s fiscal year ends on December 31 of each calendar year, and the fiscal quarters end on the last day of each of December, March, June and September of each calendar year. The Guarantor’s fiscal year ends on September 30 of each calendar year, and the fiscal quarters end on the last day of each of December, March, June and September of each calendar year.

23. Anti-Corruption Laws and Sanctions.

Each member of the Group has implemented and maintains in effect policies and procedures designed to ensure compliance by such member and its directors, officers, employees and relevant agents with Anti-Corruption Laws and Sanctions. Each member of the Group and its directors, officers, employees and relevant agents is in compliance with Anti-Corruption Laws and Sanctions. No member of the Group or any of its directors, officers or employees or relevant agents is a Sanctioned Person or is engaged in any activity that would reasonably be expected to result in such member being designated as a Sanctioned Person. No use of proceeds or other transaction contemplated by this Agreement will violate Anti-Corruption Laws or Sanctions.

24. Canadian Ownership

No breach of the Ownership and Control Requirements has occurred or is reasonably expected to occur as a result of the execution or performance of this Agreement by the Parties.

Schedule 6 Security

1. Definitions

1.1 In this Schedule 6:

“Enforcement Action” means, in relation to any Secured Indebtedness, any action whatsoever to: (a) demand payment, declare prematurely due and payable or otherwise seek to accelerate payment of or place on demand all or any part of the Secured Indebtedness; (b) recover all or any part of the Secured Indebtedness (including by exercising any right of set-off or combination of accounts); (c) exercise or enforce any security rights against sureties or any other rights under any other document or agreement against any Security Provider in relation to (or given in support of) all or any part of the Secured Indebtedness (including under any security document); (d) petition for (or take any other steps which may lead to) an insolvency event in relation to any Security Provider; or (e) commence legal proceedings against any Security Provider (but excluding, any action whatsoever in respect of any other document or agreement);

“Note Documents” means this Agreement, the Notes and any document entered into in connection herewith or therewith;

“Secured Indebtedness” means all money and liabilities now or in the future due, owing or incurred to the Noteholders by any member of the Group in respect of the Note Documents in any currency, whether actual or contingent, whether incurred solely or jointly with any other Person and whether as principal or surety, together with all accruing interest and all related costs, charges and expenses; and

“Security Provider” means any member of the Group or any other Person that grants any security or guarantee in respect of, or otherwise becomes liable for, any Secured Indebtedness (being initially each member of the Group as at the date of this Agreement).

2. Guarantees – General

2.1 Guarantees of the Secured Indebtedness are to be provided by each Security Provider in accordance with the agreed principles set out in this Schedule 6.

3. Security – General

3.1 Security for the Secured Indebtedness is to be provided by each Security Provider in accordance with the agreed security principles set out in this Schedule 6.

4. Guarantees And Security – Agreed Principles

4.1 This Schedule 6 addresses (among other things) the manner in which the agreed principles will impact on the guarantees and security proposed to be taken in relation to the Secured Indebtedness.

4.2 In determining the extent of the security, the form of each security document and the extent of the perfection of the security, Indigo agrees to take into account the costs to the relevant Security Provider of providing such security and the proportionate benefit accruing to

Indigo and the impact, if any, of the grant of such security and any restrictions therein on the operations of the grantor of such security.

- 4.3 The extent of the security from each member of the Group will be determined by Indigo (acting reasonably). It is the current intention of Indigo that security will be taken over all material assets of each member of the Group from time to time, according to the principles set out herein, including (without limitation) over all land and buildings, shares, receivables, insurance policies, material contracts and claims, intellectual property and bank accounts of each member of the Group.
- 4.4 The Obligors and Indigo agree to negotiate the form of each security document in good faith. Each security document will be drafted by counsel to Indigo and will be in the form customary for the relevant security and jurisdiction.
- 4.5 It will be the Company's responsibility to ensure that any security interest created under any security document is duly created and perfected in favour of Indigo from time to time within applicable time limits. Costs incurred in respect of the execution of any such security document, or any updating, registration or re-registration to be made for the purpose of complying with such obligations, shall be borne by the Company.
- 4.6 Where a member of the Group which is a Security Provider acquires assets of material value or significance (in the opinion of the Lenders (acting reasonably) or, absent agreement between the Lenders, by Indigo (acting reasonably)) after the date on which it initially grants security, such Security Provider shall grant security in accordance with these agreed principles in respect of such assets if they are of a type which if owned on the date on which it initially grants security would have been secured in accordance with these agreed principles.
- 4.7 All security will be granted to Indigo from time to time or to any security agent or trustee appointed by Indigo to act for them.

5. Enforcement of Debts

Notwithstanding any other provision or principle in this Schedule 6, Indigo shall be entitled to enforce any rights against the Company or member of the Group under this Agreement or relating to the Notes to the extent such rights relate to monies due and owing to Indigo provided that such amounts outstanding and owing to Indigo exceed \$100,000 in aggregate and provided further that such amounts have been outstanding and owing to Indigo for more than 60 days following written notice of the failure to pay such amounts due and owing served on the Company with a copy to Indigo.

Schedule 7 Form of Adherence Agreement

THIS ADHERENCE AGREEMENT is made on the _____ of _____ 202_ by [•] (the “**Transferee**”).

THE PARTIES AGREE as follows:

1. The Transferee confirms that it has read a copy of the third bridge note purchase agreement dated January 12, 2024 made between: the Company, the Guarantor and Indigo (which agreement is herein referred to as the “**Note Purchase Agreement**”) and hereby covenants to each of the Persons referred to in paragraph 2(a) and paragraph 2(b) to be bound by the Note Purchase Agreement in all respects as if the Transferee were a party to the Note Purchase Agreement as one of the Noteholders and to perform all the obligations imposed on such a party to the Note Purchase Agreement, to be performed on, as on, or after the date hereof.
2. This Agreement is made for the benefit of:
 - (a) the parties to the Note Purchase Agreement as at the date of the Note Purchase Agreement; and
 - (b) any other Person or Persons who may after the date of the Note Purchase Agreement (and whether prior to or after the date hereof) assume any rights or obligations under the Note Purchase Agreement and be permitted to do so by the terms thereof.
3. Save as expressly set out in the Note Purchase Agreement in favour in the Transferee, the Company does not:
 - (a) make any representations or warranty or assumes any responsibility with respect to the legality, validity, effectiveness, adequacy or enforceability of the Note Purchase Agreement or any agreement entered into pursuant thereto;
 - (b) make any representation or warranty or assumes any responsibility with respect to the content of any information regarding the Company or any member of the Group or otherwise related to the acquisition of shares in the Company;
 - (c) assume any responsibility for the financial condition of the Company or any member of the Group or any other party to the Note Purchase Agreement or any other document; or
 - (d) assume any responsibility for the performance and observance by the Company or any other party to the Note Purchase Agreement or any other document (save as expressly provided therein),

and any and all conditions and warranties, whether express or implied by law or otherwise, are to the extent legally possible excluded.

For the purposes of the Note Purchase Agreement, the Transferee’s address and other details for notices shall be:

Address:

Email address:

For the attention of:

4. Words and expressions defined in the Note Purchase Agreement shall bear the same meanings herein.
5. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereon.

DULY DELIVERED as on the date and year first above written.

EXECUTED)
and **DELIVERED** by)
[Insert name of Transferee])
)

Schedule 8 Noteholders' Resolutions

1. Powers of Noteholders

1.1 Noteholders may, by Noteholder Resolution:

- (A) at the request of the Board, authorize the Company to amalgamate or consolidate with any other Person, or permit any other Person to merge into or amalgamate or consolidate with it, or liquidate or dissolve;
- (B) at the request of the Board, authorize the exchange of the Notes, or any portion thereof, for, or the conversion of the Notes into, any Common Shares, stock, debentures, debenture stock or other obligations or securities of the Company or any other company formed or to be formed;
- (C) at the request of the Board, authorize any modification, abrogation or compromise of or arrangement in respect of the rights that arise under this Agreement or the certificates for the Notes or otherwise;
- (D) assent to any modification or abrogation of the Conditions to which the Notes are subject and/or of the provisions contained in this Agreement and authorise the execution of any supplemental deed embodying any such modification or abrogation; and
- (E) appoint any Persons (whether Noteholders or not) as a committee to represent the interests of the Noteholders and confer upon such committee any powers or discretions which the Noteholders could themselves exercise.

2. Noteholders' Resolutions

- 2.1 The expression "**Noteholder Resolution**" where used in this Schedule 8 shall mean a written resolution duly executed by or on behalf of Noteholders holding at least 15% of the fully diluted share capital or such higher percentage as may be approved in writing by Indigo.

Schedule 9 Form of Certificate for the Notes

LYNX AIR HOLDINGS CORPORATION

(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

<u>Certificate No.</u>	<u>Principal Amount</u>
[•]	\$[•]

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 2024

THIS IS TO CERTIFY THAT [NAME]

Of [address]

is/are the registered holder(s) of the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000 in nominal amount of the secured convertible loan notes which are constituted by a third bridge note purchase agreement dated January 12, 2024 made between Lynx Air Holdings Corporation (the “**Company**”), 1263343 Alberta Inc. (the “**Guarantor**”) and Indigo Northern Ventures LP (as amended, supplemented or restated from time to time, the “**Agreement**”) and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.

Interest is payable on the Notes represented by this certificate semi-annually in arrears (each such date, an “**Interest Payment Date**”) in each year.

The Notes shall be redeemed in accordance with Condition 3 of Schedule 11 on the Redemption Date, subject to such other redemption date or conversion in accordance with the Conditions.

LYNX AIR HOLDINGS CORPORATION

By _____
Name:
Title:

Dated: January 12, 2024

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and

only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.

- (B) No transfer of the whole or any part of the Notes represented by this certificate will be registered without the production of this certificate at the registered office of the Company or at such other place as the Company may from time to time designate.
- (C) Each transfer in point of time of the whole or any part of the Notes represented by this certificate will be registered free of charge.
- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.

Schedule 10 Form of Conversion Notice

To: The Directors of [●]

Notes

I/We, the registered holder(s) of \$[●] in principal nominal amount of Notes, hereby give notice of my/our desire that:

- the Company convert [% of] []* principal nominal amount of such Notes held by me/us;
- that such conversion be effected on [or prior] to []*

and that such conversion be effected in accordance with the Conditions, at the price and on the terms set out in the Conditions.

[Include any further information required to be specified in the relevant notice.]

(Name)

(Address)

Signature(s) of
Noteholders(s)

In the case of joint holdings, all Noteholder(s) must sign. In the case of a corporation this form must be signed by a duly authorised officer of the corporation.

DATED

Schedule 11 Conditions

1. Form and Status

- 1.1 The Notes are issued in amounts or multiples of \$1 in nominal value and constitute secured obligations of the Company.
- 1.2 The aggregate principal amount of the Notes is limited to the Equivalent Amount of US\$5,000,000.
- 1.3 The Notes shall be issued in denominations and integral amounts of \$1 in principal amount subject to and with the benefit of the provisions of this Agreement.
- 1.4 The Notes, when issued, shall rank *pari passu* equally and rateably without discrimination or preference in all respects.
- 1.5 Upon execution of the Security Documents, the Notes will have the benefit of the Security (subject to the provisions of the Security Documents).
- 1.6 Any Notes which have been repaid or otherwise satisfied in accordance with the terms of this Agreement shall be cancelled and shall not be available for re-issue by the Company.

2. Interpretation

- 2.1 In these Conditions, the “**Agreement**” means the agreement constituting the Notes between the Company, and Indigo (in each case, as such terms are defined therein).
- 2.2 Capitalised terms not otherwise defined in these Conditions shall have the meaning given in the Agreement.

3. Redemption

- 3.1 Unless previously converted into Class B Common Shares, repaid or purchased in accordance with these Conditions and the Agreement, including, without limiting, Condition 11 of this Schedule 11, Condition 18.2 of this Schedule 11, or extended pursuant to Condition 3.6 or 3.7 of this Schedule 11, the Company shall redeem all outstanding Notes in full on the Redemption Date.
- 3.2 Upon any redemption of Notes the Company shall pay to each Noteholder an amount equal to the greater of:
 - (A) the fair market value of the corresponding Conversion Shares; and
 - (B) the aggregate of (i) the principal nominal amount of the Notes held by such Noteholder; and (ii) the accrued and unpaid interest on the Notes held by such Noteholder (calculated in accordance with Condition 4 of this Schedule 11) from (and including) the date of issue of such Notes to (and including) the date of redemption of such Notes.

- 3.3 All amounts payable on redemption of any Notes shall be paid subject to any deduction or withholding required by law in respect of any Tax, duty or charge. The Company's payment obligations pursuant to the Agreement and the Notes are absolute, irrevocable and unconditional and irrespective of any contingency (including, without limitation, rights of set-off or counterclaim).
- 3.4 Subject to the provisions of clause 14 and Schedule 6 of the Agreement and to the provisions of the Security Documents (once the same have been entered into), at any time after the Notes shall have become redeemable in accordance with the terms of this Agreement, the Noteholders or any of them may, without further notice, institute such proceedings as they or any of them may think fit to enforce payment of the monies due in respect of the Notes and the performance of the Company's other obligations contained in these Conditions or the Agreement.
- 3.5 Save as otherwise expressly provided in these Conditions or the Noteholders' and Shareholders' Agreement, the Company may not pre-pay the Notes or redeem the same prior to the Redemption Date.
- 3.6 If, at the Redemption Date, the Noteholder is not permitted to convert all of their Notes into Class B Common Shares due to the Ownership and Control Requirements, then, in the absolute discretion of the Noteholder, (i) any portion, as determined in the absolute discretion of the Noteholder, of any of the Notes, may be converted into Class B Common Shares to the extent permitted by the Ownership and Control Requirements and the remaining portion of such Notes shall be redeemed by the Company in accordance with Condition 3.2 of this Schedule 11, (ii) such Notes shall be redeemed by the Company in accordance with Condition 3.2 of this Schedule 11, or (iii) the Redemption Date for such Notes that cannot be converted shall be extended until such time as the Noteholder is permitted to convert such Notes.
- 3.7 At any time prior to the Redemption Date, the Noteholder may, in its absolute discretion, extend the Redemption Date to such other day not later than October 26, 2028.
- 3.8 Any repayment of the Notes shall occur prior to any conversion or repayment of the Original Notes.
- 3.9 For greater certainty, the proceeds of the consummation of the Flair Transaction shall be used first to redeem in full all of the Bridge Notes, the Second Bridge Notes and the Notes, and to repay in full any and all interest relating to the Bridge NPA, the Second NPA and this Agreement.

4. Interest

- 4.1 Subject to Condition 19 of this Schedule 11, interest on the principal amount outstanding in respect of the Notes shall accrue at the Interest Rate on the basis of the actual number of days elapsed and a year of 365 days or 366 days, as applicable, and shall be payable in-kind, in arrears, on each applicable Interest Payment Date. On each Interest Payment Date, the applicable interest shall be paid by issuing additional Notes under this Agreement on the same terms and conditions as the Notes to which the interest payment relates in a principal amount equal to the interest payable (the "**PIK Notes**"). For greater

certainty, any such PIK Notes shall be dated as of the applicable Interest Payment Date and shall bear interest from and after such date.

5. Title

5.1 The Company shall:

- (A) recognise the registered holder of any Notes as the absolute owner thereof; and
- (B) not be bound (unless ordered to do so by a court of competent jurisdiction) to take notice of, or see to the execution of, any trust whether express, implied or constructive to which any Notes may be subject.

5.2 The receipt by the registered holder of any Notes or, if two or more Persons are registered as joint holders of any Notes or are entitled jointly to any Notes in consequence of the death or bankruptcy of the Noteholder, the receipt by any of them, of the principal, any interest or other monies payable on or in respect of such Notes or payment of a cheque sent in accordance with the Conditions or any instructions contained in the relative Notice of Repayment shall be a valid receipt and a good discharge to the Company notwithstanding any notice (whether express or implied) which any of them may have of any right, title, interest or claim of any other Person to or in respect of such Notes, interest or monies.

5.3 No notice of any trust, express, implied or constructive, shall (except as aforesaid) be entered in the Register in respect of any Notes.

5.4 Every Noteholder will be recognised by the Company as entitled to its Notes free from any equity set-off or cross-claim on the part of the Company against the original or any intermediate holder of the Notes.

5.5 As applicable, in the case of the death of a Noteholder (if applicable), the survivors or survivor, where the deceased was a joint holder, and the executors or administrators of the deceased, where they were a sole or only surviving holder, shall be the only Persons recognised by the Company as having any title to the interest in the Notes.

6. Transfer of Notes

All transfers of Notes shall be regulated in accordance with this Agreement and clause 5 of the Noteholders' and Shareholders' Agreement.

7. Transfer of Notes Pursuant to a Takeover Offer

There shall be no restriction on any transfer of Notes made pursuant to and in accordance with clause 9 of the Noteholders' and Shareholders' Agreement in connection with (and pursuant to and in accordance with the terms of) a Takeover Offer provided that such Takeover Offer constitutes a "Qualifying Takeover Offer", as such term is defined in the Noteholders' and Shareholders' Agreement.

8. Permitted Transfers of Notes

8.1 Notwithstanding the provisions of Condition 6 of this Schedule 11, a Noteholder may at any time transfer any of the Notes held by it:

- (A) to any Affiliate of such Noteholder;
- (B) to its limited partners, in the case of a limited partnership;
- (C) to any Person in connection with the sale of all or substantially all of the assets of the Noteholder;
- (D) to any Person or Persons in connection with the dissolution or Winding-up of the Noteholder, or the liquidation of its assets;
- (E) to a financial institution which carries on the business of providing equity financing as part of a sale of a portfolio of equity interests; or
- (F) to any Person if it is required by law to do so.

8.2 Any Person to whom Notes have been validly transferred pursuant to Condition 8.1 of this Schedule 11 may, at any time, transfer all or any Notes back to the original transferor or to any other Person to whom the original transferor, if it still held such Notes, would have been able to transfer them pursuant to Condition 8.1 of this Schedule 11.

8.3 In the event that any Person to whom Notes are transferred pursuant to Condition 8.1 of this Schedule 11 ceases to be within the required relationship to the original holder of such Notes, the holder of such Notes shall without delay notify the Company that such change of relationship has occurred and within ten (10) Business Days of such change of relationship transfer such Notes back to the member who originally held them or to such other Person if any (designated by such original member) to whom such original member, if it still held such Notes, would have been able to transfer pursuant to Condition 8.1 of this Schedule 11.

8.4 In the event that any Noteholder which is a corporation holding Notes transferred to it pursuant to Condition 8.1 of this Schedule 11 passes a resolution to commence a liquidation or winding up or has a winding up petition presented which is not discharged or contested in good faith within sixty (60) Business Days or has a receiver or administrator appointed to it (or any analogous proceedings in any jurisdiction), the holder of such Notes shall without delay notify the Company of such event and within ten (10) Business Days of such event shall transfer such Notes back to the member who originally held such Notes or to such other Person if any (designated by such member) to whom such original Noteholder, if it still held such Notes, could transfer such Notes pursuant to Condition 8.1 of this Schedule 11.

9. Transfers of Notes: Mechanics and Other Provisions

9.1 The Notes shall be transferable by instrument in writing in any usual or common form (or in any other form acceptable to the Board) and need not be executed as a deed.

- 9.2 Every instrument of transfer must be signed by or on behalf of the transferor but need not be signed by or on behalf of the transferee. The transferor shall remain the holder of the Notes concerned until the name of the transferee is entered in the Register in respect thereof.
- 9.3 Every instrument of transfer must be delivered for registration to the registered office of the Company or to such other place as the Company may appoint from time to time (or which it may notify to a Noteholder for the purposes of any specific transfer) accompanied by the certificate for the Notes to be transferred and, if the transferor is not the registered holder of such Notes, such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer and, if the instrument of transfer is executed by some other Person on behalf of the transferor, the authority of that Person so to do.
- 9.4 All instruments of transfer which are registered may be retained by the Company for so long as it thinks fit together with the cancelled certificates for the Notes.
- 9.5 No fee shall be charged by the Company in respect of the registration of any transfer in point of time of the whole or part of any Notes issued by the Company to any Noteholder or any probate or letters of administration or certificate of marriage or death, or power of attorney or other document relating to or affecting the title to any Notes at any time.

10. General Conversion Rights

- 10.1 Notwithstanding any other provision of these Conditions, no Notes shall be converted into Class B Common Shares (or any other shares in the Company) to the extent that such conversion would result in any breach of Section 3 of the Corporate Articles.
- 10.2 Subject to Condition 10.1 of this Schedule 11, a holder of the Notes (a “**Converting Noteholder**”) may, at any time, require the Company to convert all (or some only) of its Notes (or any portion of any Note, as determined by the Noteholder in its absolute discretion) into fully paid and non-assessable Class B Common Shares. All accrued and unpaid interest thereon shall be satisfied by a payment in cash by the Company to Indigo.
- 10.3 In order to exercise the conversion rights pursuant to Condition 10.2 of this Schedule 11, a holder of Notes shall serve a notice (substantially in the form set out in Schedule 10) (a “**Note Conversion Notice**”) on the Company and the Noteholder not less than 10 Business Days (nor more than 60 Business Days) prior to the date on which the Company is required to convert the Notes, or portion thereof, specified in the Note Conversion Notice (the “**Proposed Conversion Date**”).
- 10.4 A Note Conversion Notice shall specify:
- (A) the Proposed Conversion Date; and
 - (B) the percentage of the Notes, or portion of any Note, then held by the Converting Noteholder required to be converted pursuant to this Condition 10.
- 10.5 Subject to Condition 10.1 above, on the proposed Conversion Date, the Company shall simultaneously convert all of the Notes, or portion thereof, specified in the Note Conversion Notice.

11. Conversion Rights in Relation to a Takeover Offer

- 11.1 If, at any time prior to the conversion or redemption of the Notes and payment of all accrued and unpaid interest thereon (in full in accordance with the terms of these Conditions and the Agreement), a Qualifying Takeover Offer is made:
- (A) the Company shall notify the Noteholder of such Qualifying Takeover Offer in accordance with the relevant provisions of the Noteholders' and Shareholders' Agreement; and
 - (B) the provisions of this Condition 11 shall apply (subject always to Condition 10.1 of this Schedule 11).
- 11.2 A Noteholder may, at its option (exercisable in its absolute discretion) at any time after receiving a notification pursuant to Condition 11.1 of this Schedule 11 require the conversion of all (or some only) of its Notes (or any portion of any Note, as determined by the Noteholder in its absolute discretion) into fully paid and non-assessable Class B Common Shares in the capital of the Company in accordance with (but subject to any restrictions contained in) this Condition 11. All accrued and unpaid interest thereon shall be satisfied by a payment in cash by the Company to Indigo.
- 11.3 In order to effect a conversion of the Notes pursuant to Conditions 11.1 and 11.2 of this Schedule 11, the Noteholder shall serve a notice on the Company (substantially in the form set out in Schedule 10) (a "**Takeover Conversion Notice**").
- 11.4 A Takeover Conversion Notice:
- (A) must be served by the Noteholder not less than 5 Business Days prior to the proposed completion date for first acquisition of Common Shares pursuant to the Qualifying Takeover Offer (as notified to the Noteholder by the Company in accordance with the provisions of the Noteholders' and Shareholders' Agreement);
 - (B) shall be irrevocable save that the Noteholder may specify that such Takeover Conversion Notice is conditional upon a transfer of shares that together constitute a Controlling Interest occurring pursuant to and in the terms of such Qualifying Takeover Offer; and
 - (C) shall specify the principal amount of Notes or, if applicable, portion of any Note that the Company is required to convert and that the Company is required to convert such Notes, or portion thereof, (and all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to this Condition 11.
- 11.5 The Company shall:
- (A) procure that each Noteholder is given the opportunity to convert its Notes or any portion thereof (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to this Condition 11 prior to the occurrence of any transfer of Common Shares pursuant to a Qualifying Takeover Offer; and

- (B) procure that in the event of any Qualifying Takeover Offer being accepted in accordance with the relevant provisions of the Noteholders and Shareholders' Agreement:
 - (i) the Conversion Shares resulting from any conversion of Notes or any portion thereof pursuant to this Condition 11 are sold or transferred pursuant to such Qualifying Takeover Offer (at the same price and, save as set out below, on the same terms as the Common Shares held by the Shareholders);
 - (ii) the Noteholder shall not be required to give any representations or warranties pursuant to such Qualifying Takeover Offer (save with respect to title, absence of encumbrances on any shares to be sold or transferred and capacity); and
 - (iii) the Company shall refuse to register any transfer of shares pursuant to such Qualifying Takeover Offer) unless the Company has fully adhered to its obligations under Condition 11.5(B) of this Schedule 11.

11.6 Upon completion of any transfer of Common Shares pursuant to (and on the terms of) a Qualifying Takeover Offer:

- (A) any Notes or portion of any Notes not converted pursuant to the foregoing provisions of this Condition 11, shall cease to be capable of conversion into Class B Common Shares (or any other class of shares in the capital of the Company or securities of the Company); and
- (B) the Company shall be entitled to pre-pay the Notes or any portion thereof (together with all accrued and unpaid interest calculated in accordance with Condition 4.1 of this Schedule 11 thereon which shall be satisfied by a payment in cash by the Company to Indigo) at any time after the completion of any transfer of Common Shares pursuant to a Qualifying Takeover Offer on not less than 5 Business Days written notice to the relevant Noteholder(s).

12. Conversion Rights in Relation to an IPO

- 12.1 If, at any time prior to the conversion or redemption of the Notes (and all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) (in full in accordance with the terms of these Conditions and the Agreement), the Board passes any resolution to facilitate an IPO or that may result in an IPO occurring, the provisions of this Condition 12 shall apply.
- 12.2 The Company shall give each Noteholder not less than 20 Business Days' notice of any proposed IPO.
- 12.3 Each holder of the Notes (in respect of the maximum amount of Notes capable of being converted under the Ownership and Control Requirements) may, at its option (exercisable in its absolute discretion) require the conversion of all (or some only) of its Notes, (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash

by the Company to Indigo), into fully paid and non-assessable Class B Common Shares in the capital of the Company in accordance with this Condition 12:

- (A) at any time during the period from the notification pursuant to Condition 12.2 of this Schedule 11 up to the 3:00pm (Mountain time) on the Business Day prior to the occurrence of the IPO (such that the relevant Conversion Shares issued to each such Noteholder are listed pursuant to such IPO); or
- (B) at any time after the occurrence of such IPO, by notice served in accordance with Condition 12.5 of this Schedule 11.

12.4 In order to effect a conversion of Notes (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to Condition 12.3 of this Schedule 11, a Noteholder shall serve a notice on the Company (substantially in the form set out in Schedule 10) (an “**IPO Conversion Notice**”).

12.5 An IPO Conversion Notice:

- (A) must be served by the Noteholder:
 - (i) not less than 5 Business Days prior to the proposed date for the IPO (as notified to the Noteholder pursuant to Condition 12.2 of this Schedule 11), if the Noteholder requires the Note(s) to be converted on or immediately prior to the completion of the IPO; or
 - (ii) not less than 10 Business Days prior to the date on which the Noteholder requires the Note(s) to be converted, if the Noteholder requires the Note(s) to be converted after the occurrence of the IPO;
- (B) shall be irrevocable (unless the Noteholder serves such IPO Conversion Notice at least 5 Business Day prior to the proposed completion date of the IPO, as notified to the Noteholder by the Company in the notice required to be served by it pursuant to Condition 12.2 of this Schedule 11, in which case, the Noteholder may specify that such IPO Conversion Notice is conditional upon the IPO occurring);
- (C) shall specify:
 - (i) the principal amount of Notes that such Noteholder requires to be converted;
 - (ii) that the Noteholder requires the Company to convert the Notes (and all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to Condition 12.3 of this Schedule 11; and
 - (iii) the date on or by which such conversion is to be effected (provided that the Noteholder shall comply with the provisions of Condition 12.5(A) of this Schedule 11).

12.6 The Company shall:

- (A) procure that the Noteholder is given a reasonable opportunity to convert its Notes (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to this Condition 12 prior to the occurrence of an IPO;
- (B) procure that in the event of an IPO occurring:
 - (i) the Conversion Shares issued to the Noteholder upon a conversion of Notes pursuant to this Condition 12 are listed pursuant to the IPO; and
 - (ii) the Noteholder shall not be required to give any representations or warranties in connection with such IPO or agree to any lock-up period or other orderly marketing arrangements in relation to such IPO.

- 12.7 The Company shall not permit any of its shares to be listed pursuant to an IPO unless it has fully adhered to its obligations under this Condition 12 prior to the occurrence of such IPO.
- 12.8 To the extent the Noteholders is unable to convert their Notes pursuant to this Condition 12 as a result of the Ownership and Control Requirements, the Board and the Lenders shall each use best efforts to create a path to liquidity for the Noteholder.
- 12.9 Nothing in these Conditions shall oblige the Noteholder to convert its Notes.

13. Calculation of Conversion Shares

- 13.1 Upon any conversion of Notes or portion thereof, the number of Class B Common Shares required to be issued by the Company to the relevant Noteholder (the “**Conversion Shares**”) shall be calculated using the following equation:

$$A = \frac{B}{C}$$

where:

- A is the number of Conversion Shares;
- B is the principal amount of the Notes or portion of any Note required to be converted (including any accrued and unpaid interest thereon);
- C is the Relevant Conversion Price (subject to adjustment in accordance with Condition 15 of this Schedule 11).

14. Mechanics of Conversion

- 14.1 Each conversion of Notes or portion thereof into Class B Common Shares that is required or permitted to be made pursuant to this Agreement shall be effected by the Company repaying the principal amount of the relevant Notes or portion thereof in full on the Conversion Date and immediately applying such repayment monies to subscribe for the Conversion Shares, or by any such other method as the Board may determine in

accordance with all applicable laws and the Corporate Articles. All accrued and unpaid interest thereon shall be satisfied by a payment in cash to Indigo.

- 14.2 All Conversion Shares shall be credited as fully paid at the time the same are issued to the relevant Noteholder.
- 14.3 A Conversion Notice must be accompanied by the certificate(s) relating to the Notes to be converted.
- 14.4 Conversion Shares arising pursuant to a conversion of Notes or portion thereof shall carry the right to participate in full in all dividends and other distributions accruing on such shares from the Conversion Date. In all other respects, Conversion Shares arising on conversion shall rank *pari passu* and form one class with the shares of that class then in issue.
- 14.5 A conversion of Notes or portion thereof into Class B Common Shares that is required or permitted to be made pursuant to this Agreement shall not constitute a breach of any prohibition on prepayment of the Notes or any accrued and unpaid interest thereon under any of the Transaction Documents.
- 14.6 No fractional shares shall be issued upon any conversion of Notes or portion thereof and the number of Class B Common Shares issuable upon such conversion shall be rounded to the nearest whole number of shares.
- 14.7 The Company shall, as soon as practicable and legally permissible, issue to the relevant Noteholder, or to its nominee(s), a certificate or certificates for the number of Conversion Shares to which it shall be entitled under the Agreement and the Company shall deliver the same to the relevant Noteholder by post at its address for service of notices determined in accordance with Condition 25.1 of this Schedule 11 (or to such other address as may be specified in the relevant Conversion Notice).
- 14.8 Each conversion of Notes or portion thereof into Class B Common Shares that is required or permitted to be made pursuant to this Agreement shall be deemed to have been made immediately prior to the close of business on the date of issuance of the share certificate(s) for the relevant Conversion Shares and the Person or Persons entitled to receive the Conversion Shares shall be treated for all purposes as the record holders of such shares on such date.

15. Adjustments to the Relevant Conversion Price (share splits, consolidations etc.)

- 15.1 If, at any time after the date of this Agreement, the Class B Common Shares shall be subdivided into a greater number of shares or consolidated into a lesser number of shares or an issue of Class B Common Shares by way of capitalisation of profits or reserves including any share premium account or capital redemption reserve shall be made or the Company effects any purchase of its own shares or any other variation in its issued share capital or any distribution of assets in specie occurs (each, a “**Capital Event**”), each Relevant Conversion Price shall be adjusted by multiplying the Relevant Conversion Price in force immediately before such Capital Event (as the same may previously have been adjusted pursuant to this Condition 15 or otherwise) by the following fraction:

$$\frac{A}{B}$$

where:

- A is the number of Class B Common Shares in issue immediately before such subdivision, consolidation or capitalisation issue; and
- B is the number of Class B Common Shares in issue immediately after such subdivision, consolidation or capitalisation issue.

- 15.2 The provisions of Condition 15.1 of this Schedule 11 are intended to provide for each Relevant Conversion Price to be adjusted in such a manner as shall place each Noteholder in the same position (as regards the percentage of the equity share capital of the Company which the Noteholder shall be entitled to subscribe pursuant to the conversion on Notes or portion thereof and the aggregate cost of such conversion to the Noteholder) as it would have been in had the relevant Capital Event not taken place.
- 15.3 In the case of any dispute as to the manner of any adjustment pursuant to this Condition 15.3, the auditors of the Company (acting as experts and not arbitrators) shall determine the same at the request of the Company or the Noteholder and at their joint expense.
- 15.4 The Company shall not undertake or (so far as it is able) permit to occur any Capital Event which would have the effect of reducing the Relevant Conversion Price (as so adjusted) below the par value amount of a Conversion Share.

16. Company undertakings in respect of the conversion of the Notes

- 16.1 The Company warrants and undertakes that:
 - (A) it will maintain sufficient authorised but unissued share capital to enable conversion of Notes in full;
 - (B) it will procure that the Directors have at all times the requisite authority to allot and issue Conversion Shares in satisfaction of the conversion rights of the Noteholder; and
 - (C) it will procure the waiver of all pre-emption rights in favour of shareholders of the Company whether under the Corporate Articles, any statute or agreement relating to the shares of the Company or otherwise which might otherwise prevent or preclude or delay the full and effective allotment and issue of Conversion Shares; and
 - (D) it will procure (so far as it is able) that there is no variation of the rights attaching to shares in the capital of the Company.

17. Noteholder and Shareholder Subscription Rights

- 17.1 Subject to Section 3 of the Corporate Articles, if, at any time after the date of the Agreement, the Company shall make any offer or invitation to its members by way of rights

(by reference to a record date) to subscribe for shares in the Company, then each Noteholder shall have the right (exercisable by written notice to the Company) to subscribe for the proportionate number and class of shares in the Company on the same terms and conditions (including as to price) as such offer or invitation as if the Notes held by such Noteholder had been exercised, in the case of a rights issue immediately before such record date or, where the offer or invitation is to a third party immediately before the completion by the third party of the subscription pursuant to such offer or invitation.

18. Events of Default and Accelerated Repayment

18.1 Each of the events or circumstances set out in Schedule 12 to the Agreement is an Event of Default.

18.2 Subject to the provisions of paragraph 5 of Schedule 6 of the Agreement (and for any corresponding provisions contained in the Security Documents, once the same have been executed), on and at any time after the occurrence of an Event of Default the Noteholder may, by notice to the Company:

(A) declare that all or some of the Notes:

(i) (together with accrued interest, and all other amounts accrued or outstanding under the Transaction Documents) be immediately due and payable, whereupon they shall become immediately due and payable; and/or

(ii) be payable on demand, whereupon they shall immediately become payable on demand by the Noteholder; and/or

(B) exercise any or all of its rights, remedies, powers or discretions under the Transaction Documents.

19. Default Interest

From the occurrence of an Event of Default, the principal amount due under this Note (together with all accrued and unpaid interest as at the date of the Event of Default) shall bear interest at the Default Rate, compounded quarterly and computed on a 365-day or 366-day year basis on the number of days actually elapsed from the date of the occurrence of such Event of Default until either the cure of such Event of Default by the Company or repayment of the principal amount due under this Note together with accrued interest.

20. No Rights as Shareholder

This Note does not entitle the Noteholder hereof to any voting rights or other rights as a shareholder of the Company prior to the conversion hereof.

21. Surrender of Certificates

21.1 If any Noteholder any of whose Notes are liable to be repaid under these Conditions or the Agreement shall fail or refuse to deliver up the certificate or certificates therefor at the time and place fixed for the repayment thereof or shall fail or refuse to accept payment of the redemption monies payable in respect thereof, the monies payable to such Noteholder

may be set aside by the Company and paid into a separate interest-bearing bank account and when so paid shall be held by the Company in trust for such Noteholder but without interest (except as hereinafter mentioned), and such setting aside and payment shall be deemed for all purposes of these Conditions to be a payment to such Noteholder and the Company shall thereby be discharged from all obligations in connection with such Notes.

- 21.2 If the Company shall place the monies set aside pursuant to the provisions of Condition 21.1 on deposit at a bank the Company shall not be responsible for the safe custody of such monies or for interest thereon except such interest (if any) as the said monies may earn whilst on deposit less any expenses reasonably incurred by the Company in connection therewith.
- 21.3 Any amount set aside pursuant to the provisions of this Condition 21 which remains unclaimed after a period of twelve years from the time when the same is set aside shall revert to the Company notwithstanding that in the intervening period the obligation to pay the same may have been provided for in the books, accounts and other records of the Company.

22. Damaged Certificates

If any certificate for Notes shall be damaged or defaced or alleged to have been lost, stolen or destroyed, a new certificate representing the same Notes may be issued to the holder upon request subject to delivery up of the old certificate or (if alleged to have been lost, stolen or destroyed) compliance with such conditions as to evidence and indemnity as the Directors may reasonably require. An entry as to the issue of the new certificate and indemnity (if any) shall be made in the Register.

23. Cancellation

All Notes prepaid, repaid or purchased by the Company shall be cancelled and shall not be available for reissue.

24. Payment

- 24.1 Subject to Condition 4.1 of this Schedule 11, payment of the principal, interest thereon and any other monies payable in respect of any Notes shall be paid by cheque made payable to and sent to the registered holder thereof at its registered address or, in the case of joint registered holders, made payable to and sent to that one of the joint registered holders who is first named on the Register in respect of such Notes at its registered address or made payable to such Person or Persons and sent to such address as the registered holder or all the joint registered holders may in writing direct.
- 24.2 Every such cheque may be sent through the post at the risk of the registered holder or joint registered holders and payment of any such cheque by the banker upon whom it is drawn shall be a satisfaction of the monies represented thereby.
- 24.3 All payments of principal and interest and other monies by the Company under these provisions will be made after any deduction or withholding Tax, duty or charge required to be made by law.

24.4 In the event of a failure by the Company to pay any amount when due in respect of the Notes (whether principal, interest or otherwise), the Company shall pay interest compounding annually on such unpaid amount at the Default Rate.

25. Notices

25.1 Any notice or document (including a certificate for Notes) may be served on or delivered to any Noteholder by the Company either personally or by sending it by first class post in a prepaid cover addressed to such Noteholder at its registered address or to the address, if any, supplied by the Noteholder to the Company as its address for the service of notices, or by delivering it to such address addressed as aforesaid, or by facsimile on a facsimile number supplied by the Noteholder to the Company. Any notice or document served on or delivered to that one of the joint holders of any Notes whose name stands first in the Register in respect of such Notes shall be sufficient notice to or service on all the joint holders in their capacity as such.

25.2 Notice may be given to the Persons entitled to any Notes in consequence of the death or bankruptcy of any Noteholder by sending the same by first class post in a pre-paid envelope addressed to them by name or by the title of the representatives or trustees of such holder at the address (if any) supplied for the purpose by such Persons or, until such address is supplied, by giving in the manner in which it would have been given if the death or bankruptcy had not occurred.

25.3 Where a notice or other document is served or sent by post, service or delivery shall be deemed to be effected at the expiration of 24 hours after the time when the cover containing the same is posted, and in proving such service or delivery it shall be sufficient to prove that such cover was properly addressed, stamped and posted.

25.4 Where a notice or other document is served by facsimile, delivery shall be deemed to be effected (subject to evidence of effective transmission) on the Business Day on which transmitted.

25.5 The Company shall be entitled to rely on any document purporting to be signed by or on behalf of a Noteholder and shall not be obliged to enquire into the authenticity of any such signature.

26. Transmission

(A) Any Person becoming entitled to Notes in consequence of the death or bankruptcy of a Noteholder may, upon supplying to the Company such evidence as the Directors may reasonably require to show its title to the Notes, elect to be registered itself as holder of such Notes or, subject to these Conditions, the provisions of the Agreement, to transfer such Notes without itself being registered as the holder of such Notes.

(B) The Company may, in its absolute discretion, withhold payment of any monies payable in respect of Notes until the Person entitled to be registered in respect thereof has been duly registered or, as the case may be, any transfer of such Notes has been registered.

27. Assignment

- 27.1 Subject to these Conditions and the provisions of the Agreement, neither this Note nor any of the rights, interests or obligations hereunder may be assigned, transferred, charged or otherwise dealt in, in whole or in part, by any Party without the prior written consent of the other Parties.
- 27.2 Any purported assignment, transfer, charge or dealing in contravention of this Condition 27 shall be void.
- 27.3 The rights and obligations of the Company and Noteholder shall be binding upon and benefit the successors, assigns, and permitted transferees of the Parties.
- 27.4 Any Noteholder may assign its rights hereunder to one or more of its Affiliates at any time (provided that any such assignment may only be made on the basis that immediately upon any assignee under this Condition 27.4 ceasing to be an Affiliate of the assignor Party, such assignee shall assign back all such rights to the original assignor Party).

28. Severability

If any provision of this Note shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

29. Rights of the Third Parties

No Person who is not a Noteholder shall have any right to enforce any term of this Note.

30. Governing Law and Jurisdiction

- 30.1 This Note is governed by, and to be construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.
- 30.2 Each Party hereto agrees (i) that any action or proceeding relating to this Agreement may (but need not) be brought in any court of competent jurisdiction in the Province of Ontario, and for that purpose now irrevocably and unconditionally attorns and submits to the jurisdiction of such Ontario court; (ii) that it irrevocably waives any right to, and shall not, oppose any such Ontario action or proceeding on any jurisdictional basis, including forum non conveniens; and (iii) not to oppose the enforcement against it in any other jurisdiction of any judgment or order duly obtained from an Ontario court as contemplated by this Condition 30.

Schedule 12 Events of Default

1. Non-payment

An Obligor does not pay on the due date any amount payable pursuant to a Transaction Document at the place at and in the currency in which it is expressed to be payable unless:

- (A) its failure to pay is caused by administrative or technical error; and
- (B) payment is made within 5 Business Days of its due date.

2. Covenants

Any material requirement, as determined by Indigo, in its sole discretion, of clause 12 of the Agreement is not satisfied.

3. Other Obligations

- 3.1 An Obligor fails to observe or perform any covenant or other agreement contained in the Transaction Documents, including, without limitation, any failure or delay in obtaining the Consent on the terms of Section 6.1 of the Agreement, or does not comply with any other provision of the Transaction Documents, in each case other than as specified in paragraph 1 above.

4. Misrepresentation

Any material representation or statement made or deemed to be made by an Obligor in the Transaction Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Transaction Document is or proves to have been incorrect or misleading when made or deemed to be made.

5. Cross default

- 5.1 No Event of Default will occur under this paragraph 5 if the action set out in paragraphs 5.3 to 5.5 are cured within any originally applicable grace period, if any, as set out in the document giving rise to such Financial Indebtedness.
- 5.2 Any Financial Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period.
- 5.3 Any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- 5.4 Any commitment for any Financial Indebtedness of any member of the Group is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described).

- 5.5 Any creditor of any member of the Group becomes entitled to declare any Financial Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).
- 5.6 No Event of Default will occur under this paragraph 5 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs 5.2 to 5.5 above is less than U.S.\$100,000 (or its equivalent in any other currency or currencies).

6. Insolvency

- 6.1 A member of the Group is unable or admits inability to generally pay its debts as they fall due, suspends or threatens to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.
- 6.2 A moratorium is declared in respect of any indebtedness of any member of the Group.

7. Insolvency Proceedings

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (A) the suspension of payments, a moratorium of any indebtedness, Winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any member of the Group (other than a solvent liquidation or reorganisation of any member of the Group which is not an Obligor);
- (B) a composition, compromise, assignment or arrangement with any creditor of any member of the Group;
- (C) the appointment of a liquidator (other than in respect of a solvent liquidation of a member of the Group which is not an Obligor), receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any member of the Group or any of its assets; or
- (D) enforcement of any Security over any assets of any member of the Group,

or any analogous procedure or step is taken in any jurisdiction.

8. Creditors' process

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of a member of the Group having an aggregate value in excess of U.S.\$100,000 (and the amount that is the subject of the related claim is U.S.\$100,000 or more) and the same is not discharged within 15 days.

9. Ownership of the Obligors

- 9.1 The Guarantor is not or ceases to be a direct or indirect wholly-owned Subsidiary of the Company.

10. Unlawfulness

It is or becomes unlawful for an Obligor to perform any of its obligations under the Transaction Documents or any Security created or expressed to be created or evidenced by the Security Documents ceases to be effective.

11. Invalidity

Any obligation or obligations of any Obligor under any Transaction Document are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Noteholder under the Transaction Documents.

12. Cessation of business

Any member of the Group suspends or ceases, or threatens or proposes in writing to suspend or cease, to carry on all or a substantial part of its business.

13. Compulsory acquisition

All or any material part of the property or assets of any member of the Group is seized, nationalised, expropriated or compulsorily acquired by, or by the order of, any central or local governmental authority in respect of which full market compensation is not paid.

14. Repudiation

An Obligor repudiates a Transaction Document or evidences an intention to repudiate a Transaction Document.

15. Material adverse change

Any event or circumstance occurs which is reasonably likely to have a Material Adverse Effect.

16. Miscellaneous

The Company applies any part of the New Note Funds for any purpose not specified in clause 7 of the Agreement.

17. Qualified Audit

The auditors of any Obligor materially qualify their audit.

18. Disputes

Any dispute, litigation, arbitration, expert determination, alternative dispute resolution, regulatory or administrative proceedings or investigations of, or before, any court, arbitral body or agency involving any Obligor or any other member of the Group is commenced which, if adversely determined, would be reasonably likely to have a Material Adverse Effect or which would involve a liability exceeding U.S.\$100,000 (or its equivalent).

19. Regulatory proceeding

Any regulatory proceeding into an Obligor or any other member of the Group is commenced (or any proceedings conducted by any regulatory body having jurisdiction over an Obligor or any other member of the Group are commenced in relation to a third party and that third party seeks to involve, or such proceedings in any way relate to, an Obligor or any other member of the Group), other than any regulatory proceeding by the Agency as a result of the Transaction Documents.

Schedule 13 Covenants

1. Authorisations

Each Obligor shall promptly:

- (A) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (B) if requested, supply certified copies to the Noteholder of,

any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under the Transaction Documents to which it is a party, to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of each such Transaction Document and to own its property and assets and to carry on its business, trade and ordinary activities.

2. Compliance with laws

2.1 Each Obligor shall comply in all respects with all laws to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under the Transaction Documents.

2.2 Each Obligor shall (and the Company shall ensure that each other member of the Group will) at all times comply with:

- (A) the terms of its articles of incorporation (or equivalent) and other constitutional documents from time to time; and
- (B) all laws and regulations applicable to it in respect of the conduct of its business breaches of which would have a significantly unfavourable effect on their activities, their assets and their financial situation.

3. Negative pledge

3.1 Subject to paragraph 3.3 below, no Obligor shall (and the Company shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets except with the prior written consent of Indigo.

3.2 Subject to paragraph 3.3 below, no Obligor shall (and the Company shall ensure that no other member of the Group will):

- (A) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by an Obligor or any other member of the Group save for any assignment of insurances or requisition compensation relating to any aircraft;
- (B) sell, transfer or otherwise dispose of any of its receivables on recourse terms;

(C) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or

(D) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

3.3 Paragraphs 3.1 and 3.2 above do not apply to:

(A) the Security provided pursuant to the Security Documents;

(B) any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;

(C) any lien arising by operation of law and in the ordinary course of business including, without limitation, permitted liens under any aircraft operating lease agreements to which any of the Obligor is a party and any guarantee and assignment of insurances granted by any of the Obligor in connection with such aircraft operating lease agreement (and not as a result of any default or omission by any member of the Group);

(D) any Security over or affecting any asset acquired by a member of the Group after the date of this Agreement if:

(i) the Security was not created in contemplation of the acquisition of that asset by a member of the Group;

(ii) the principal amount secured has not been increased in contemplation of, or since the acquisition of, that asset by a member of the Group; and

(iii) the Security is removed or discharged within 2 months of the date of acquisition of such asset;

(E) any Security over or affecting any asset of any company which becomes a member of the Group after the date of this Agreement, where the Security is created prior to the date on which that company becomes a member of the Group, if:

(i) the Security was not created in contemplation of the acquisition of that company; and

(ii) the principal amount secured has not increased in contemplation of or since the acquisition of that company;

(F) any Security entered into pursuant to any Transaction Document;

(G) any Security arising out of title retention provisions (and not as a result of any default or omission by any member of the Group) in a supplier's standard conditions of supply of goods where the goods in question are supplied on credit

and are acquired by the relevant member of the Group in the ordinary course of trading;

- (H) any Security, as directed by the Board, so long as such Security (i) is not outside of the Ordinary Course of Business, and (ii) such action does not have a Material Adverse Effect; or
- (I) the Security provided pursuant to the Original NPA, the Original Notes, the Bridge NPA, the Bridge Notes, the Second Bridge NPA and the Second Bridge Notes.

4. Change of Business

4.1 The Company shall:

- (A) procure that no substantial change is made to the general nature of its business from that carried on at the date of this Agreement;
- (B) maintain, carry on and develop its business in the ordinary and usual course; and
- (C) not take any material act outside its ordinary and normal course of business, and the Company shall procure that each of its Subsidiaries complies with the covenants set forth in paragraphs 4.1(A), 4.1(B) and 4.1(C) in respect of their respective businesses.

5. Trading on arm's length terms

No Obligor shall (and the Company shall ensure that no other member of the Group will) enter into any transaction other than on commercial arm's length terms.

6. Notification of approaches

The Company shall (and the Company shall procure that each other member of the Group will) notify the Noteholder as soon as reasonably practicable following receipt of any approach or offer (unless such offer is made by a member of the Noteholder's group) which could lead to a sale of Company (whether by sale of securities by Company and/or its shareholders or a sale of assets by the Company or any other sale) or an IPO but in any event at least 10 Business Days prior to the execution of a definitive agreement for the same.

7. Distributions and reductions in share capital

For so long as Indigo together with its Permitted Transferees continues to hold not less than 15% of the Fully Diluted Share Capital, no Obligor shall (and the Company shall ensure that no other member of the Group will):

- (A) declare, make or pay any distribution or dividend to its members; or
- (B) repurchase or redeem any of its issued share capital or otherwise reduce its share capital,

except to the extent that (i) such Obligor's Unrestricted Cash Balance, after giving effect to the action set out in (A) or (B) above, is not less than 33^{1/3}% of the Obligor's trailing 12 months revenue or expenses, whichever is greater, and (ii) any action under this paragraph 7 cannot occur more than once per financial year.

8. No incurring of additional Financial Indebtedness

8.1 Subject to paragraph 8.2 below, no Obligor shall (and the Company shall ensure that no other member of the Group will) incur any Financial Indebtedness.

8.2 Paragraph 8.1 above does not apply to any Financial Indebtedness that is incurred:

- (A) under the Transaction Documents or as specifically contemplated or specifically permitted by the Transaction Documents;
- (B) if Indigo (together with its Permitted Transferees) at such time holds at least 15% of the Fully Diluted Share Capital, with the prior written approval of Indigo;
- (C) at the direction of the Board in respect of Financial Indebtedness for amounts not greater than U.S.\$1,000,000, in the aggregate, in any 12 month period;
- (D) Financial Indebtedness relating to expenditures in the Ordinary Course of Business;
- (E) Financial Indebtedness for which an intercreditor agreement is required by such new lender to be entered into between such new lender and Indigo, on terms satisfactory to Indigo;
- (F) Financial Indebtedness which does not have a Material Adverse Effect, as determined by Indigo, acting reasonably; or
- (G) under the Original NPA, the Original Notes, the Bridge NPA, the Bridge Notes, the Second Bridge NPA and the Second Bridge Notes.

9. Compliance with the CTA

Each Obligor shall (and the Company shall procure that each other member of the Group will) ensure that the ownership and control of each member of the Group complies at all times with the Ownership and Control Requirements.

10. No Restricted Payments

10.1 For so long as Indigo (together with its Permitted Transferees) continues to hold not less than 15% of the Fully Diluted Share Capital, without the prior written consent of Indigo,

- (A) subject to paragraph 10.2 below, no Obligor shall (and the Company shall ensure that no other member of the Group will) make any payment to:
 - (i) any shareholder of any Obligor (a "**Relevant Shareholder**");
 - (ii) any family member or relative of any Relevant Shareholder;

- (iii) any trust in which any Relevant Shareholder (or any family member or relative of any Relevant Shareholder) has an interest (whether contingent discretionary or otherwise) or any trustee of such a trust;
 - (iv) any company which is Controlled by any of the Persons or entities falling within paragraph 10.1(A)(i) to (iii) above, or by any two or more of them; or
 - (v) any body corporate, partnership or undertaking in which any of the Persons or entities falling within paragraphs 10.1(A)(i) to (iv) above own (legally or beneficially) more than 30% of the issued and outstanding share capital; and
- (B) notwithstanding any other provision of this Agreement (other than paragraph 10.3 below), no Obligor shall make any payment to any Person:
- (i) unless such payment is of a type which is not outside the Ordinary Course of Business; or
 - (ii) if the effect of such payment (if made) would be to cause:
 - i. the aggregate amount of any type or class of payments made by the Obligors during such period to be outside the Ordinary Course of Business; or
 - ii. the aggregate amount of all payments made by the Obligors during such period to be outside the Ordinary Course of Business;

10.2 Subject to paragraph 10.1(B) above, paragraph 10.1 (A) shall not apply to:

- (A) salary payments by the Obligors to their employees (provided, in each case, that the same are consistent with the relevant employees salary payments over the six (6) months immediately prior to the date of this Agreement);
- (B) any intra-Group payments by the Obligors;
- (C) payments by the Obligors to providers of office space provided that such payments: (i) are not outside the Ordinary Course of Business; and (ii) do not exceed \$2,000,000 in total per annum; and
- (D) any dividend or distribution in respect of any share capital, to the extent permitted or required under the terms of the Transaction Documents.

11. Claims to rank *pari passu*

Each of the Obligors shall procure that Noteholders' claims under this Agreement and the other Transaction Documents rank and will rank at least *pari passu* with all its other unsecured obligations (except for obligations mandatorily preferred by law applying to companies generally).

12. Financing Disclosure

On the fifteenth day of each calendar month prior to the Redemption Date (or, if such day is not a Business Day, the next Business Day thereafter), the Company shall provide the Noteholders with a cash flow forecast of the Company for the next ninety (90) calendar days.

13. Payment of taxes

Each Obligor shall (and the Company shall procure that each other member of the Group will) promptly pay all Taxes due and payable by it to any competent authority or body.

14. Insurance

14.1 Each Obligor shall (and the Company shall procure that each other member of the Group will) insure and keep insured with reputable insurers their respective insurable assets and undertakings to the extent, in the amounts and against the risks which a prudent licensed and operating airline would insure (including, without limitation, all those insurances which are required for a licensed and operating airline) and which are approved by the Board.

14.2 Each Obligor shall (the Company shall procure that no other member of the Group will) maintain directors and officers insurance to the fullest extent permitted by law and in an amount which a prudent licensed and operating airline would insure (including, without limitation, all those insurances which are required for a licensed and operating airline) and which are approved by the Board.

14.3 No Obligor shall (and the Company shall procure that no other member of the Group will), do anything or, as far as practicable suffer anything to be done, whereby any of the insurance policies effected in accordance with paragraph 14.1 shall become void or voidable or an increased premium thereon shall become payable.

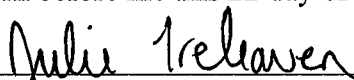
14.4 The Company will:

- (A) supply to the Noteholders on request copies of each policy of insurance required to be maintained in accordance with paragraph 14.1 above (the “policies”), together with the current premium receipts relating to the policies;
- (B) promptly notify the Noteholders of any material change to the insurance cover of any member of the Group; and
- (C) promptly notify the Noteholders of any claim under any policy which is for, or is reasonably likely to result in a claim under that policy for, an amount in excess of U.S.\$10,000 (or its equivalent) and keep the Noteholders advised of the progress of any such claim.

15. Confidential Information

Each Obligor shall (and the Company shall procure that each other member of the Group will), take commercially reasonable steps within their respective powers together with such steps which are required or approved by the Lenders to protect information which is confidential to them (or any other member or the Group) or the Noteholders.

This is **Exhibit "15"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

Execution Version

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Dated: February 2, 2024

LYNX AIR HOLDINGS CORPORATION

and

1263343 ALBERTA INC., DOING BUSINESS AS LYNX AIR

and

INDIGO NORTHERN VENTURES LP

FOURTH BRIDGE NOTE PURCHASE AGREEMENT

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THIS FOURTH BRIDGE NOTE PURCHASE AGREEMENT is executed as of February 2, 2024 and made

BETWEEN

- (1) **LYNX AIR HOLDINGS CORPORATION** (the “**Company**”), a company registered under the laws of Alberta whose registered office is at 1400, 350 7th Avenue S.W., Calgary, Alberta T2P 3N9;
- (2) **1263343 ALBERTA INC.**, doing business as Lynx Air (the “**Guarantor**” and also referred to herein as the “**Subsidiary**”), a company registered under the laws of Alberta whose registered office is at 1400, 350 7th Avenue S.W., Calgary, Alberta T2P 3N9; and
- (3) **INDIGO NORTHERN VENTURES LP** (“**Indigo**”), an exempted limited partnership registered under the laws of the Cayman Islands whose registered office is at c/o Maples Corporate Services Limited, PO Box 309, Uglund House, Grand Cayman, KY1-1104, Cayman Islands.

BACKGROUND:

- (A) Indigo has agreed to purchase a Note in a principal amount equal to the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000 in accordance with the provisions of this Agreement.
- (B) It is in the intention of the Company, the Guarantor and Indigo that the New Note Funds be used by the Company in accordance with Article 7 hereof, in order to provide the Company with operating capital while the Company pursues the consummation of the transaction referred to in clause (b) of the definition of “Redemption Date”, which transaction the Parties agree and acknowledge is in the best interest of each of them.
- (B) The Parties have agreed to enter into this Agreement to govern the terms on which the Notes are to be issued by the Company and held by the Noteholders.

THE PARTIES AGREE AS FOLLOWS:

In consideration of the premises and the covenants and agreements herein set forth, the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement:

“**Adherence Agreement**” means a joinder to this Agreement substantially in the form set out in Schedule 7;

“**Affiliate**” means, in relation to any Person, a Subsidiary of that Person or any direct or indirect Holding Company of that Person or any other direct or indirect Subsidiary of any such Holding Company;

“**Agency**” means the Canadian Transportation Agency, or any successor agency thereto;

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“Agreement” means this Fourth Bridge Note Purchase Agreement dated as of February 2, 2024;

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Company or its Subsidiaries from time to time concerning or relating to bribery or corruption, including, without limitation, the *Corruption of Foreign Public Officials Acts* (Canada) and the U.S. Foreign Corrupt Practices Act;

“Authorisation” means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;

“Authorised Expenses” means the legal fees of Blake, Cassels & Graydon, LLP, incurred in connection with: (a) the negotiation and documentation of the term sheet relating to this Agreement; and (b) the negotiation and documentation of the Transaction Documents and all ancillary documents connected thereto;

“BIA” means the *Bankruptcy and Insolvency Act* (Canada), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation;

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

“Boeing Order” means the Purchase Agreement No. ABQ-PA-04427 between The Boeing Company and the Guarantor dated as of October 18, 2015, as amended and supplemented from time to time, including, without limitation, by way of all exhibits, schedules, letter agreements, proprietary letter agreements and supplemental agreements with The Boeing Company, and (a) all rights of the Company in connection with such agreement; (b) all other rights of the Company to receive money due and to become due to in connection with such agreement; (c) all rights of the Company to damages arising out of, or for breach or default in respect of, such agreement; (d) all rights of the Company to perform and exercise all remedies in connection with such agreement; (e) all other rights, entitlements, privileges, benefits, powers, licences and advantages of the Company to be derived from such agreement; and (f) all proceeds thereof;

“Bridge Notes” shall have the meaning ascribed to “Notes” in the Bridge NPA;

“Bridge NPA” means the bridge note purchase agreement dated as of February 24, 2023 among, the Company, the Guarantor and Indigo, as amended from time to time;

“Business Day” means any day (other than Saturday or Sunday) which is not a public holiday and on which banks are open for normal banking business in Toronto, Ontario, Calgary, Alberta and New York, New York;

“Canadian” shall have the meaning ascribed to such term in the CTA, as supplemented by the Exemption;

“Canadian Benefit Plan” means any plan, fund, program, or policy, whether oral or written, formal or informal, funded or unfunded, insured or uninsured, providing employee benefits, including medical, hospital care, dental, sickness, accident, disability, life

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insurance, pension, retirement or savings benefits, under which the Company or its Subsidiaries has any liability with respect to any employee or former employee, but excluding any Canadian Pension Plan;

“Canadian Pension Plan” means each pension plan required to be registered under Canadian federal or provincial law that is maintained or contributed to by the Company or its Subsidiaries for its employees or former employees, but does not include the Canada Pension Plan as maintained by the Government of Canada;

“Capital Event” shall have the meaning ascribed to such term in Condition 15.1 of Schedule 11;

“Cash Equivalents” means any of the following:

- (a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the Government of Canada or of any Canadian province (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the Government of Canada or of such Canadian province), in each case maturing within one year from the date of acquisition thereof;
- (b) investments in certificates of deposit, bankers' acceptances and time deposits maturing within 180 days from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of Canada or of any Canadian province which has a combined capital surplus and undivided profits of not less than \$500,000,000 and a senior unsecured rating of “A-” or better by S&P and “A3” or better by Moody's;
- (c) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the Government of the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the Government of the United States of America), in each case maturing within one year from the date of acquisition thereof;
- (d) marketable and freely tradeable securities evidencing direct obligations of corporations, hospitals, municipal boards or school boards having, at the date of acquisition, a rating from DBRS of A, from Moody's of A 2 or from S&P of A, in each case maturing within 180 days from the date of acquisition thereof; or
- (e) deposits in bank accounts made in the ordinary course of business and otherwise permitted hereunder;

“CCAA” means the *Companies' Creditors Arrangement Act* (Canada), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation;

“Class A Common Shares” shall have the meaning ascribed to such term in the Noteholders' and Shareholders' Agreement;

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“Class B Common Shares” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“Common Shares” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“Company Bank Account” means the bank account of the Company, the details of which are as follows:

Account:	Lynx Air Holdings Corporation
Bank:	ATB Financial Calgary Stephen Ave Branch 102 8 Ave SW Calgary AB T2P 1B3
Bank Code:	0219
Transit /Branch	07609
Account:	00390932879
Swift Code:	ATBRCA6EXXX

“Completion” means performance of the obligations set forth in clause 4 provided always that Completion shall under no circumstances occur unless the Indigo Note Amount (less the Pre-Completion Expenses) shall have been received in the Company Bank Account for value in immediately available funds;

“Completion Date” means the date on which Completion occurs;

“Conditions” means the conditions and other provisions of the Notes set out in Schedule 11;

“Confidential Information” means any information, whether acquired before or after the date of this Agreement, that relates to:

- (a) this Agreement;
- (b) any member of the Group or their respective businesses;
- (c) any of the Group’s customers, businesses, assets, contracts, employees or affairs; and
- (d) any Party or any of their Affiliates, in each case, in respect of their identity, their being a party to this Agreement and their holdings of Notes and/or Common Shares and making an investment in the Group or any other information relating

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to any of the foregoing that has been obtained pursuant to the negotiation of this Agreement or any of the documents referred to herein,

save for, in each case:

- (i) information that is independently developed by the relevant Person from information that was neither: (A) provided pursuant to this Agreement; (B) provided by any member of the Group or any Party; nor (C) provided by a third party to the extent that it was provided with any limitation on disclosure or obligation of confidence; or
- (ii) information which is at the date of disclosure within the public domain (otherwise than as a result of a breach of this Agreement);

“Consent” means a written consent, in form and substance satisfactory to the Noteholder, from The Boeing Company addressed to the Noteholder in respect of a security interest granted by the Guarantor in favour of the Noteholder in the Boeing Order and the assignment of the Boeing Order to the Noteholder in the event that the Noteholder exercises any or all of its rights, remedies, powers or discretions under the Transaction Documents;

“Control” shall have the meaning ascribed to such term in the definition of “Affiliation” in the CTA. **“Controlling”** and **“Controlled”** have meanings correlative thereto;

“Controlling Interest” means a direct or indirect beneficial interest in more than 50% of the Fully Diluted Share Capital, or the ability of any Person, either alone or in conjunction with Persons acting in concert with such Person to control a direct or indirect beneficial interest in more than 50% of the Fully Diluted Share Capital, as the context requires;

“Conversion Date” means, in respect of any conversion of Notes, the date on which the Company is required to issue the Conversion Shares to the relevant Noteholder pursuant to the conversion of such Notes;

“Conversion Shares” means, in respect of any Notes, the Class B Common Shares that would result from the conversion of such Notes in accordance with their terms and the relevant provisions of this Agreement and as calculated in accordance with the provisions of Condition 13.1 of Schedule 11;

“Converting Noteholder” shall have the meaning ascribed to such term in Condition 10.2 of Schedule 11;

“Corporate Articles” means the articles of incorporation of the Company in the Agreed Form;

“Covenants” shall have the meaning ascribed to such term in clause 12.110.2;

“CTA” means the *Canada Transportation Act*, as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation;

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“**DBRS**” means Dominion Bond Rating Service Limited, or its successor;

“**Default**” means an Event of Default or any event or circumstance specified in Schedule 12 which would (with the expiry of a grace period, the giving of notice, the making of any determination by the Noteholder that it is entitled to make under any of the Transaction Documents or any combination of the foregoing) be an Event of Default;

“**Default Rate**” means, at any time, the applicable Interest Rate plus 1%;

“**Director**” means a member of the Board;

“**Dollar**”, “**Canadian Dollar**”, “**\$**” and “**CAD**” means the lawful currency of Canada for the time being, unless an explicit reference is made to U.S. or other currency;

“**Equivalent Amount**” means, with respect to any specified amount of currency other than Canadian Dollars, the amount of Canadian Dollars that may be purchased with such amount of other currency at the spot wholesale transactions buying rate of The Royal Bank of Canada for the purchase of Canadian Dollars with such other currency in effect as of 11:00 a.m. on the Business Day with respect to which such computation is required for the purpose of this Agreement or, in the absence of such a buying rate on such date, using such other rate as the Lender may reasonably select;

“**Event of Default**” means any event or circumstance specified in Schedule 12;

“**Exemption**” means the exemption order issued by the Minister of Transport to the Guarantor on December 2, 2016 relating to the CTA;

“**Financial Indebtedness**” means, without double counting, any indebtedness for or in respect of:

- (a) moneys borrowed or raised (including overdrafts);
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, shares or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a finance or capital lease;
- (e) receivables sold, discounted or factored (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised by the issue of redeemable shares if the shares are redeemable automatically or at the relevant shareholder’s option before the Redemption Date;
- (g) any amount of any liability under an advance or deferred purchase agreement if:
 - (i) one of the primary reasons behind entering into the agreement is to raise

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financing; or (ii) the agreement is in respect of the supply of material assets or services and payment is due more than 60 days after the date of supply;

- (h) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account);
- (i) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution;
- (j) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing; and
- (k) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (j) above;

“Flair Term Sheet” means the term sheet dated as of January 11, 2024 between Flair Airlines Ltd. and the Company;

“Flair Transaction” means the transaction as substantially contemplated by the Flair Term Sheet;

“Fully Diluted Share Capital” means, at any time, the aggregate number of Common Shares that would be issued assuming the conversion (in full) of all Notes (whether or not, on their terms, the same are actually convertible into Common Shares at such time);

“GAAP” means in relation to any Person, the generally accepted accounting principles in Canada, as in effect from time to time with respect to such Person, including International Financial Reporting Standards and the Canadian accounting standards for private enterprises as set out in Part II of the Chartered Professional Accountants of Canada Handbook, as issued by the Accounting Standard Boards in Canada, other than known deviations as previously disclosed to the Noteholder relating to the treatment of leases as a consequence of International Financial Reporting Standards Rule 16;

“Group” means the Company and its Subsidiaries from time to time;

“Holding Company” means, in relation to a corporation, any other corporation in respect of which it is a Subsidiary;

“Indigo Note Amount” shall have the meaning set out in clause 2.1;

“Interest Rate” means 20% per annum;

“Initial Note” means the convertible promissory note (substantially in the form set out in Schedule 9) to be issued by the Company to Indigo pursuant to and in accordance with clause 2.1;

“Interest Payment Date” shall have the meaning ascribed to such term in the Notes.

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“IPO” means an initial public offering, whether on a treasury or secondary basis, resulting in the holding of equity of the Company, directly or indirectly, by the public, or a transaction giving rise to a stock market listing on any Recognised Securities Exchange or over-the-counter quotation of equity of the Company, directly or indirectly, and includes an amalgamation, securities exchange take-over bid or other transaction having a similar result, and an offering of units of an income trust or similar offering where the trust, directly or indirectly, owns equity of the Company **“IPO Conversion Notice”** shall have the meaning ascribed to such term in Condition 12.4 of Schedule 11;

“Lenders” means Indigo (and any Person to whom Indigo has transferred any Notes in accordance with the terms of this Agreement);

“Material Adverse Effect” means, in the reasonable opinion of Indigo, a material adverse effect on:

- (a) the ability of any member of the Group to pay any amount of principal or interest or other amount (if payable in cash) in respect of the Notes or to perform any of its material obligations under this Agreement; or
- (b) the business, operations, property, condition (financial or otherwise) or prospects of the Group taken as a whole;

“Moody’s” means Moody’s Investors Service, Inc.;

“New Note Funds” means the money received by the Company pursuant to the sale of Notes in accordance with clause 2;

“Non-Canadian” means any Person that does not qualify as Canadian;

“Non-Indigo Party” means any Party other than Indigo (and any Person to whom Indigo has transferred any Notes in accordance with the terms of this Agreement);

“Note Conversion Notice” shall have the meaning ascribed to such term in Condition 10.3 of Schedule 11;

“Noteholder” means any holder for the time being of Notes;

“Noteholder Resolution” shall have the meaning ascribed to such term in paragraph 2.1 of Schedule 8;

“Noteholders’ and Shareholders’ Agreement” means the noteholders’ and shareholders’ agreement originally dated as of December 20, 2018 by and between the Company, the Subsidiaries, Indigo, the Noteholders and the Shareholders (in each case, as defined therein), as amended from time to time;

“Notes” means, collectively, the Initial Note and the PIK Notes;

“Obligor” means the Company or the Guarantor, and the term **“Obligors”** means the Company and the Guarantor;

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“**Obligor Warranties**” means, collectively, the statements set out in Schedule 5;

“**Ordinary Course of Business**” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“**Original Notes**” shall have the meaning ascribed to “Notes” in the Original NPA;

“**Original NPA**” means the note purchase agreement dated as of December 20, 2018 among, the Company, the Guarantor and Indigo, as amended from time to time;

“**Outstanding Expenses**” shall have the meaning ascribed to such term in clause 10.5(B);

“**Ownership and Control Requirements**” means the rules or regulations governing the ownership and control of Canadian airlines constituted pursuant to the federal laws of Canada including (without limitation) the CTA, as supplemented by the Exemption;

“**Party**” means a party to this Agreement;

“**Permitted Transferee**” means, in respect of a Lender:

- (a) any Subsidiary or Holding Company of such Lender;
- (b) any company, fund (including any unit trust or investment trust), partnership or other entity which is Controlled by any entity falling within (a) above (or by any two or more such entities);
- (c) any company, fund (including any unit trust or investment trust), partnership or other entity the major part of the assets of which are managed (whether solely or jointly with others) from time to time by any entity falling within (a) and/or (b) above (or by any two or more such entities); or
- (d) any company, fund (including any unit trust or investment trust), partnership or other entity that is managed by or Controlled by the same Person or Persons who manage or Control the Lender at the date of this Agreement;

“**Person**” includes any natural person, corporation, company, limited liability company, trust, joint venture, association, incorporated organization, partnership, governmental authority or other entity;

“**PIK Notes**” shall have the meaning ascribed to such term in paragraph 4.1 of Schedule 11;

“**Pre-Completion Expenses**” shall have the meaning ascribed to such term in clause 10.3(B);

“**Proposed Conversion Date**” shall have the meaning ascribed to such term in Condition 10.2 of Schedule 11;

“**Qualifying Takeover Offer**” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

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“Recognised Securities Exchange” means the Toronto Stock Exchange or any other recognized securities exchange in Canada or the United States of America;

“Redemption Date” shall mean the earlier to occur of: (a) the consummation of the Flair Transaction and (b) the Long Stop Date (as defined in the Flair Term Sheet);

“Register” means the register of the Notes required to be maintained by the Company pursuant to clause 9;

“Relevant Conversion Price” means \$0.10, subject to adjustment on a pro-rata basis in the event that the Company effects any share split, consolidation, sub-division or other reorganization of any part of its share capital after the date of this Agreement, which such price shall be equal to the price of the Common Shares on the date of this Agreement;

“S&P” means Standard & Poor’s Ratings Services, a division of the McGraw-Hill Companies, Inc;

“Sanctions” means, at any time, economic or financial sanctions or trade embargoes imposed, administered or enforced by (a) the Office of Foreign Assets Control of the U.S. Department of Treasury; or (b) any other governmental authority that are applicable to any party at such time;

“Sanctioned Person” means, at any time, any Person with whom any party is prohibited or restricted from transacting or otherwise dealing under any Sanction, whether by reason of designation under such Sanction or otherwise;

“Second Bridge NPA” means the second bridge note purchase agreement dated as of October 26, 2023 among, the Company, the Guarantor and Indigo, as amended from time to time;

“Second Bridge Notes” shall have the meaning ascribed to “Notes” in the Second Bridge NPA;

“Security” means, (a) with respect to any asset, any mortgage, deed of trust, lien (statutory or otherwise), deemed trust, pledge, hypothec, hypothecation, encumbrance, charge, security interest, royalty interest, adverse claim, defect of title or right of set off in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, title retention agreement or consignment agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to any asset, (c) any purchase option, call or similar right of a third party with respect to such assets, (d) any netting arrangement, defeasance arrangement or reciprocal fee arrangement, and (e) any other arrangement having the effect of providing security;

“Security Documents” means the documents that constitute the Security required to be granted or put in place pursuant to clause 14 and Schedule 6;

“Shareholder” means a shareholder of the Company;

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“**Subsidiary**” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“**Takeover Conversion Notice**” shall have the meaning ascribed to such term in Condition 11.3 of Schedule 11;

“**Takeover Offer**” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“**Tax**” means all taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, harmonized sales, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, real property and personal property taxes, and any other taxes, customs duties, fees, assessments, or similar charges in the nature of a tax, including *Canada Pension Plan* and provincial pension plan contributions, employment insurance payments and workers’ compensation premiums, together with any instalments with respect thereto, and any interest, fines and penalties with respect thereto, imposed by any governmental authority (including federal, state, provincial, municipal and foreign governmental authorities), and whether disputed or not;

“**Third Bridge Notes**” shall have the meaning ascribed to “Notes” in the Third Bridge NPA;

“**Third Bridge NPA**” means the third bridge note purchase agreement dated as of January 12, 2024 among, the Company, the Guarantor and Indigo, as amended from time to time;

“**Transaction Documents**” means this Agreement, the Noteholders’ and Shareholders’ Agreement, the Security Documents, and each other agreement or document entered into or executed pursuant to any of the foregoing;

“**Transferring Noteholder**” shall have the meaning ascribed to such term in Condition 6.1 of Schedule 11;

“**Unrestricted Cash Balance**” means, at any time, the aggregate amount of unrestricted cash and Cash Equivalents held by an Obligor at such time, in accounts maintained with a financial institution that has executed an account control agreement, blocked account agreement or other similar agreement (in each case, in form and substance satisfactory to Indigo, acting reasonably) in favour of Indigo;

“**Winding-Up**” means, in respect of any Person,

- (a) that such Person:
 - (i) admits in writing that it is insolvent or unable to pay its liabilities as they generally become due;
 - (ii) commits an act of bankruptcy under the BIA, files a voluntary assignment in bankruptcy under the BIA, makes a proposal (or files a notice of its intention to do so) under the BIA or seeks any other relief in respect of itself under the BIA;

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- (iii) institutes any proceedings seeking relief in respect of itself under the CCAA;
 - (iv) institutes any proceeding seeking relief in respect of itself under the WURA;
 - (v) in addition to the forgoing, institutes any other proceeding seeking: (a) to adjudicate itself an insolvent person or a bankrupt; (b) to liquidate, dissolve or wind-up its business or assets; (c) to compromise, arrange, adjust or declare a moratorium in respect of the payment of, its debts; (d) to stay the rights of creditors generally (or any class of creditors); (e) any other relief in respect of itself under any federal, provincial or foreign applicable Law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, receivership, restructuring of business, assets or debt, reorganization of business, assets or debt or protection of debtors from their creditors (such applicable Law includes any applicable corporations legislation to the extent the relief sought under such corporations legislation relates to or involves the compromise, settlement, adjustment or arrangement of debt); or (f) any other relief which provides for plans or schemes of reorganization, plans or schemes of arrangement or plans or schemes of compromise, in respect of itself, to be submitted or presented to creditors (or any class of creditors);
 - (vi) applies for the appointment of, or has a receiver (either court or privately appointed), interim receiver, receiver/manager (either court or privately appointed), sequestrator, conservator, custodian, administrator, trustee, liquidator or other similar official appointed in respect of it, or any substantial part of its property; or
 - (vii) threatens to do any of the foregoing, or takes any action, corporate or otherwise, to approve, effect, consent to or authorize any of the actions described in (i) to (vi) above; or
- (b) that any petition is filed, application made or other proceeding instituted against or in respect of any Person:
- (i) seeking to adjudicate it an insolvent person;
 - (ii) seeking a bankruptcy order against it under the BIA;
 - (iii) seeking to institute proceedings against it under the CCAA;
 - (iv) seeking to institute proceedings against it under the WURA;
 - (v) seeking, in addition to the forgoing: (a) to adjudicate it an insolvent person or a bankrupt; (b) to liquidate, dissolve or wind-up its business or assets; (c) to compromise, arrange, adjust or declare a moratorium in respect of the payment of, its debts; (d) to stay the rights of creditors generally (or any class of creditors); (e) any other relief in respect of it under any federal, provincial or foreign applicable Law now or hereafter in effect relating to

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bankruptcy, winding-up, insolvency, receivership, restructuring of business, assets or debt, reorganization of business, assets or debt, or protection of debtors from their creditors (such applicable Law includes any applicable corporations legislation to the extent the relief sought under such corporations legislation relates to or involves the compromise, settlement, adjustment or arrangement of debt); or (f) any other relief which provides plans or schemes of reorganization, plans or schemes of arrangement or plans or schemes of compromise in respect of it, to be submitted or presented to creditors (or any class of creditors); or

- (vi) seeking the issuance of an order for the appointment of a receiver, interim receiver, receiver/manager, sequestrator, conservator, custodian, administrator, trustee, liquidator or other similar official in respect of it or any substantial part of its property; and

“**WURA**” means the *Winding Up and Restructuring Act* (Canada), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

1.2 In this Agreement, unless a contrary indication appears:

- (a) references to “**clauses**” and “**Schedules**” are references to clauses of and schedules to this Agreement, references to “**paragraphs**” are references to paragraphs of the Schedule (or clause) in which the reference appears and references to this Agreement include the Schedules;
- (b) reference to any gender shall include every other gender;
- (c) the singular shall include the plural and vice versa;
- (d) the headings and sub-headings are inserted for convenience only and shall not affect the construction of this Agreement;
- (e) references to dollars means Canadian Dollars unless an explicit reference is made to U.S. or other currency;
- (f) references to “**indebtedness**” include any obligation (whether incurred as principal, as guarantor or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (g) references to a “**regulation**” include any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or reorganisation;
- (h) references to “**Indigo**”, any “**Noteholder**”, any “**Shareholder**”, any “**Lender**”, and/or any “**Party**” shall be construed so as to include its successors, permitted assigns and permitted transferees;

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- (i) references to any document being in “**Agreed Form**” are to that document in the form signed by or on behalf of each of the Lenders, the Company and the Guarantor for the purposes of identification;
- (j) references to “**assets**” include present and future properties, revenues and rights of every description;
- (k) references to any agreement or instrument is a reference to that agreement or instrument as amended, varied, supplemented or novated (however fundamentally) from time to time but excluding for these purposes any amendment, variations, supplement or novation which is contrary to the provisions of any such agreement or instrument;
- (l) references to “**guarantee**” mean any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assure any indebtedness of any Person or to make an investment in or loan to any Person or to purchase assets of any Person where, in each case, such obligation is assumed in order to maintain or assist the ability of such Person to meet its indebtedness (and “guaranteed” and “guarantor” shall be construed accordingly); and
- (m) references to a provision of law are references to that provision as amended or re-enacted and include any subordinate legislation.

2. SALE OF NOTES

- 2.1 Indigo hereby agrees to purchase the Initial Note at Completion for U.S.\$5,000,000 (the “**Indigo Note Amount**”) on the terms and subject to the conditions set out in this Agreement.
- 2.2 All Notes shall constitute “Notes” for the purpose of the Noteholders’ and Shareholders’ Agreement.
- 2.3 The Financial Indebtedness arising under this Agreement and the Notes, the Bridge NPA and the Bridge Notes, and the Second Bridge NPA and the Second Bridge Notes, and the Third Bridge NPA and the Third Bridge Notes rank in priority to all of the Company’s and the Guarantor’s other secured Financial Indebtedness, including, without limitation, under the Original NPA and the Original Notes.

3. INTEREST

The Notes shall each bear interest at the rate and in accordance with the provisions set forth in Condition 4 of Schedule 11.

4. COMPLETION

- 4.1 Subject to the terms of this Agreement, completion shall take place as soon as reasonably possible after the last of the conditions in clause 5 has been satisfied (or waived in

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accordance with clause 5.2) provided that this Agreement shall lapse and be of no further force and effect if Completion shall not have occurred by the earlier of:

- (A) February 2, 2024; and
 - (B) the Winding-Up of the Company or any Subsidiary of the Company,
- or such later date as Indigo may agree in writing.

4.2 Subject to clause 4.3, at Completion:

- (A) Indigo will transfer the Indigo Note Amount (less the Pre-Completion Expenses) to the Company Bank Account by direct credit transfer; and
- (B) the Company shall execute and deliver to Indigo the Initial Note required to be issued pursuant to clause 2.1 of this Agreement, each of which will be issued in Indigo's name and dated as of the Completion Date.

4.3 For all purposes under this Agreement, Completion shall not be deemed to have occurred unless and until all of the obligations set forth in this clause 4 shall have been performed in full in accordance with the provisions set forth herein and the Indigo Note Amount (less the Pre-Completion Expenses) shall have been received in the Company Bank Account for value in immediately available funds.

5. CONDITIONS PRECEDENT

5.1 Completion is conditional on:

- (A) the Company having delivered (or procured the delivery) to Indigo (or its solicitors on its behalf) the following documents:
 - (i) counterparts of any Adherence Agreement (as defined in the Noteholders' and Shareholders' Agreement) duly executed by each Noteholder not already a party thereto;
 - (ii) a counterpart to a guarantee given by the Guarantor in favour of the Lenders;
 - (iii) a counterpart to a general security agreement given by each of the Company and the Guarantor in favour of the lenders (the "GSA");
 - (iv) a detailed 90-day cash-flow forecast of the Company for the period ending March 31, 2024, and Indigo confirms receipt of such forecast;
 - (v) confirmation from a senior officer of the Company that the forecast referred to in clause 5.1(A)(iv) above remains true, complete and correct as of the Completion Date such that there are no material changes to the information set out therein;

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- (vi) a counterpart by every party thereto to the amendment no. 6 to the Noteholders' and Shareholders' Agreement, such amendment to be entered into to reflect the issuance of the Notes pursuant to this Agreement and all transactions contemplated hereby; and
 - (vii) such legal opinions and supporting materials as may be requested by Indigo;
 - (B) Indigo is satisfied with the condition of the Company, in its sole discretion;
 - (C) the GSA shall have been registered in all offices in which, in the opinion of Indigo or its counsel, registration is necessary or of advantage to perfect or render opposable to third parties the Security intended to be created thereby;
 - (D) [Intentionally Deleted];
 - (E) [Intentionally Deleted];
 - (F) confirmation by the Company, to the satisfaction of Indigo, that no event or circumstance exists or has occurred which constitutes a default under any agreement or instrument which is binding on it or the Group or to which its or any of the Group's assets are subject which has or might have a Material Adverse Effect, other than the Company failing to redeem the Original Notes on December 20, 2023 as required pursuant to the terms of the Original NPA, which the Company and Indigo hereby acknowledge constitutes a Default under the Original NPA, which Default is not waived by Indigo and in respect of which Default Indigo reserves all rights;
 - (G) [Intentionally Deleted];
 - (H) [Intentionally Deleted];
 - (I) confirmation by the Company, to the satisfaction of Indigo, that none of the Group's debt (including, without limitation, any debt payable to any Shareholder) which exists as of the date hereof, will be repaid, rescheduled or modified in any way (other than the payments of any accounts payable in the ordinary course of business or any interest and principal scheduled under existing terms) unless approved by Indigo in writing;
 - (J) [Intentionally Deleted]; and
 - (K) [Intentionally Deleted].
- 5.2 Indigo may agree to waive all or any part of the conditions in clause 5.1 or to modify such conditions.

6. POST-COMPLETION OBLIGATIONS

- 6.1 The Company shall promptly and, in any event, on such date as required pursuant to the Third Bridge NPA cause The Boeing Company to provide the Consent.

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7. PURPOSE

- 7.1 Subject to clause 7.3, the Company shall apply the New Note Funds towards:
- (A) making intra-group loans to, or equity investments in, the Subsidiary to enable such Subsidiary to discharge amounts referred to in clause 7.2; and
 - (B) general working capital purposes, but not towards the making of acquisitions of or investments in companies, businesses or undertakings other than as contemplated in clause 7.1(A) above.
- 7.2 For so long as any Notes remain outstanding, the Company shall procure that the New Note Funds are applied as follows:
- (A) first, general working capital purposes; and
 - (B) second, any other purpose approved by the Lenders in writing.
- 7.3 Notwithstanding any other provision contained in this Agreement, (A) the Guarantor will not engage, and will not use the New Note Funds to engage, to any material extent, in any material business other than business of providing a low fare, low cost airline, and (B) the Company will not, and will not use the New Note Funds to, (i) engage in any business (other than non-operating business and management services, in each case typically conducted by a holding company), (ii) own any assets (other than bank accounts and shares in the Guarantor), (iii) incur any indebtedness (other than that as approved by the Lenders), or (iv) incur any expenses other than customary and reasonable administrative expenses associated with maintaining its corporate existence.
- 7.4 The Lenders are not bound to monitor or verify the application of any amount borrowed pursuant to this Agreement and the Lenders will not be responsible for, or for the consequences of, any such borrowing.

8. CERTIFICATES

- 8.1 Every certificate for Notes shall be in the form or substantially in the form set out in Schedule 9 and shall have endorsed thereon or attached thereto:
- (A) a conversion notice in the form or substantially in the form set out in Schedule 10; and
 - (B) a copy of the Conditions.
- 8.2 Every Noteholder shall be entitled, without charge, to one certificate for the Notes held by it save that joint holders shall be entitled to one certificate only in respect of the Notes held by them jointly which certificate shall be delivered to the holder whose name stands first in the Register in respect of such joint holding. The Company shall not be bound to register more than four Persons as joint holders of any Notes.
- 8.3 Where some but not all of the Notes comprised in any certificate are transferred or repaid, the Company shall forthwith issue free of charge to the relevant Noteholder a fresh

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certificate in accordance with the other provisions of this Agreement for the balance of the Notes retained by such Noteholder.

8.4 The Company hereby undertakes and covenants that for such time as any of the Notes remain outstanding, the Company shall carry on and conduct its affairs so as to comply with:

- (A) the provisions contained in the certificates for the Notes;
- (B) the Conditions;
- (C) the provisions of this Agreement, including (without limitation) the provisions of:
 - (i) Schedule 6;
 - (ii) Schedule 12; and
 - (iii) Schedule 13,

and the Notes shall be held subject to and with the benefit of such provisions and Conditions all of which shall be deemed to be incorporated in this Agreement and which shall be binding upon the Company and the Noteholders and all Persons claiming through or under them respectively with the intent that the Notes shall enure for the benefit of each Noteholder who shall, for the avoidance of doubt, be entitled to sue for the performance and observance of such provisions and Conditions in respect of any Notes held by such Noteholder.

9. REGISTER

9.1 The Company shall keep an accurate register of the Notes at its registered office or at such other place as the Directors may determine from time to time and there shall be entered in the Register:

- (A) the names, addresses and nationality for the purposes of the Ownership and Control Requirements of the holders for the time being of the Notes;
- (B) the nominal amount of the Notes held by every registered holder;
- (C) the date upon which the name of every such registered holder is entered in respect of the Notes standing in its name;
- (D) the serial number of each Note; and
- (E) details of any account designated by any Noteholder for the purpose of receiving payments pursuant to the terms of the Notes.

9.2 Any change of name, address or nationality on the part of any Noteholder shall be notified as soon as is reasonably practicable to the Company and the Company shall amend the Register accordingly.

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9.3 Any Noteholder and any Person authorized by any Noteholder shall be at liberty at all reasonable times during office hours to inspect the Register and to take copies of or extracts from the Register or any part thereof and shall be entitled to obtain from the Company by telephone or by facsimile confirmation of its registered address and the aggregate nominal amount of the Notes in issue from time to time.

10. FEES AND EXPENSES

10.1 In consideration for Indigo agreeing to enter into this Agreement and for other valuable consideration, the Company will pay (for and on behalf of itself and the Subsidiaries) the following fees and expenses:

(A) [Intentionally Deleted]; and

(B) the Authorised Expenses, in accordance with clauses 10.2 to 10.7 below.

10.2 [Intentionally Deleted].

10.3 Prior to Completion, Indigo shall deliver to the Company a statement containing an itemised list of the Authorised Expenses as follows:

(A) those Authorised Expenses actually incurred by Indigo in respect of the period up to Completion (together with invoices or other supporting evidence of the same, which may include a letter from the relevant law firm setting out the amounts due to it by Indigo);

(B) a reasonable estimate (if necessary) of any Authorised Expenses that remain to be incurred by Indigo in respect of the period up to Completion;

(the Authorised Expenses referred to in clauses 10.3(A) and 10.3(B) being the “**Pre-Completion Expenses**”).

10.4 Indigo will deduct the Pre-Completion Expenses from the Indigo Note Amount prior to the transfer of the same to the Company pursuant to clause 2.1 above.

10.5 Within 15 Business Days after the execution of the last document required to be executed in connection with the Security, Indigo will submit a final statement to the Company setting out the following:

(A) the aggregate amount of the Lenders' Authorised Expenses incurred by the Lender; and

(B) the amount of Lenders' Authorised Expenses (if any) that remains due to such Lender (the “**Outstanding Expenses**”), being the amount referred to in clause 10.5(A).

10.6 If there are Outstanding Expenses, Indigo shall deliver copies of invoices in respect of the outstanding amount and the Company shall settle such invoices within 5 Business Days of receipt of the same.

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10.7 Any fees, costs and expenses required to be paid or reimbursed to Indigo or any other Affiliates of Indigo by the Company or a Subsidiary pursuant to any of the Transaction Documents shall be paid by the Company to the maximum extent permissible by law or otherwise by the Guarantor.

11. WARRANTIES

11.1 The Obligors jointly and severally warrant to each of the Lenders that each of the Obligor Warranties is true and correct on the date of this Agreement in respect of each of the Obligors.

11.2 The Obligors each acknowledge to the Lenders that:

(A) they have agreed to give the Obligor Warranties in respect of itself in consideration of the execution by Indigo of this Agreement and the performance of the obligations contained herein; and

(B) Indigo has entered into this Agreement, and the Lenders will perform their obligations in accordance with the provisions of this Agreement, in reliance, inter alia, on the Obligor Warranties.

11.3 The Obligors each hereby acknowledge and agree that each of the Obligor Warranties shall be separate and independent and save as expressly provided shall not be limited by reference to any other of the Obligor Warranties or anything in this Agreement.

12. COVENANTS

12.1 Each of the Company and the Subsidiary give the covenants set forth in Schedule 13 (the “**Covenants**”) to the Lenders and agree the same will remain in force from the date of this Agreement for so long as the Notes remain outstanding, provided that it shall not be a breach of any covenant under this Agreement arising from the Company or any Subsidiary complying with any other specific obligation under any of the Transaction Documents apart from the Covenants.

13. [INTENTIONALLY DELETED]

14. SECURITY

14.1 The Company and the Subsidiary undertake to provide and maintain the Security in favour of the Lenders in accordance with the provisions of Schedule 6.

15. TRANSFERS AND ADHERENCE AGREEMENT REQUIREMENTS

15.1 All transfers of Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) shall be regulated in accordance with Conditions 6 to 9 (inclusive).

15.2 Notwithstanding any other provision contained in this Agreement, no transfer of any Note shall be made by any Person unless the transferee shall have first executed an Adherence Agreement, pursuant to which the transferee agrees to adhere to and be bound by the

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provisions of this Agreement (including this clause) so far as it binds the transferor of the relevant Note(s).

- 15.3 Upon the execution of an Adherence Agreement pursuant to clause 15.2 above, the Parties (other than the transferor if the transferor retains no Notes after the relevant transfer) agree to adhere to and be bound by the provisions of this Agreement (including this clause) as if the transferee were an original party to the Agreement in place of the transferor.
- 15.4 This Agreement shall have effect accordingly, provided that no Adherence Agreement need be executed where the transferee is already a Party in the same capacity.
- 15.5 Any Party proposing to transfer any Notes in accordance with Conditions 6 to 9 of Schedule 11 (inclusive) or to direct its nominees to do so, shall procure that the transferee or the Person who will become the beneficial owner of the Notes to be transferred shall enter into an Adherence Agreement before the completion of the transfer.
- 15.6 The Company undertakes to procure, insofar as they are able to procure by the exercise of the voting rights of themselves and their nominees as shareholders of the Company and of their appointed Directors (subject to the fiduciary duties of such Directors) that:
- (A) no transfer of any Notes shall be registered unless any Adherence Agreement required by this clause 15.6 has been duly executed and delivered; and
 - (B) all necessary resolutions required to be passed to effect conversion of any Notes in accordance with the Corporate Articles are duly passed.
- 15.7 The obligations contained in this Agreement shall be binding upon the personal representatives and successors in title of the Parties but none of them shall be entitled to the benefit of this Agreement unless and until they have entered into an Adherence Agreement.

16. CONFIDENTIALITY

16.1 Obligations of Confidentiality

- (A) Each Party shall keep all Confidential Information strictly confidential and secret (and to ensure that each of its Affiliates, and its and their officers, employees, agents and professional and other advisers shall keep all Confidential Information strictly confidential and secret);
- (B) Without limitation to its general obligation of confidentiality:
 - (i) no Party shall disclose to any third party any Confidential Information;
 - (ii) no Party shall use or permit the use of any Confidential Information for any purpose other than assessing its investment in the Group and making decisions in relation to that investment;

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- (iii) each Party shall use its reasonable endeavours to alert the Company and the Lenders as soon as is reasonably practical after it becomes aware of any request from a third party for disclosure of any Confidential Information and upon the Company's reasonable request will join it in asserting against any third party that the Confidential Information and its contents are protected by privilege and that, as against such third party, that privilege has not been waived.

16.2 General Exceptions from Confidentiality Obligations

- (A) The obligations of confidentiality under clauses 16.1(A) and 16.1(B) do not apply to:
 - (i) the disclosure of information solely to the extent required to be disclosed by law, legal process, regulation or any regulatory authority provided always that prior to such disclosure, the Party proposing to disclose information pursuant to this clause 16.2(A)(i) shall immediately inform each of the Lenders and shall co-operate in good faith with the Lenders about the timing and content of such disclosure to the extent reasonably practicable;
 - (ii) the disclosure in confidence to professional advisers, or any Affiliate of a Party, as the case may be, or their respective professional advisers, in each case where the disclosure is for a purpose reasonably incidental to this Agreement or for the purpose of assessing such Person's investment in the Group or any member of it (and only to the extent the disclosed information is reasonably required for such purpose);
 - (iii) any bona fide potential purchaser of any Note or Common Shares from any Lender provided such purchaser shall have entered into a confidentiality undertaking in favour of the seller on substantially the same terms as clause 16.1;
 - (iv) any shareholder or investor (or potential shareholder or investor) in or of any of the Lenders;
 - (v) any present or future financier of any of the Lenders;
 - (vi) the disclosure of information to any tax authority to the extent reasonably required for the purposes of the tax affairs of the Person disclosing the information or any Affiliate of such Person, as the case may be;
 - (vii) the disclosure by any Director, officer, employee, representative or consultant to the Group in the proper performance of their duties or by any employee of the Group making a protected disclosure relating to employment in accordance with applicable law; and
 - (viii) the disclosure by any Lender of Confidential Information to any Affiliate of such Lender.

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- (B) Other than in respect of disclosure pursuant to clause 16.2(A)(iv), each Party shall inform (and shall ensure that any Affiliates shall inform) any Person to whom it provides Confidential Information pursuant to clause 16.2(A), that such information is confidential and, in the case of disclosure pursuant to clauses 16.2(A)(ii) shall only provide such Confidential Information to such Person if they agree:
 - (i) to keep it confidential on the terms of and otherwise to comply with, this clause; and
 - (ii) not to disclose it to any third party (other than those Persons to whom it has already been disclosed in accordance with the terms of this Agreement).
- (C) A Party may only disclose Confidential Information pursuant to clauses 16.2(A)(iv) and 16.2(A)(v) on the basis that the recipient of such Confidential Information shall have entered into a confidentiality agreement with the disclosing Party on substantially the same terms as clause 16.1.

16.3 Breaches of Confidentiality restrictions

Each Party shall procure that promptly upon becoming aware of any breach (by any Person) of this clause 16, such Party shall promptly notify each of the Lenders of such fact and shall provide such information relating to the breach as any Lender may reasonably request.

17. GENERAL

- 17.1 The provisions of this Agreement shall be enforceable by and enure for the benefit of the Parties and their respective successors and permitted assigns.
- 17.2 Any release, waiver or compromise or any other arrangement of any kind by any Party shall not affect the rights and remedies of the Party concerned as regards any other Party or its rights and remedies against the Party in whose favour the release, waiver, compromise or other arrangement is granted or made, except (in any event) to the express extent of the release, waiver, compromise or other arrangement, and no such release, waiver, compromise or other arrangement shall have effect unless granted or made in writing.
- 17.3 If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.
- 17.4 No failure to exercise, nor any delay in exercising, on the part of a Party, any right or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

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- 17.5 The Parties hereto confirm that it is their wish that this Agreement and any other document executed in connection with the transactions contemplated herein be drawn up in the English language only and that all other documents contemplated thereunder or relating thereto, including notices, may also be drawn up in the English language only. *Les Parties aux présentes confirment que c'est leur volonté que cette convention et les autres documents de crédit soient rédigés en langue anglaise seulement et que tous les documents, y compris tous avis, envisagés par cette convention et les autres documents peuvent être rédigés en langue anglaise seulement.*
- 17.6 All payments to be made by the Company under this Agreement shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.
- 17.7 Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- 17.8 During any extension of the due date for payment of any principal or unpaid sum under this Agreement interest is payable on the principal or unpaid sum at the rate payable on the original due date.
- 17.9 Any interest, conversion or fee or compounded return accruing under this Agreement will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days or 366 days, as applicable. For the purposes of the *Interest Act* (Canada) and disclosure thereunder, whenever any interest or any fee to be paid hereunder or in connection herewith is to be calculated on the basis of a 365-day or 366-day year, the yearly rate of interest to which the rate used in such calculation is equivalent is the rate so used multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 365 or 366, as applicable, computed on the basis of the actual number of days elapsed over a year of 365 days or 366 days, as the case may be. The rates of interest under this Agreement are nominal rates, and not effective rates or yields. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement.
- 17.10 No amendment to, or waiver of, any provision of this Agreement shall be effective unless it is in writing and signed by each of the Parties hereto.
- 17.11 The obligations of the Parties contained in this Agreement shall be several save that the obligations of the Obligors shall be joint and several among the Obligors.
- 17.12 If any provision of this Agreement would oblige the Company to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate which would be prohibited by applicable Law or would result in a receipt by that Lender of "interest" at a "criminal rate" (as such terms are construed under the *Criminal Code* (Canada)), then, notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law or so result in a receipt by that Lender of "interest" at a "criminal rate", such adjustment to be effected, to the extent necessary (but only to the extent necessary), by reducing any fees, commissions, costs,

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expenses, premiums and other amounts required to be paid to the affected Lender which would constitute interest for purposes of Section 347 of the *Criminal Code* (Canada).

18. REGULATORY PROVISIONS

- 18.1 The Company undertakes to procure, insofar as they are able to procure, that no Non-Canadian Person or entity shall acquire or exercise control over the Company, either alone or in combination with others if, and for so long, as such control would constitute a breach of the Ownership and Control Requirements.
- 18.2 If at any time it is determined by the Agency, a court or a competent regulatory authority that a non-Canadian Person or entity may exercise effective control over the Company, that Person or entity, to the extent that it is a Party, will take immediate steps to ensure that control is no longer effective (provided that this clause 18.2 shall not require any such Non-Canadian Party to convert any Notes or divest itself of any Common Shares, other than pursuant to and on the basis set forth in clause 3 of the Corporate Articles or the Notes). For purposes of this clause 18.2 and clause 18.3, “effective control” shall mean “controlled in fact” as defined in the CTA and interpreted, in practice, by the Agency.
- 18.3 The provisions of this Agreement take effect subject always to this clause 18.3. This Agreement shall not confer on Indigo any rights, and Indigo shall not do or omit to do anything, which would result in Indigo acquiring or exercising Control or effective control, or being deemed to acquire or exercise Control or effective control of the Company. References in this Agreement to “complying with”, “not breaching”, “acting in accordance with” and “for the purposes of” the Ownership and Control Requirements, or any wording similar to or deriving from such phrases, shall include an obligation on Indigo to ensure that Indigo is not required to file a submission under: (i) any regulations governing the ownership and control of Canadian airlines; or (ii) the *Competition Act* (Canada). To the extent that Notes have been issued and, subsequently, the Agency determines that there is a breach of the Ownership and Control Requirements as a result of such Notes and/or other arrangements between Indigo and any of the Group, the affected Noteholders shall be entitled to redeem their Notes as if it was the Redemption Date.

19. COUNTERPARTS

This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same agreement.

20. ENTIRE AGREEMENT

- 20.1 This Agreement, the Noteholders’ and Shareholders’ Agreement, the Corporate Articles, and the Security Documents constitute the entire agreement of the Parties with respect to the subject matter of this Agreement.

21. FURTHER ASSURANCES

The Parties shall (and shall procure that their respective nominees shall) do and execute and perform all further deeds, documents, assurances, acts and things that may reasonably be required to give effect to the terms of this Agreement and the Parties (other

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than the Company) shall at all times use and exercise the votes that they control (which shall be deemed to include all votes held by their respective nominees and board appointees) at both general meetings and/or Board meetings and/or any meetings of any committee of the Company to ensure, in so far as each is reasonably able to, the maintenance and observance of the terms of this Agreement and the Corporate Articles as may be amended from time to time with the agreement of the Lenders.

22. GOVERNING LAW AND JURISDICTION

- 22.1 This Agreement is governed by, and to be construed in accordance with the laws of Province of Ontario and the laws of Canada applicable in such Province.
- 22.2 Each Party hereto agrees (i) that any action or proceeding relating to this Agreement may (but need not) be brought in any court of competent jurisdiction in the Province of Ontario, and for that purpose now irrevocably and unconditionally attorns and submits to the jurisdiction of such Ontario court; (ii) that it irrevocably waives any right to, and shall not, oppose any such Ontario action or proceeding on any jurisdictional basis, including forum non conveniens; and (iii) not to oppose the enforcement against it in any other jurisdiction of any judgment or order duly obtained from an Ontario court as contemplated by this clause 22.2.

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[Signature blocks follow on the next page]

Execution Version

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IN WITNESS WHEREOF THE Parties hereto have executed this Agreement as of the date first set forth above.

LYNX AIR HOLDINGS CORPORATION

DocuSigned by:

By: _____
Name: Jim Sullivan
Title: Interim Chief Executive Officer

1263343 ALBERTA INC.

DocuSigned by:

By: _____
Name: Jim Sullivan
Title: Interim Chief Executive Officer

INDIGO NORTHERN VENTURES LP by its
general partner **INDIGO NORTHERN
VENTURES GP, LLC**

By: _____
Name: William A. Franke
Title: Managing Member

Execution Version

STRICTLY PRIVATE & CONFIDENTIAL

IN WITNESS WHEREOF THE Parties hereto have executed this Agreement as of the date first set forth above.

LYNX AIR HOLDINGS CORPORATION

By: _____
Name: Jim Sullivan
Title: Interim Chief Executive Officer

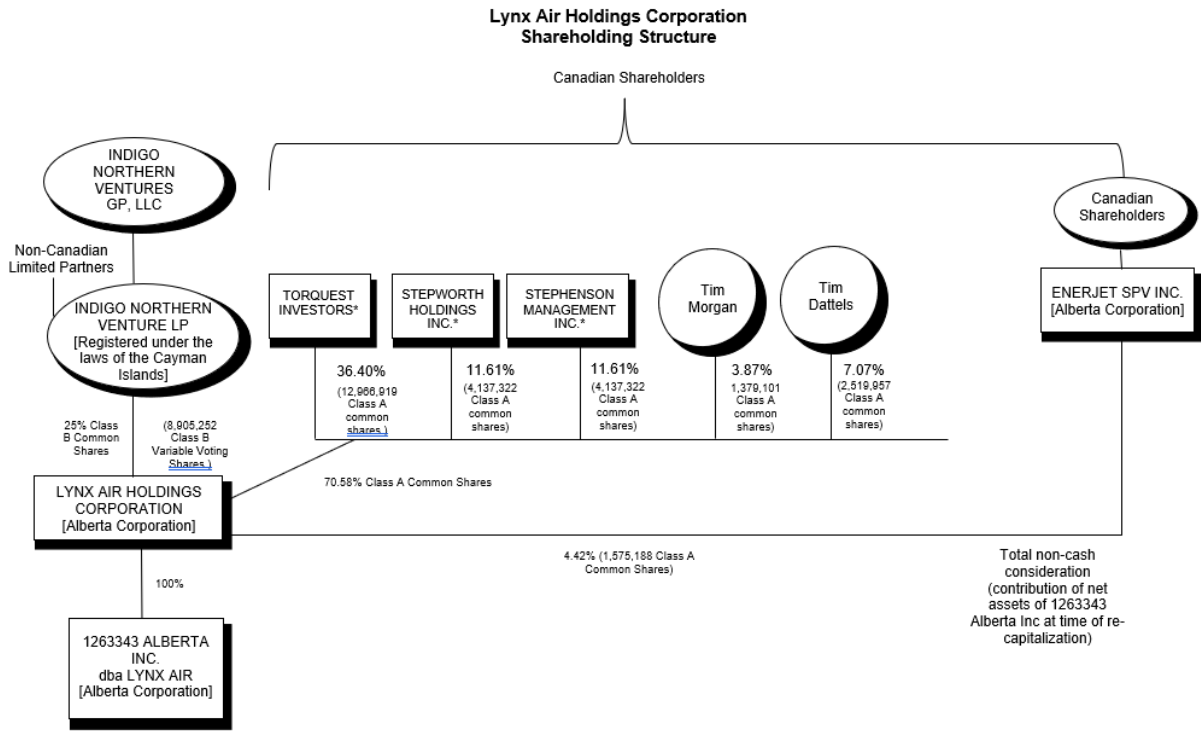
1263343 ALBERTA INC.

By: _____
Name: Jim Sullivan
Title: Interim Chief Executive Officer

INDIGO NORTHERN VENTURES LP by its
general partner **INDIGO NORTHERN
VENTURES GP, LLC**

DocuSigned by:
William A. Franke
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By: _____
Name: William A. Franke
Title: Managing Member

Schedule 1 Corporate Structure



Schedule 2 Intentionally Deleted

Schedule 3 INTENTIONALLY DELETED

Schedule 4 Post-Closing Holdings

Lynx Air

Capital Table

As at February 1, 2024

Convertible Debt

Indigo Convertible Shares	C\$	C\$/share	Shares	Comment	Redemption Date	Note
Initial Notes	71,242,031	\$1.00	71,242,031	Outstanding	12/20/2023	
Bridge Loan (Feb-2023)	7,110,000	\$0.25	28,440,000	Outstanding	See Note 1	
Bridge Loan (Mar-2023)	5,169,375	\$0.25	20,677,500	Outstanding	See Note 1	
Bridge Loan (Oct 2023)	10,000,000	\$0.10	100,000,000	Outstanding	See Note 1	
Bridge Loan (Jan 2024)	6,695,500	\$0.10	66,955,000	Outstanding	See Note 1	See Note 2
Bridge Loan (Feb 2024)	6,698,500	\$0.10	66,985,000	Outstanding	See Note 1	See Note 3
Total	106,915,406	\$0.30	354,299,531			

Capital Table

	Share Equivalents			Ownership	
	Common	Fully Diluted	Total	Common	Fully Diluted
Existing Shareholders					
Indigo Northern Ventures	8,905,252	354,299,531	363,204,783	25.000%	92.630%
Torquest Partners	12,966,919	-	12,966,919	36.402%	3.307%
Stephenson Management	4,137,322	-	4,137,322	11.615%	1.055%
Stepworth Holdings	4,137,322	-	4,137,322	11.615%	1.055%
Tim Dattels	2,519,957	-	2,519,957	7.074%	0.643%
Tim Morgan	1,379,101	-	1,379,101	3.872%	0.352%
Enerjet SPV	1,575,190	-	1,575,190	4.422%	0.402%
Option Holders (Strike @ \$1/sh)	-	2,183,829	2,183,829	0.000%	0.557%
Total	35,621,063	356,483,360	392,104,423	100.000%	100.000%

Options

Option Holders	Outstanding	Strike Price (C\$/sh)	In Money?	Option Treatment ⁽³⁾		Notes
				Dilution Impact (Treasury Method)	Cash Impact Company Funded	
Merren McArthur	801,473	\$1.00	FALSE	-	-	
Tim Morgan	427,452	\$1.00	FALSE	-	-	
Vijay Bathija	427,452	\$1.00	FALSE	-	-	
Michael Holditch	-	\$1.00	FALSE	-	-	Expired Dec 2023
Jim Sullivan	427,452	\$1.00	FALSE	-	-	
Greg Melchin	100,000	\$1.00	FALSE	-	-	
Total	2,183,829	\$1.00		-	-	

Illustrative Share Value (C\$/sh) \$0.40

- "Redemption Date" shall mean the earlier to occur of: (a) the consummation of the Flair Transaction and (b) the Long Stop Date (as defined in the Flair Term Sheet)
- "6,695,500" is the "the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000"
- "6,698,500" is the "the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000"
- Note option impact is illustrated in two ways: a) treasury method or cashless, where shares issued post exercise are purchased back at market rates for net dilution, and b) cash payment at the difference between market and strike price.

Schedule 5 Obligor Warranties

1. Status

- (A) It is a company, duly incorporated, validly existing and in good standing under
 - (i) the laws of the Province of Alberta in the case of the Company, and
 - (ii) the laws of the Province of Alberta in the case of the Guarantor.
- (B) It has the power to own its property and assets and carry on its business as it is being conducted.
- (C) It is in compliance with all applicable laws and regulations (including, without limitation, the laws of the provinces of Alberta and Ontario and the federal laws of Canada).

2. Binding Obligations

This Agreement has been duly authorized, executed and delivered by it and is a valid and binding obligation of it enforceable against it in accordance with its terms, subject only to bankruptcy, insolvency, liquidation, reorganization, moratorium and other similar laws generally affecting the enforcement of creditors' rights, and to the fact that equitable remedies (such as specific performance and injunction) are discretionary remedies.

3. Non-Conflict with Other Obligations

The entry into and performance by it of, and the transactions contemplated by, this Agreement, do not and will not conflict with:

- (A) any law or regulation applicable to it;
- (B) its constitutional documents; or
- (C) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (howsoever described) under any such agreement or instrument.

4. Power and Authority

- (A) It has the corporate power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Agreement and the transactions contemplated herein.
- (B) No limit on its corporate powers will be exceeded as a result of the borrowing or the issue of the Notes contemplated pursuant to the terms of this Agreement.

5. Authorisations

All Authorisations, consents, approvals, permits and license of, and registrations or filings with, any governmental agency or authority required:

- (A) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Agreement;
- (B) to ensure that the obligations expressed to be assumed by it in this Agreement are legal, valid, binding and enforceable;
- (C) to make this Agreement admissible in evidence in its jurisdiction of incorporation; and
- (D) for the conduct of its business, trade and ordinary activities in all material respects, have been obtained or effected and are in full force and effect.

6. Governing Law and Enforcement

- (A) The choice of Ontario law as the governing law of this Agreement will be recognised and enforced in its jurisdiction of incorporation.
- (B) Any judgment obtained in Ontario in relation to this Agreement will be recognised and enforced in its jurisdiction of incorporation.

7. No filing or Stamp Taxes

It is not necessary that this Agreement be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar Taxes or fees be paid on or in relation to this Agreement or the transactions contemplated herein.

8. Taxes

- 8.1 It has filed or caused to be filed when due all Tax returns and reports required to have been filed and has paid or caused to be paid when due all Taxes required to have been paid by it (including all instalments with respect to the current period) and has made adequate provision for Taxes for the current period, except Taxes that are being contested in good faith by appropriate proceedings and for which it has set aside on its books adequate reserves.

9. No Default

- (A) Aside from the Guarantor's practice of deferring payables to certain of its suppliers, lessors and service providers and as disclosed in writing to the Board of Directors of the Company and the Guarantor prior to the Completion Date, no Default has occurred and is continuing or reasonably might be expected to occur as a result of the execution or performance of this Agreement by the Parties.
- (B) No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination

event (howsoever described) under any other agreement or instrument which is binding on it or to which its assets are subject which might have a Material Adverse Effect, (i) other than the Company failing to redeem the Original Notes on December 20, 2023 as required pursuant to the terms of the Original NPA, which the Company and Indigo hereby acknowledge constitutes a Default under the Original NPA, which Default is not waived by Indigo and in respect of which Default Indigo reserves all rights, and (ii) save as otherwise specifically contemplated or specifically permitted by or specifically required to comply with this Agreement.

10. Pari Passu Ranking

Its payment obligations under this Agreement rank at least *pari passu* with (to the fullest extent permitted by law) with all other senior secured creditors of it.

11. No Proceedings Pending or Threatened

No dispute, litigation, arbitration, expert determination, alternative dispute resolution, regulatory or administrative proceedings or investigations of, or before, any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect or which involve a potential liability of any member of the Group exceeding U.S.\$20,000 have been started or (to the best of its knowledge and belief having made due and careful enquiry) threatened in writing (and not withdrawn) against it nor are there any circumstances reasonably likely to give rise to any such dispute, litigation, arbitration, expert determination, alternative dispute resolution, regulatory or administrative proceedings or investigations.

12. No Undisclosed Liabilities

Neither the Company nor any of its Subsidiaries have any Financial Indebtedness, other than arising (i) under this Agreement and the Notes; (ii) pursuant to aircraft or engine leases on commercial terms with third party lessors; (iii) under the Original NPA and the Original Notes; (iv) under the Bridge NPA and the Bridge Notes; (v) under the Second Bridge NPA and the Second Bridge Notes and (vi) under the Third Bridge NPA and the Third Bridge Notes.

13. Security

Save with regard to the Security in connection with the Original NPA, the Original Notes, the Bridge NPA, the Bridge Notes, the Second Bridge NPA, the Second Bridge Notes, the Third Bridge NPA, the Third Bridge Notes, this Agreement, the Notes, and pursuant to aircraft and engine leases on commercial terms with third party lessors, there does not exist any Security over any of its assets or properties.

14. Ownership of Assets

(A) It has title to its owned personal properties, and with respect to leased personal properties, title to the leasehold estate with respect thereto, pursuant to valid and enforceable leases, free and clear of all Security, other than as set out in paragraph 13 of this Schedule.

- (B) It has indefeasible fee simple title to its owned real properties, and with respect to leased real properties, indefeasible title to the leasehold estate with respect thereto, pursuant to valid and enforceable leases, free and clear of all Security, other than as set out in paragraph 13 of this Schedule.

15. Post-Completion Holdings

- (A) Schedule 4 lists all of the Common Shares and Notes that will be outstanding immediately after Completion.
- (B) The information contained in Schedule 4 is complete and accurate in all respects.

16. Financial Condition

- (A) It has furnished to the Noteholder its consolidated balance sheets and statements of income, retained earnings and changes in its financial position as of and for the month ended November 30, 2023. Such financial statements, present fairly, in all material respects, its consolidated financial position and results of operations and cash flows as of the applicable dates and for the applicable periods in accordance with GAAP.
- (B) Since December 31, 2022, other than events occurring in the ordinary course of business as disclosed to the Board of Directors of the Company and the Guarantor, there has been no event, development or circumstance that has had or could reasonably be expected to have a Material Adverse Effect.
- (C) All information (including that disclosed in all financial statements) pertaining to the Group (other than projections) that has been or will be made available to the Noteholder by the Company, taken as a whole, is or will be, when furnished, complete and correct in all material respects and does not or will not, when furnished, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements are made. The projections that have been or will be made available to the Noteholders by the Company have been or will be prepared in good faith based upon reasonable assumptions.

17. Pension Plan

It does not maintain or contribute to any Canadian Benefit Plan or Canadian Pension Plans.

18. Subsidiaries

As of the date hereof, the Company owns 100% of the common voting shares in the capital of Guarantor (being 985,661 common voting shares) and, Schedule 1 correctly sets forth:

- (A) the legal name of each member of the Group and its form of legal entity and jurisdiction of organization;

- (B) the equity securities issued and outstanding by each member of the Group, and the registered and beneficial owners thereof;
- (C) the equity securities owned by each member of the Group; and
- (D) a corporate organizational chart of the Group.

19. Insurance

It maintains insurance policies and coverage in compliance with Schedule 13. Such insurance coverage (a) is sufficient for compliance with all requirements of applicable law and of all agreements to which any member of the Group is a party, (b) is provided under valid, outstanding and enforceable policies, (c) provides adequate insurance coverage in at least such amounts and against at least such risks (but including in any event public liability) as are usually insured against in the same general area by Persons engaged in the same or a similar business to the assets and operations of the Group, and (d) will not in any way be affected by, or terminate or lapse by reason of, the entering into of, and the performance of the transactions contemplated by, this Agreement. All such material policies are in full force and effect, all premiums with respect thereto have been paid in accordance with their respective terms, and no notice of cancellation or termination has been received with respect to any such policy.

20. Solvency

No member of the Group is an “insolvent person” within the meaning of the BIA.

21. Tax

It is a resident of Canada for the purposes of the *Income Tax Act* (Canada).

22. Fiscal Year

The Company’s fiscal year ends on December 31 of each calendar year, and the fiscal quarters end on the last day of each of December, March, June and September of each calendar year. The Guarantor’s fiscal year ends on September 30 of each calendar year, and the fiscal quarters end on the last day of each of December, March, June and September of each calendar year.

23. Anti-Corruption Laws and Sanctions.

Each member of the Group has implemented and maintains in effect policies and procedures designed to ensure compliance by such member and its directors, officers, employees and relevant agents with Anti-Corruption Laws and Sanctions. Each member of the Group and its directors, officers, employees and relevant agents is in compliance with Anti-Corruption Laws and Sanctions. No member of the Group or any of its directors, officers or employees or relevant agents is a Sanctioned Person or is engaged in any activity that would reasonably be expected to result in such member being designated as a Sanctioned Person. No use of proceeds or other transaction contemplated by this Agreement will violate Anti-Corruption Laws or Sanctions.

24. Canadian Ownership

No breach of the Ownership and Control Requirements has occurred or is reasonably expected to occur as a result of the execution or performance of this Agreement by the Parties.

Schedule 6 Security

1. Definitions

1.1 In this Schedule 6:

“Enforcement Action” means, in relation to any Secured Indebtedness, any action whatsoever to: (a) demand payment, declare prematurely due and payable or otherwise seek to accelerate payment of or place on demand all or any part of the Secured Indebtedness; (b) recover all or any part of the Secured Indebtedness (including by exercising any right of set-off or combination of accounts); (c) exercise or enforce any security rights against sureties or any other rights under any other document or agreement against any Security Provider in relation to (or given in support of) all or any part of the Secured Indebtedness (including under any security document); (d) petition for (or take any other steps which may lead to) an insolvency event in relation to any Security Provider; or (e) commence legal proceedings against any Security Provider (but excluding, any action whatsoever in respect of any other document or agreement);

“Note Documents” means this Agreement, the Notes and any document entered into in connection herewith or therewith;

“Secured Indebtedness” means all money and liabilities now or in the future due, owing or incurred to the Noteholders by any member of the Group in respect of the Note Documents in any currency, whether actual or contingent, whether incurred solely or jointly with any other Person and whether as principal or surety, together with all accruing interest and all related costs, charges and expenses; and

“Security Provider” means any member of the Group or any other Person that grants any security or guarantee in respect of, or otherwise becomes liable for, any Secured Indebtedness (being initially each member of the Group as at the date of this Agreement).

2. Guarantees – General

2.1 Guarantees of the Secured Indebtedness are to be provided by each Security Provider in accordance with the agreed principles set out in this Schedule 6.

3. Security – General

3.1 Security for the Secured Indebtedness is to be provided by each Security Provider in accordance with the agreed security principles set out in this Schedule 6.

4. Guarantees And Security – Agreed Principles

4.1 This Schedule 6 addresses (among other things) the manner in which the agreed principles will impact on the guarantees and security proposed to be taken in relation to the Secured Indebtedness.

4.2 In determining the extent of the security, the form of each security document and the extent of the perfection of the security, Indigo agrees to take into account the costs to the relevant Security Provider of providing such security and the proportionate benefit accruing to

Indigo and the impact, if any, of the grant of such security and any restrictions therein on the operations of the grantor of such security.

- 4.3 The extent of the security from each member of the Group will be determined by Indigo (acting reasonably). It is the current intention of Indigo that security will be taken over all material assets of each member of the Group from time to time, according to the principles set out herein, including (without limitation) over all land and buildings, shares, receivables, insurance policies, material contracts and claims, intellectual property and bank accounts of each member of the Group.
- 4.4 The Obligors and Indigo agree to negotiate the form of each security document in good faith. Each security document will be drafted by counsel to Indigo and will be in the form customary for the relevant security and jurisdiction.
- 4.5 It will be the Company's responsibility to ensure that any security interest created under any security document is duly created and perfected in favour of Indigo from time to time within applicable time limits. Costs incurred in respect of the execution of any such security document, or any updating, registration or re-registration to be made for the purpose of complying with such obligations, shall be borne by the Company.
- 4.6 Where a member of the Group which is a Security Provider acquires assets of material value or significance (in the opinion of the Lenders (acting reasonably) or, absent agreement between the Lenders, by Indigo (acting reasonably)) after the date on which it initially grants security, such Security Provider shall grant security in accordance with these agreed principles in respect of such assets if they are of a type which if owned on the date on which it initially grants security would have been secured in accordance with these agreed principles.
- 4.7 All security will be granted to Indigo from time to time or to any security agent or trustee appointed by Indigo to act for them.

5. Enforcement of Debts

Notwithstanding any other provision or principle in this Schedule 6, Indigo shall be entitled to enforce any rights against the Company or member of the Group under this Agreement or relating to the Notes to the extent such rights relate to monies due and owing to Indigo provided that such amounts outstanding and owing to Indigo exceed \$100,000 in aggregate and provided further that such amounts have been outstanding and owing to Indigo for more than 60 days following written notice of the failure to pay such amounts due and owing served on the Company with a copy to Indigo.

Schedule 7 Form of Adherence Agreement

THIS ADHERENCE AGREEMENT is made on the _____ of _____ 202_ by [•] (the “**Transferee**”).

THE PARTIES AGREE as follows:

1. The Transferee confirms that it has read a copy of the fourth bridge note purchase agreement dated February 2, 2024 made between: the Company, the Guarantor and Indigo (which agreement is herein referred to as the “**Note Purchase Agreement**”) and hereby covenants to each of the Persons referred to in paragraph 2(a) and paragraph 2(b) to be bound by the Note Purchase Agreement in all respects as if the Transferee were a party to the Note Purchase Agreement as one of the Noteholders and to perform all the obligations imposed on such a party to the Note Purchase Agreement, to be performed on, as on, or after the date hereof.
2. This Agreement is made for the benefit of:
 - (a) the parties to the Note Purchase Agreement as at the date of the Note Purchase Agreement; and
 - (b) any other Person or Persons who may after the date of the Note Purchase Agreement (and whether prior to or after the date hereof) assume any rights or obligations under the Note Purchase Agreement and be permitted to do so by the terms thereof.
3. Save as expressly set out in the Note Purchase Agreement in favour in the Transferee, the Company does not:
 - (a) make any representations or warranty or assumes any responsibility with respect to the legality, validity, effectiveness, adequacy or enforceability of the Note Purchase Agreement or any agreement entered into pursuant thereto;
 - (b) make any representation or warranty or assumes any responsibility with respect to the content of any information regarding the Company or any member of the Group or otherwise related to the acquisition of shares in the Company;
 - (c) assume any responsibility for the financial condition of the Company or any member of the Group or any other party to the Note Purchase Agreement or any other document; or
 - (d) assume any responsibility for the performance and observance by the Company or any other party to the Note Purchase Agreement or any other document (save as expressly provided therein),

and any and all conditions and warranties, whether express or implied by law or otherwise, are to the extent legally possible excluded.

For the purposes of the Note Purchase Agreement, the Transferee’s address and other details for notices shall be:

Address:

Email address:

For the attention of:

4. Words and expressions defined in the Note Purchase Agreement shall bear the same meanings herein.
5. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereon.

DULY DELIVERED as on the date and year first above written.

EXECUTED)
and **DELIVERED** by)
[Insert name of Transferee])
)

Schedule 8 Noteholders' Resolutions

1. Powers of Noteholders

1.1 Noteholders may, by Noteholder Resolution:

- (A) at the request of the Board, authorize the Company to amalgamate or consolidate with any other Person, or permit any other Person to merge into or amalgamate or consolidate with it, or liquidate or dissolve;
- (B) at the request of the Board, authorize the exchange of the Notes, or any portion thereof, for, or the conversion of the Notes into, any Common Shares, stock, debentures, debenture stock or other obligations or securities of the Company or any other company formed or to be formed;
- (C) at the request of the Board, authorize any modification, abrogation or compromise of or arrangement in respect of the rights that arise under this Agreement or the certificates for the Notes or otherwise;
- (D) assent to any modification or abrogation of the Conditions to which the Notes are subject and/or of the provisions contained in this Agreement and authorise the execution of any supplemental deed embodying any such modification or abrogation; and
- (E) appoint any Persons (whether Noteholders or not) as a committee to represent the interests of the Noteholders and confer upon such committee any powers or discretions which the Noteholders could themselves exercise.

2. Noteholders' Resolutions

2.1 The expression "**Noteholder Resolution**" where used in this Schedule 8 shall mean a written resolution duly executed by or on behalf of Noteholders holding at least 15% of the fully diluted share capital or such higher percentage as may be approved in writing by Indigo.

Schedule 9 Form of Certificate for the Notes

LYNX AIR HOLDINGS CORPORATION

(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

<u>Certificate No.</u>	<u>Principal Amount</u>
FBN-1	CAD\$6,698,500, being the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 2024

THIS IS TO CERTIFY THAT *[NAME]*

Of *[address]*

is/are the registered holder(s) of CAD\$6,698,500, being the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000 in nominal amount of the secured convertible loan notes which are constituted by a fourth bridge note purchase agreement dated February 2, 2024 made between Lynx Air Holdings Corporation (the “**Company**”), 1263343 Alberta Inc. (the “**Guarantor**”) and Indigo Northern Ventures LP (as amended, supplemented or restated from time to time, the “**Agreement**”) and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.

Interest is payable on the Notes represented by this certificate semi-annually in arrears (each such date, an “**Interest Payment Date**”) in each year.

The Notes shall be redeemed in accordance with Condition 3 of Schedule 11 on the Redemption Date, subject to such other redemption date or conversion in accordance with the Conditions.

LYNX AIR HOLDINGS CORPORATION

By _____

Name:

Title:

Dated: February 2, 2024

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.
- (B) No transfer of the whole or any part of the Notes represented by this certificate will be registered without the production of this certificate at the registered office of the Company or at such other place as the Company may from time to time designate.
- (C) Each transfer in point of time of the whole or any part of the Notes represented by this certificate will be registered free of charge.
- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.

Schedule 10 Form of Conversion Notice

To: The Directors of [●]

Notes

I/We, the registered holder(s) of \$[●] in principal nominal amount of Notes, hereby give notice of my/our desire that:

- the Company convert [% of] []* principal nominal amount of such Notes held by me/us;
- that such conversion be effected on [or prior] to []*

and that such conversion be effected in accordance with the Conditions, at the price and on the terms set out in the Conditions.

[Include any further information required to be specified in the relevant notice.]

(Name)

(Address)

Signature(s) of
Noteholders(s)

.....
In the case of joint holdings, all Noteholder(s) must sign. In the case of a corporation this form must be signed by a duly authorised officer of the corporation.

DATED

Schedule 11 Conditions

1. Form and Status

- 1.1 The Notes are issued in amounts or multiples of \$1 in nominal value and constitute secured obligations of the Company.
- 1.2 The aggregate principal amount of the Notes is limited to the Equivalent Amount of US\$5,000,000.
- 1.3 The Notes shall be issued in denominations and integral amounts of \$1 in principal amount subject to and with the benefit of the provisions of this Agreement.
- 1.4 The Notes, when issued, shall rank *pari passu* equally and rateably without discrimination or preference in all respects.
- 1.5 Upon execution of the Security Documents, the Notes will have the benefit of the Security (subject to the provisions of the Security Documents).
- 1.6 Any Notes which have been repaid or otherwise satisfied in accordance with the terms of this Agreement shall be cancelled and shall not be available for re-issue by the Company.

2. Interpretation

- 2.1 In these Conditions, the “**Agreement**” means the agreement constituting the Notes between the Company, and Indigo (in each case, as such terms are defined therein).
- 2.2 Capitalised terms not otherwise defined in these Conditions shall have the meaning given in the Agreement.

3. Redemption

- 3.1 Unless previously converted into Class B Common Shares, repaid or purchased in accordance with these Conditions and the Agreement, including, without limiting, Condition 11 of this Schedule 11, Condition 18.2 of this Schedule 11, or extended pursuant to Condition 3.6 or 3.7 of this Schedule 11, the Company shall redeem all outstanding Notes in full on the Redemption Date.
- 3.2 Upon any redemption of Notes the Company shall pay to each Noteholder an amount equal to the greater of:
 - (A) the fair market value of the corresponding Conversion Shares; and
 - (B) the aggregate of (i) the principal nominal amount of the Notes held by such Noteholder; and (ii) the accrued and unpaid interest on the Notes held by such Noteholder (calculated in accordance with Condition 4 of this Schedule 11) from (and including) the date of issue of such Notes to (and including) the date of redemption of such Notes.

- 3.3 All amounts payable on redemption of any Notes shall be paid subject to any deduction or withholding required by law in respect of any Tax, duty or charge. The Company's payment obligations pursuant to the Agreement and the Notes are absolute, irrevocable and unconditional and irrespective of any contingency (including, without limitation, rights of set-off or counterclaim).
- 3.4 Subject to the provisions of clause 14 and Schedule 6 of the Agreement and to the provisions of the Security Documents (once the same have been entered into), at any time after the Notes shall have become redeemable in accordance with the terms of this Agreement, the Noteholders or any of them may, without further notice, institute such proceedings as they or any of them may think fit to enforce payment of the monies due in respect of the Notes and the performance of the Company's other obligations contained in these Conditions or the Agreement.
- 3.5 Save as otherwise expressly provided in these Conditions or the Noteholders' and Shareholders' Agreement, the Company may not pre-pay the Notes or redeem the same prior to the Redemption Date.
- 3.6 If, at the Redemption Date, the Noteholder is not permitted to convert all of their Notes into Class B Common Shares due to the Ownership and Control Requirements, then, in the absolute discretion of the Noteholder, (i) any portion, as determined in the absolute discretion of the Noteholder, of any of the Notes, may be converted into Class B Common Shares to the extent permitted by the Ownership and Control Requirements and the remaining portion of such Notes shall be redeemed by the Company in accordance with Condition 3.2 of this Schedule 11, (ii) such Notes shall be redeemed by the Company in accordance with Condition 3.2 of this Schedule 11, or (iii) the Redemption Date for such Notes that cannot be converted shall be extended until such time as the Noteholder is permitted to convert such Notes.
- 3.7 At any time prior to the Redemption Date, the Noteholder may, in its absolute discretion, extend the Redemption Date to such other day not later than October 26, 2028.
- 3.8 Any repayment of the Notes shall occur prior to any conversion or repayment of the Original Notes.
- 3.9 For greater certainty, the proceeds of the consummation of the Flair Transaction shall be used first to redeem in full all of the Bridge Notes, the Second Bridge Notes, the Third Bridge Notes and the Notes, and to repay in full any and all interest relating to the Bridge NPA, the Second Bridge NPA, the Third Bridge NPA and this Agreement.

4. Interest

- 4.1 Subject to Condition 19 of this Schedule 11, interest on the principal amount outstanding in respect of the Notes shall accrue at the Interest Rate on the basis of the actual number of days elapsed and a year of 365 days or 366 days, as applicable, and shall be payable in-kind, in arrears, on each applicable Interest Payment Date. On each Interest Payment Date, the applicable interest shall be paid by issuing additional Notes under this Agreement on the same terms and conditions as the Notes to which the interest payment relates in a principal amount equal to the interest payable (the "**PIK Notes**"). For greater

certainty, any such PIK Notes shall be dated as of the applicable Interest Payment Date and shall bear interest from and after such date.

5. Title

5.1 The Company shall:

- (A) recognise the registered holder of any Notes as the absolute owner thereof; and
- (B) not be bound (unless ordered to do so by a court of competent jurisdiction) to take notice of, or see to the execution of, any trust whether express, implied or constructive to which any Notes may be subject.

5.2 The receipt by the registered holder of any Notes or, if two or more Persons are registered as joint holders of any Notes or are entitled jointly to any Notes in consequence of the death or bankruptcy of the Noteholder, the receipt by any of them, of the principal, any interest or other monies payable on or in respect of such Notes or payment of a cheque sent in accordance with the Conditions or any instructions contained in the relative Notice of Repayment shall be a valid receipt and a good discharge to the Company notwithstanding any notice (whether express or implied) which any of them may have of any right, title, interest or claim of any other Person to or in respect of such Notes, interest or monies.

5.3 No notice of any trust, express, implied or constructive, shall (except as aforesaid) be entered in the Register in respect of any Notes.

5.4 Every Noteholder will be recognised by the Company as entitled to its Notes free from any equity set-off or cross-claim on the part of the Company against the original or any intermediate holder of the Notes.

5.5 As applicable, in the case of the death of a Noteholder (if applicable), the survivors or survivor, where the deceased was a joint holder, and the executors or administrators of the deceased, where they were a sole or only surviving holder, shall be the only Persons recognised by the Company as having any title to the interest in the Notes.

6. Transfer of Notes

All transfers of Notes shall be regulated in accordance with this Agreement and clause 5 of the Noteholders' and Shareholders' Agreement.

7. Transfer of Notes Pursuant to a Takeover Offer

There shall be no restriction on any transfer of Notes made pursuant to and in accordance with clause 9 of the Noteholders' and Shareholders' Agreement in connection with (and pursuant to and in accordance with the terms of) a Takeover Offer provided that such Takeover Offer constitutes a "Qualifying Takeover Offer", as such term is defined in the Noteholders' and Shareholders' Agreement.

8. Permitted Transfers of Notes

- 8.1 Notwithstanding the provisions of Condition 6 of this Schedule 11, a Noteholder may at any time transfer any of the Notes held by it:
- (A) to any Affiliate of such Noteholder;
 - (B) to its limited partners, in the case of a limited partnership;
 - (C) to any Person in connection with the sale of all or substantially all of the assets of the Noteholder;
 - (D) to any Person or Persons in connection with the dissolution or Winding-up of the Noteholder, or the liquidation of its assets;
 - (E) to a financial institution which carries on the business of providing equity financing as part of a sale of a portfolio of equity interests; or
 - (F) to any Person if it is required by law to do so.
- 8.2 Any Person to whom Notes have been validly transferred pursuant to Condition 8.1 of this Schedule 11 may, at any time, transfer all or any Notes back to the original transferor or to any other Person to whom the original transferor, if it still held such Notes, would have been able to transfer them pursuant to Condition 8.1 of this Schedule 11.
- 8.3 In the event that any Person to whom Notes are transferred pursuant to Condition 8.1 of this Schedule 11 ceases to be within the required relationship to the original holder of such Notes, the holder of such Notes shall without delay notify the Company that such change of relationship has occurred and within ten (10) Business Days of such change of relationship transfer such Notes back to the member who originally held them or to such other Person if any (designated by such original member) to whom such original member, if it still held such Notes, would have been able to transfer pursuant to Condition 8.1 of this Schedule 11.
- 8.4 In the event that any Noteholder which is a corporation holding Notes transferred to it pursuant to Condition 8.1 of this Schedule 11 passes a resolution to commence a liquidation or winding up or has a winding up petition presented which is not discharged or contested in good faith within sixty (60) Business Days or has a receiver or administrator appointed to it (or any analogous proceedings in any jurisdiction), the holder of such Notes shall without delay notify the Company of such event and within ten (10) Business Days of such event shall transfer such Notes back to the member who originally held such Notes or to such other Person if any (designated by such member) to whom such original Noteholder, if it still held such Notes, could transfer such Notes pursuant to Condition 8.1 of this Schedule 11.

9. Transfers of Notes: Mechanics and Other Provisions

- 9.1 The Notes shall be transferable by instrument in writing in any usual or common form (or in any other form acceptable to the Board) and need not be executed as a deed.

- 9.2 Every instrument of transfer must be signed by or on behalf of the transferor but need not be signed by or on behalf of the transferee. The transferor shall remain the holder of the Notes concerned until the name of the transferee is entered in the Register in respect thereof.
- 9.3 Every instrument of transfer must be delivered for registration to the registered office of the Company or to such other place as the Company may appoint from time to time (or which it may notify to a Noteholder for the purposes of any specific transfer) accompanied by the certificate for the Notes to be transferred and, if the transferor is not the registered holder of such Notes, such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer and, if the instrument of transfer is executed by some other Person on behalf of the transferor, the authority of that Person so to do.
- 9.4 All instruments of transfer which are registered may be retained by the Company for so long as it thinks fit together with the cancelled certificates for the Notes.
- 9.5 No fee shall be charged by the Company in respect of the registration of any transfer in point of time of the whole or part of any Notes issued by the Company to any Noteholder or any probate or letters of administration or certificate of marriage or death, or power of attorney or other document relating to or affecting the title to any Notes at any time.

10. General Conversion Rights

- 10.1 Notwithstanding any other provision of these Conditions, no Notes shall be converted into Class B Common Shares (or any other shares in the Company) to the extent that such conversion would result in any breach of Section 3 of the Corporate Articles.
- 10.2 Subject to Condition 10.1 of this Schedule 11, a holder of the Notes (a “**Converting Noteholder**”) may, at any time, require the Company to convert all (or some only) of its Notes (or any portion of any Note, as determined by the Noteholder in its absolute discretion) into fully paid and non-assessable Class B Common Shares. All accrued and unpaid interest thereon shall be satisfied by a payment in cash by the Company to Indigo.
- 10.3 In order to exercise the conversion rights pursuant to Condition 10.2 of this Schedule 11, a holder of Notes shall serve a notice (substantially in the form set out in Schedule 10) (a “**Note Conversion Notice**”) on the Company and the Noteholder not less than 10 Business Days (nor more than 60 Business Days) prior to the date on which the Company is required to convert the Notes, or portion thereof, specified in the Note Conversion Notice (the “**Proposed Conversion Date**”).
- 10.4 A Note Conversion Notice shall specify:
- (A) the Proposed Conversion Date; and
 - (B) the percentage of the Notes, or portion of any Note, then held by the Converting Noteholder required to be converted pursuant to this Condition 10.
- 10.5 Subject to Condition 10.1 above, on the proposed Conversion Date, the Company shall simultaneously convert all of the Notes, or portion thereof, specified in the Note Conversion Notice.

11. Conversion Rights in Relation to a Takeover Offer

- 11.1 If, at any time prior to the conversion or redemption of the Notes and payment of all accrued and unpaid interest thereon (in full in accordance with the terms of these Conditions and the Agreement), a Qualifying Takeover Offer is made:
- (A) the Company shall notify the Noteholder of such Qualifying Takeover Offer in accordance with the relevant provisions of the Noteholders' and Shareholders' Agreement; and
 - (B) the provisions of this Condition 11 shall apply (subject always to Condition 10.1 of this Schedule 11).
- 11.2 A Noteholder may, at its option (exercisable in its absolute discretion) at any time after receiving a notification pursuant to Condition 11.1 of this Schedule 11 require the conversion of all (or some only) of its Notes (or any portion of any Note, as determined by the Noteholder in its absolute discretion) into fully paid and non-assessable Class B Common Shares in the capital of the Company in accordance with (but subject to any restrictions contained in) this Condition 11. All accrued and unpaid interest thereon shall be satisfied by a payment in cash by the Company to Indigo.
- 11.3 In order to effect a conversion of the Notes pursuant to Conditions 11.1 and 11.2 of this Schedule 11, the Noteholder shall serve a notice on the Company (substantially in the form set out in Schedule 10) (a "**Takeover Conversion Notice**").
- 11.4 A Takeover Conversion Notice:
- (A) must be served by the Noteholder not less than 5 Business Days prior to the proposed completion date for first acquisition of Common Shares pursuant to the Qualifying Takeover Offer (as notified to the Noteholder by the Company in accordance with the provisions of the Noteholders' and Shareholders' Agreement);
 - (B) shall be irrevocable save that the Noteholder may specify that such Takeover Conversion Notice is conditional upon a transfer of shares that together constitute a Controlling Interest occurring pursuant to and in the terms of such Qualifying Takeover Offer; and
 - (C) shall specify the principal amount of Notes or, if applicable, portion of any Note that the Company is required to convert and that the Company is required to convert such Notes, or portion thereof, (and all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to this Condition 11.
- 11.5 The Company shall:
- (A) procure that each Noteholder is given the opportunity to convert its Notes or any portion thereof (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to this Condition 11 prior to the occurrence of any transfer of Common Shares pursuant to a Qualifying Takeover Offer; and

- (B) procure that in the event of any Qualifying Takeover Offer being accepted in accordance with the relevant provisions of the Noteholders and Shareholders' Agreement:
 - (i) the Conversion Shares resulting from any conversion of Notes or any portion thereof pursuant to this Condition 11 are sold or transferred pursuant to such Qualifying Takeover Offer (at the same price and, save as set out below, on the same terms as the Common Shares held by the Shareholders);
 - (ii) the Noteholder shall not be required to give any representations or warranties pursuant to such Qualifying Takeover Offer (save with respect to title, absence of encumbrances on any shares to be sold or transferred and capacity); and
 - (iii) the Company shall refuse to register any transfer of shares pursuant to such Qualifying Takeover Offer) unless the Company has fully adhered to its obligations under Condition 11.5(B) of this Schedule 11.

11.6 Upon completion of any transfer of Common Shares pursuant to (and on the terms of) a Qualifying Takeover Offer:

- (A) any Notes or portion of any Notes not converted pursuant to the foregoing provisions of this Condition 11, shall cease to be capable of conversion into Class B Common Shares (or any other class of shares in the capital of the Company or securities of the Company); and
- (B) the Company shall be entitled to pre-pay the Notes or any portion thereof (together with all accrued and unpaid interest calculated in accordance with Condition 4.1 of this Schedule 11 thereon which shall be satisfied by a payment in cash by the Company to Indigo) at any time after the completion of any transfer of Common Shares pursuant to a Qualifying Takeover Offer on not less than 5 Business Days written notice to the relevant Noteholder(s).

12. Conversion Rights in Relation to an IPO

12.1 If, at any time prior to the conversion or redemption of the Notes (and all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) (in full in accordance with the terms of these Conditions and the Agreement), the Board passes any resolution to facilitate an IPO or that may result in an IPO occurring, the provisions of this Condition 12 shall apply.

12.2 The Company shall give each Noteholder not less than 20 Business Days' notice of any proposed IPO.

12.3 Each holder of the Notes (in respect of the maximum amount of Notes capable of being converted under the Ownership and Control Requirements) may, at its option (exercisable in its absolute discretion) require the conversion of all (or some only) of its Notes, (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash

by the Company to Indigo), into fully paid and non-assessable Class B Common Shares in the capital of the Company in accordance with this Condition 12:

- (A) at any time during the period from the notification pursuant to Condition 12.2 of this Schedule 11 up to the 3:00pm (Mountain time) on the Business Day prior to the occurrence of the IPO (such that the relevant Conversion Shares issued to each such Noteholder are listed pursuant to such IPO); or
- (B) at any time after the occurrence of such IPO, by notice served in accordance with Condition 12.5 of this Schedule 11.

12.4 In order to effect a conversion of Notes (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to Condition 12.3 of this Schedule 11, a Noteholder shall serve a notice on the Company (substantially in the form set out in Schedule 10) (an “**IPO Conversion Notice**”).

12.5 An IPO Conversion Notice:

- (A) must be served by the Noteholder:
 - (i) not less than 5 Business Days prior to the proposed date for the IPO (as notified to the Noteholder pursuant to Condition 12.2 of this Schedule 11), if the Noteholder requires the Note(s) to be converted on or immediately prior to the completion of the IPO; or
 - (ii) not less than 10 Business Days prior to the date on which the Noteholder requires the Note(s) to be converted, if the Noteholder requires the Note(s) to be converted after the occurrence of the IPO;
- (B) shall be irrevocable (unless the Noteholder serves such IPO Conversion Notice at least 5 Business Day prior to the proposed completion date of the IPO, as notified to the Noteholder by the Company in the notice required to be served by it pursuant to Condition 12.2 of this Schedule 11, in which case, the Noteholder may specify that such IPO Conversion Notice is conditional upon the IPO occurring);
- (C) shall specify:
 - (i) the principal amount of Notes that such Noteholder requires to be converted;
 - (ii) that the Noteholder requires the Company to convert the Notes (and all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to Condition 12.3 of this Schedule 11; and
 - (iii) the date on or by which such conversion is to be effected (provided that the Noteholder shall comply with the provisions of Condition 12.5(A) of this Schedule 11).

12.6 The Company shall:

- (A) procure that the Noteholder is given a reasonable opportunity to convert its Notes (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to this Condition 12 prior to the occurrence of an IPO;
- (B) procure that in the event of an IPO occurring:
 - (i) the Conversion Shares issued to the Noteholder upon a conversion of Notes pursuant to this Condition 12 are listed pursuant to the IPO; and
 - (ii) the Noteholder shall not be required to give any representations or warranties in connection with such IPO or agree to any lock-up period or other orderly marketing arrangements in relation to such IPO.

12.7 The Company shall not permit any of its shares to be listed pursuant to an IPO unless it has fully adhered to its obligations under this Condition 12 prior to the occurrence of such IPO.

12.8 To the extent the Noteholders is unable to convert their Notes pursuant to this Condition 12 as a result of the Ownership and Control Requirements, the Board and the Lenders shall each use best efforts to create a path to liquidity for the Noteholder.

12.9 Nothing in these Conditions shall oblige the Noteholder to convert its Notes.

13. Calculation of Conversion Shares

13.1 Upon any conversion of Notes or portion thereof, the number of Class B Common Shares required to be issued by the Company to the relevant Noteholder (the “**Conversion Shares**”) shall be calculated using the following equation:

$$A = \frac{B}{C}$$

where:

A is the number of Conversion Shares;

B is the principal amount of the Notes or portion of any Note required to be converted (including any accrued and unpaid interest thereon);

C is the Relevant Conversion Price (subject to adjustment in accordance with Condition 15 of this Schedule 11).

14. Mechanics of Conversion

14.1 Each conversion of Notes or portion thereof into Class B Common Shares that is required or permitted to be made pursuant to this Agreement shall be effected by the Company repaying the principal amount of the relevant Notes or portion thereof in full on the Conversion Date and immediately applying such repayment monies to subscribe for the Conversion Shares, or by any such other method as the Board may determine in

accordance with all applicable laws and the Corporate Articles. All accrued and unpaid interest thereon shall be satisfied by a payment in cash to Indigo.

- 14.2 All Conversion Shares shall be credited as fully paid at the time the same are issued to the relevant Noteholder.
 - 14.3 A Conversion Notice must be accompanied by the certificate(s) relating to the Notes to be converted.
 - 14.4 Conversion Shares arising pursuant to a conversion of Notes or portion thereof shall carry the right to participate in full in all dividends and other distributions accruing on such shares from the Conversion Date. In all other respects, Conversion Shares arising on conversion shall rank *pari passu* and form one class with the shares of that class then in issue.
 - 14.5 A conversion of Notes or portion thereof into Class B Common Shares that is required or permitted to be made pursuant to this Agreement shall not constitute a breach of any prohibition on prepayment of the Notes or any accrued and unpaid interest thereon under any of the Transaction Documents.
 - 14.6 No fractional shares shall be issued upon any conversion of Notes or portion thereof and the number of Class B Common Shares issuable upon such conversion shall be rounded to the nearest whole number of shares.
 - 14.7 The Company shall, as soon as practicable and legally permissible, issue to the relevant Noteholder, or to its nominee(s), a certificate or certificates for the number of Conversion Shares to which it shall be entitled under the Agreement and the Company shall deliver the same to the relevant Noteholder by post at its address for service of notices determined in accordance with Condition 25.1 of this Schedule 11 (or to such other address as may be specified in the relevant Conversion Notice).
 - 14.8 Each conversion of Notes or portion thereof into Class B Common Shares that is required or permitted to be made pursuant to this Agreement shall be deemed to have been made immediately prior to the close of business on the date of issuance of the share certificate(s) for the relevant Conversion Shares and the Person or Persons entitled to receive the Conversion Shares shall be treated for all purposes as the record holders of such shares on such date.
- 15. Adjustments to the Relevant Conversion Price (share splits, consolidations etc.)**
- 15.1 If, at any time after the date of this Agreement, the Class B Common Shares shall be subdivided into a greater number of shares or consolidated into a lesser number of shares or an issue of Class B Common Shares by way of capitalisation of profits or reserves including any share premium account or capital redemption reserve shall be made or the Company effects any purchase of its own shares or any other variation in its issued share capital or any distribution of assets in specie occurs (each, a “**Capital Event**”), each Relevant Conversion Price shall be adjusted by multiplying the Relevant Conversion Price in force immediately before such Capital Event (as the same may previously have been adjusted pursuant to this Condition 15 or otherwise) by the following fraction:

$$\frac{A}{B}$$

where:

A is the number of Class B Common Shares in issue immediately before such subdivision, consolidation or capitalisation issue; and

B is the number of Class B Common Shares in issue immediately after such subdivision, consolidation or capitalisation issue.

15.2 The provisions of Condition 15.1 of this Schedule 11 are intended to provide for each Relevant Conversion Price to be adjusted in such a manner as shall place each Noteholder in the same position (as regards the percentage of the equity share capital of the Company which the Noteholder shall be entitled to subscribe pursuant to the conversion on Notes or portion thereof and the aggregate cost of such conversion to the Noteholder) as it would have been in had the relevant Capital Event not taken place.

15.3 In the case of any dispute as to the manner of any adjustment pursuant to this Condition 15.3, the auditors of the Company (acting as experts and not arbitrators) shall determine the same at the request of the Company or the Noteholder and at their joint expense.

15.4 The Company shall not undertake or (so far as it is able) permit to occur any Capital Event which would have the effect of reducing the Relevant Conversion Price (as so adjusted) below the par value amount of a Conversion Share.

16. Company undertakings in respect of the conversion of the Notes

16.1 The Company warrants and undertakes that:

(A) it will maintain sufficient authorised but unissued share capital to enable conversion of Notes in full;

(B) it will procure that the Directors have at all times the requisite authority to allot and issue Conversion Shares in satisfaction of the conversion rights of the Noteholder; and

(C) it will procure the waiver of all pre-emption rights in favour of shareholders of the Company whether under the Corporate Articles, any statute or agreement relating to the shares of the Company or otherwise which might otherwise prevent or preclude or delay the full and effective allotment and issue of Conversion Shares; and

(D) it will procure (so far as it is able) that there is no variation of the rights attaching to shares in the capital of the Company.

17. Noteholder and Shareholder Subscription Rights

17.1 Subject to Section 3 of the Corporate Articles, if, at any time after the date of the Agreement, the Company shall make any offer or invitation to its members by way of rights

(by reference to a record date) to subscribe for shares in the Company, then each Noteholder shall have the right (exercisable by written notice to the Company) to subscribe for the proportionate number and class of shares in the Company on the same terms and conditions (including as to price) as such offer or invitation as if the Notes held by such Noteholder had been exercised, in the case of a rights issue immediately before such record date or, where the offer or invitation is to a third party immediately before the completion by the third party of the subscription pursuant to such offer or invitation.

18. Events of Default and Accelerated Repayment

18.1 Each of the events or circumstances set out in Schedule 12 to the Agreement is an Event of Default.

18.2 Subject to the provisions of paragraph 5 of Schedule 6 of the Agreement (and for any corresponding provisions contained in the Security Documents, once the same have been executed), on and at any time after the occurrence of an Event of Default the Noteholder may, by notice to the Company:

(A) declare that all or some of the Notes:

(i) (together with accrued interest, and all other amounts accrued or outstanding under the Transaction Documents) be immediately due and payable, whereupon they shall become immediately due and payable; and/or

(ii) be payable on demand, whereupon they shall immediately become payable on demand by the Noteholder; and/or

(B) exercise any or all of its rights, remedies, powers or discretions under the Transaction Documents.

19. Default Interest

From the occurrence of an Event of Default, the principal amount due under this Note (together with all accrued and unpaid interest as at the date of the Event of Default) shall bear interest at the Default Rate, compounded quarterly and computed on a 365-day or 366-day year basis on the number of days actually elapsed from the date of the occurrence of such Event of Default until either the cure of such Event of Default by the Company or repayment of the principal amount due under this Note together with accrued interest.

20. No Rights as Shareholder

This Note does not entitle the Noteholder hereof to any voting rights or other rights as a shareholder of the Company prior to the conversion hereof.

21. Surrender of Certificates

21.1 If any Noteholder any of whose Notes are liable to be repaid under these Conditions or the Agreement shall fail or refuse to deliver up the certificate or certificates therefor at the time and place fixed for the repayment thereof or shall fail or refuse to accept payment of the redemption monies payable in respect thereof, the monies payable to such Noteholder

may be set aside by the Company and paid into a separate interest-bearing bank account and when so paid shall be held by the Company in trust for such Noteholder but without interest (except as hereinafter mentioned), and such setting aside and payment shall be deemed for all purposes of these Conditions to be a payment to such Noteholder and the Company shall thereby be discharged from all obligations in connection with such Notes.

21.2 If the Company shall place the monies set aside pursuant to the provisions of Condition 21.1 on deposit at a bank the Company shall not be responsible for the safe custody of such monies or for interest thereon except such interest (if any) as the said monies may earn whilst on deposit less any expenses reasonably incurred by the Company in connection therewith.

21.3 Any amount set aside pursuant to the provisions of this Condition 21 which remains unclaimed after a period of twelve years from the time when the same is set aside shall revert to the Company notwithstanding that in the intervening period the obligation to pay the same may have been provided for in the books, accounts and other records of the Company.

22. Damaged Certificates

If any certificate for Notes shall be damaged or defaced or alleged to have been lost, stolen or destroyed, a new certificate representing the same Notes may be issued to the holder upon request subject to delivery up of the old certificate or (if alleged to have been lost, stolen or destroyed) compliance with such conditions as to evidence and indemnity as the Directors may reasonably require. An entry as to the issue of the new certificate and indemnity (if any) shall be made in the Register.

23. Cancellation

All Notes prepaid, repaid or purchased by the Company shall be cancelled and shall not be available for reissue.

24. Payment

24.1 Subject to Condition 4.1 of this Schedule 11, payment of the principal, interest thereon and any other monies payable in respect of any Notes shall be paid by cheque made payable to and sent to the registered holder thereof at its registered address or, in the case of joint registered holders, made payable to and sent to that one of the joint registered holders who is first named on the Register in respect of such Notes at its registered address or made payable to such Person or Persons and sent to such address as the registered holder or all the joint registered holders may in writing direct.

24.2 Every such cheque may be sent through the post at the risk of the registered holder or joint registered holders and payment of any such cheque by the banker upon whom it is drawn shall be a satisfaction of the monies represented thereby.

24.3 All payments of principal and interest and other monies by the Company under these provisions will be made after any deduction or withholding Tax, duty or charge required to be made by law.

24.4 In the event of a failure by the Company to pay any amount when due in respect of the Notes (whether principal, interest or otherwise), the Company shall pay interest compounding annually on such unpaid amount at the Default Rate.

25. Notices

25.1 Any notice or document (including a certificate for Notes) may be served on or delivered to any Noteholder by the Company either personally or by sending it by first class post in a prepaid cover addressed to such Noteholder at its registered address or to the address, if any, supplied by the Noteholder to the Company as its address for the service of notices, or by delivering it to such address addressed as aforesaid, or by facsimile on a facsimile number supplied by the Noteholder to the Company. Any notice or document served on or delivered to that one of the joint holders of any Notes whose name stands first in the Register in respect of such Notes shall be sufficient notice to or service on all the joint holders in their capacity as such.

25.2 Notice may be given to the Persons entitled to any Notes in consequence of the death or bankruptcy of any Noteholder by sending the same by first class post in a pre-paid envelope addressed to them by name or by the title of the representatives or trustees of such holder at the address (if any) supplied for the purpose by such Persons or, until such address is supplied, by giving in the manner in which it would have been given if the death or bankruptcy had not occurred.

25.3 Where a notice or other document is served or sent by post, service or delivery shall be deemed to be effected at the expiration of 24 hours after the time when the cover containing the same is posted, and in proving such service or delivery it shall be sufficient to prove that such cover was properly addressed, stamped and posted.

25.4 Where a notice or other document is served by facsimile, delivery shall be deemed to be effected (subject to evidence of effective transmission) on the Business Day on which transmitted.

25.5 The Company shall be entitled to rely on any document purporting to be signed by or on behalf of a Noteholder and shall not be obliged to enquire into the authenticity of any such signature.

26. Transmission

(A) Any Person becoming entitled to Notes in consequence of the death or bankruptcy of a Noteholder may, upon supplying to the Company such evidence as the Directors may reasonably require to show its title to the Notes, elect to be registered itself as holder of such Notes or, subject to these Conditions, the provisions of the Agreement, to transfer such Notes without itself being registered as the holder of such Notes.

(B) The Company may, in its absolute discretion, withhold payment of any monies payable in respect of Notes until the Person entitled to be registered in respect thereof has been duly registered or, as the case may be, any transfer of such Notes has been registered.

27. Assignment

- 27.1 Subject to these Conditions and the provisions of the Agreement, neither this Note nor any of the rights, interests or obligations hereunder may be assigned, transferred, charged or otherwise dealt in, in whole or in part, by any Party without the prior written consent of the other Parties.
- 27.2 Any purported assignment, transfer, charge or dealing in contravention of this Condition 27 shall be void.
- 27.3 The rights and obligations of the Company and Noteholder shall be binding upon and benefit the successors, assigns, and permitted transferees of the Parties.
- 27.4 Any Noteholder may assign its rights hereunder to one or more of its Affiliates at any time (provided that any such assignment may only be made on the basis that immediately upon any assignee under this Condition 27.4 ceasing to be an Affiliate of the assignor Party, such assignee shall assign back all such rights to the original assignor Party).

28. Severability

If any provision of this Note shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

29. Rights of the Third Parties

No Person who is not a Noteholder shall have any right to enforce any term of this Note.

30. Governing Law and Jurisdiction

- 30.1 This Note is governed by, and to be construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.
- 30.2 Each Party hereto agrees (i) that any action or proceeding relating to this Agreement may (but need not) be brought in any court of competent jurisdiction in the Province of Ontario, and for that purpose now irrevocably and unconditionally attorns and submits to the jurisdiction of such Ontario court; (ii) that it irrevocably waives any right to, and shall not, oppose any such Ontario action or proceeding on any jurisdictional basis, including forum non conveniens; and (iii) not to oppose the enforcement against it in any other jurisdiction of any judgment or order duly obtained from an Ontario court as contemplated by this Condition 30.

Schedule 12 Events of Default

1. Non-payment

An Obligor does not pay on the due date any amount payable pursuant to a Transaction Document at the place at and in the currency in which it is expressed to be payable unless:

- (A) its failure to pay is caused by administrative or technical error; and
- (B) payment is made within 5 Business Days of its due date.

2. Covenants

Any material requirement, as determined by Indigo, in its sole discretion, of clause 12 of the Agreement is not satisfied.

3. Other Obligations

- 3.1 An Obligor fails to observe or perform any covenant or other agreement contained in the Transaction Documents, including, without limitation, any failure or delay in obtaining the Consent on the terms of Section 6.1 of the Agreement, or does not comply with any other provision of the Transaction Documents, in each case other than as specified in paragraph 1 above.

4. Misrepresentation

Any material representation or statement made or deemed to be made by an Obligor in the Transaction Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Transaction Document is or proves to have been incorrect or misleading when made or deemed to be made.

5. Cross default

- 5.1 No Event of Default will occur under this paragraph 5 if the action set out in paragraphs 5.3 to 5.5 are cured within any originally applicable grace period, if any, as set out in the document giving rise to such Financial Indebtedness.
- 5.2 Any Financial Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period.
- 5.3 Any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- 5.4 Any commitment for any Financial Indebtedness of any member of the Group is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described).

- 5.5 Any creditor of any member of the Group becomes entitled to declare any Financial Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).
- 5.6 No Event of Default will occur under this paragraph 5 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs 5.2 to 5.5 above is less than U.S.\$100,000 (or its equivalent in any other currency or currencies).

6. Insolvency

- 6.1 A member of the Group is unable or admits inability to generally pay its debts as they fall due, suspends or threatens to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.
- 6.2 A moratorium is declared in respect of any indebtedness of any member of the Group.

7. Insolvency Proceedings

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (A) the suspension of payments, a moratorium of any indebtedness, Winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any member of the Group (other than a solvent liquidation or reorganisation of any member of the Group which is not an Obligor);
- (B) a composition, compromise, assignment or arrangement with any creditor of any member of the Group;
- (C) the appointment of a liquidator (other than in respect of a solvent liquidation of a member of the Group which is not an Obligor), receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any member of the Group or any of its assets; or
- (D) enforcement of any Security over any assets of any member of the Group,

or any analogous procedure or step is taken in any jurisdiction.

8. Creditors' process

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of a member of the Group having an aggregate value in excess of U.S.\$100,000 (and the amount that is the subject of the related claim is U.S.\$100,000 or more) and the same is not discharged within 15 days.

9. Ownership of the Obligors

- 9.1 The Guarantor is not or ceases to be a direct or indirect wholly-owned Subsidiary of the Company.

10. Unlawfulness

It is or becomes unlawful for an Obligor to perform any of its obligations under the Transaction Documents or any Security created or expressed to be created or evidenced by the Security Documents ceases to be effective.

11. Invalidity

Any obligation or obligations of any Obligor under any Transaction Document are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Noteholder under the Transaction Documents.

12. Cessation of business

Any member of the Group suspends or ceases, or threatens or proposes in writing to suspend or cease, to carry on all or a substantial part of its business.

13. Compulsory acquisition

All or any material part of the property or assets of any member of the Group is seized, nationalised, expropriated or compulsorily acquired by, or by the order of, any central or local governmental authority in respect of which full market compensation is not paid.

14. Repudiation

An Obligor repudiates a Transaction Document or evidences an intention to repudiate a Transaction Document.

15. Material adverse change

Any event or circumstance occurs which is reasonably likely to have a Material Adverse Effect.

16. Miscellaneous

The Company applies any part of the New Note Funds for any purpose not specified in clause 7 of the Agreement.

17. Qualified Audit

The auditors of any Obligor materially qualify their audit.

18. Disputes

Any dispute, litigation, arbitration, expert determination, alternative dispute resolution, regulatory or administrative proceedings or investigations of, or before, any court, arbitral body or agency involving any Obligor or any other member of the Group is commenced which, if adversely determined, would be reasonably likely to have a Material Adverse Effect or which would involve a liability exceeding U.S.\$100,000 (or its equivalent).

19. Regulatory proceeding

Any regulatory proceeding into an Obligor or any other member of the Group is commenced (or any proceedings conducted by any regulatory body having jurisdiction over an Obligor or any other member of the Group are commenced in relation to a third party and that third party seeks to involve, or such proceedings in any way relate to, an Obligor or any other member of the Group), other than any regulatory proceeding by the Agency as a result of the Transaction Documents.

Schedule 13 Covenants

1. Authorisations

Each Obligor shall promptly:

- (A) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (B) if requested, supply certified copies to the Noteholder of,

any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under the Transaction Documents to which it is a party, to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of each such Transaction Document and to own its property and assets and to carry on its business, trade and ordinary activities.

2. Compliance with laws

2.1 Each Obligor shall comply in all respects with all laws to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under the Transaction Documents.

2.2 Each Obligor shall (and the Company shall ensure that each other member of the Group will) at all times comply with:

- (A) the terms of its articles of incorporation (or equivalent) and other constitutional documents from time to time; and
- (B) all laws and regulations applicable to it in respect of the conduct of its business breaches of which would have a significantly unfavourable effect on their activities, their assets and their financial situation.

3. Negative pledge

3.1 Subject to paragraph 3.3 below, no Obligor shall (and the Company shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets except with the prior written consent of Indigo.

3.2 Subject to paragraph 3.3 below, no Obligor shall (and the Company shall ensure that no other member of the Group will):

- (A) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by an Obligor or any other member of the Group save for any assignment of insurances or requisition compensation relating to any aircraft;
- (B) sell, transfer or otherwise dispose of any of its receivables on recourse terms;

(C) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or

(D) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

3.3 Paragraphs 3.1 and 3.2 above do not apply to:

(A) the Security provided pursuant to the Security Documents;

(B) any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;

(C) any lien arising by operation of law and in the ordinary course of business including, without limitation, permitted liens under any aircraft operating lease agreements to which any of the Obligor is a party and any guarantee and assignment of insurances granted by any of the Obligor in connection with such aircraft operating lease agreement (and not as a result of any default or omission by any member of the Group);

(D) any Security over or affecting any asset acquired by a member of the Group after the date of this Agreement if:

(i) the Security was not created in contemplation of the acquisition of that asset by a member of the Group;

(ii) the principal amount secured has not been increased in contemplation of, or since the acquisition of, that asset by a member of the Group; and

(iii) the Security is removed or discharged within 2 months of the date of acquisition of such asset;

(E) any Security over or affecting any asset of any company which becomes a member of the Group after the date of this Agreement, where the Security is created prior to the date on which that company becomes a member of the Group, if:

(i) the Security was not created in contemplation of the acquisition of that company; and

(ii) the principal amount secured has not increased in contemplation of or since the acquisition of that company;

(F) any Security entered into pursuant to any Transaction Document;

(G) any Security arising out of title retention provisions (and not as a result of any default or omission by any member of the Group) in a supplier's standard conditions of supply of goods where the goods in question are supplied on credit

and are acquired by the relevant member of the Group in the ordinary course of trading;

- (H) any Security, as directed by the Board, so long as such Security (i) is not outside of the Ordinary Course of Business, and (ii) such action does not have a Material Adverse Effect; or
- (I) the Security provided pursuant to the Original NPA, the Original Notes, the Bridge NPA, the Bridge Notes, the Second Bridge NPA, the Second Bridge Notes, the Third Bridge NPA and the Third Bridge Notes.

4. Change of Business

4.1 The Company shall:

- (A) procure that no substantial change is made to the general nature of its business from that carried on at the date of this Agreement;
- (B) maintain, carry on and develop its business in the ordinary and usual course; and
- (C) not take any material act outside its ordinary and normal course of business, and the Company shall procure that each of its Subsidiaries complies with the covenants set forth in paragraphs 4.1(A), 4.1(B) and 4.1(C) in respect of their respective businesses.

5. Trading on arm's length terms

No Obligor shall (and the Company shall ensure that no other member of the Group will) enter into any transaction other than on commercial arm's length terms.

6. Notification of approaches

The Company shall (and the Company shall procure that each other member of the Group will) notify the Noteholder as soon as reasonably practicable following receipt of any approach or offer (unless such offer is made by a member of the Noteholder's group) which could lead to a sale of Company (whether by sale of securities by Company and/or its shareholders or a sale of assets by the Company or any other sale) or an IPO but in any event at least 10 Business Days prior to the execution of a definitive agreement for the same.

7. Distributions and reductions in share capital

For so long as Indigo together with its Permitted Transferees continues to hold not less than 15% of the Fully Diluted Share Capital, no Obligor shall (and the Company shall ensure that no other member of the Group will):

- (A) declare, make or pay any distribution or dividend to its members; or
- (B) repurchase or redeem any of its issued share capital or otherwise reduce its share capital,

except to the extent that (i) such Obligor's Unrestricted Cash Balance, after giving effect to the action set out in (A) or (B) above, is not less than 33^{1/3}% of the Obligor's trailing 12 months revenue or expenses, whichever is greater, and (ii) any action under this paragraph 7 cannot occur more than once per financial year.

8. No incurring of additional Financial Indebtedness

8.1 Subject to paragraph 8.2 below, no Obligor shall (and the Company shall ensure that no other member of the Group will) incur any Financial Indebtedness.

8.2 Paragraph 8.1 above does not apply to any Financial Indebtedness that is incurred:

- (A) under the Transaction Documents or as specifically contemplated or specifically permitted by the Transaction Documents;
- (B) if Indigo (together with its Permitted Transferees) at such time holds at least 15% of the Fully Diluted Share Capital, with the prior written approval of Indigo;
- (C) at the direction of the Board in respect of Financial Indebtedness for amounts not greater than U.S.\$1,000,000, in the aggregate, in any 12 month period;
- (D) Financial Indebtedness relating to expenditures in the Ordinary Course of Business;
- (E) Financial Indebtedness for which an intercreditor agreement is required by such new lender to be entered into between such new lender and Indigo, on terms satisfactory to Indigo;
- (F) Financial Indebtedness which does not have a Material Adverse Effect, as determined by Indigo, acting reasonably; or
- (G) under the Original NPA, the Original Notes, the Bridge NPA, the Bridge Notes, the Second Bridge NPA, the Second Bridge Notes, the Third Bridge NPA and the Third Bridge Notes.

9. Compliance with the CTA

Each Obligor shall (and the Company shall procure that each other member of the Group will) ensure that the ownership and control of each member of the Group complies at all times with the Ownership and Control Requirements.

10. No Restricted Payments

10.1 For so long as Indigo (together with its Permitted Transferees) continues to hold not less than 15% of the Fully Diluted Share Capital, without the prior written consent of Indigo,

- (A) subject to paragraph 10.2 below, no Obligor shall (and the Company shall ensure that no other member of the Group will) make any payment to:
 - (i) any shareholder of any Obligor (a "**Relevant Shareholder**");

- (ii) any family member or relative of any Relevant Shareholder;
 - (iii) any trust in which any Relevant Shareholder (or any family member or relative of any Relevant Shareholder) has an interest (whether contingent discretionary or otherwise) or any trustee of such a trust;
 - (iv) any company which is Controlled by any of the Persons or entities falling within paragraph 10.1(A)(i) to (iii) above, or by any two or more of them; or
 - (v) any body corporate, partnership or undertaking in which any of the Persons or entities falling within paragraphs 10.1(A)(i) to (iv) above own (legally or beneficially) more than 30% of the issued and outstanding share capital; and
- (B) notwithstanding any other provision of this Agreement (other than paragraph 10.3 below), no Obligor shall make any payment to any Person:
- (i) unless such payment is of a type which is not outside the Ordinary Course of Business; or
 - (ii) if the effect of such payment (if made) would be to cause:
 - i. the aggregate amount of any type or class of payments made by the Obligors during such period to be outside the Ordinary Course of Business; or
 - ii. the aggregate amount of all payments made by the Obligors during such period to be outside the Ordinary Course of Business;

10.2 Subject to paragraph 10.1(B) above, paragraph 10.1 (A) shall not apply to:

- (A) salary payments by the Obligors to their employees (provided, in each case, that the same are consistent with the relevant employees salary payments over the six (6) months immediately prior to the date of this Agreement);
- (B) any intra-Group payments by the Obligors;
- (C) payments by the Obligors to providers of office space provided that such payments: (i) are not outside the Ordinary Course of Business; and (ii) do not exceed \$2,000,000 in total per annum; and
- (D) any dividend or distribution in respect of any share capital, to the extent permitted or required under the terms of the Transaction Documents.

11. Claims to rank *pari passu*

Each of the Obligors shall procure that Noteholders' claims under this Agreement and the other Transaction Documents rank and will rank at least *pari passu* with all its other unsecured obligations (except for obligations mandatorily preferred by law applying to companies generally).

12. Financing Disclosure

On the fifteenth day of each calendar month prior to the Redemption Date (or, if such day is not a Business Day, the next Business Day thereafter), the Company shall provide the Noteholders with a cash flow forecast of the Company for the next ninety (90) calendar days.

13. Payment of taxes

Each Obligor shall (and the Company shall procure that each other member of the Group will) promptly pay all Taxes due and payable by it to any competent authority or body.

14. Insurance

14.1 Each Obligor shall (and the Company shall procure that each other member of the Group will) insure and keep insured with reputable insurers their respective insurable assets and undertakings to the extent, in the amounts and against the risks which a prudent licensed and operating airline would insure (including, without limitation, all those insurances which are required for a licensed and operating airline) and which are approved by the Board.

14.2 Each Obligor shall (the Company shall procure that no other member of the Group will) maintain directors and officers insurance to the fullest extent permitted by law and in an amount which a prudent licensed and operating airline would insure (including, without limitation, all those insurances which are required for a licensed and operating airline) and which are approved by the Board.

14.3 No Obligor shall (and the Company shall procure that no other member of the Group will), do anything or, as far as practicable suffer anything to be done, whereby any of the insurance policies effected in accordance with paragraph 14.1 shall become void or voidable or an increased premium thereon shall become payable.

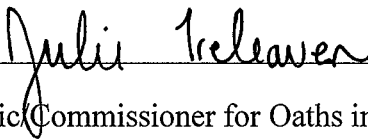
14.4 The Company will:

- (A) supply to the Noteholders on request copies of each policy of insurance required to be maintained in accordance with paragraph 14.1 above (the “**policies**”), together with the current premium receipts relating to the policies;
- (B) promptly notify the Noteholders of any material change to the insurance cover of any member of the Group; and
- (C) promptly notify the Noteholders of any claim under any policy which is for, or is reasonably likely to result in a claim under that policy for, an amount in excess of U.S.\$10,000 (or its equivalent) and keep the Noteholders advised of the progress of any such claim.

15. Confidential Information

Each Obligor shall (and the Company shall procure that each other member of the Group will), take commercially reasonable steps within their respective powers together with such steps which are required or approved by the Lenders to protect information which is confidential to them (or any other member or the Group) or the Noteholders.

This is **Exhibit "16"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barister & Solicitor

Execution Version

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Dated: February 7, 2024

LYNX AIR HOLDINGS CORPORATION

and

1263343 ALBERTA INC., DOING BUSINESS AS LYNX AIR

and

INDIGO NORTHERN VENTURES LP

FIFTH BRIDGE NOTE PURCHASE AGREEMENT

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THIS FIFTH BRIDGE NOTE PURCHASE AGREEMENT is executed as of February 7, 2024 and made

BETWEEN

- (1) **LYNX AIR HOLDINGS CORPORATION** (the “**Company**”), a company registered under the laws of Alberta whose registered office is at 1400, 350 7th Avenue S.W., Calgary, Alberta T2P 3N9;
- (2) **1263343 ALBERTA INC.**, doing business as Lynx Air (the “**Guarantor**” and also referred to herein as the “**Subsidiary**”), a company registered under the laws of Alberta whose registered office is at 1400, 350 7th Avenue S.W., Calgary, Alberta T2P 3N9; and
- (3) **INDIGO NORTHERN VENTURES LP** (“**Indigo**”), an exempted limited partnership registered under the laws of the Cayman Islands whose registered office is at c/o Maples Corporate Services Limited, PO Box 309, Uglund House, Grand Cayman, KY1-1104, Cayman Islands.

BACKGROUND:

- (A) Indigo has agreed to purchase a Note in a principal amount equal to the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000 in accordance with the provisions of this Agreement.
- (B) It is in the intention of the Company, the Guarantor and Indigo that the New Note Funds be used by the Company in accordance with Article 7 hereof, in order to provide the Company with operating capital while the Company pursues the consummation of the transaction referred to in clause (b) of the definition of “Redemption Date”, which transaction the Parties agree and acknowledge is in the best interest of each of them.
- (B) The Parties have agreed to enter into this Agreement to govern the terms on which the Notes are to be issued by the Company and held by the Noteholders.

THE PARTIES AGREE AS FOLLOWS:

In consideration of the premises and the covenants and agreements herein set forth, the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement:

“**Adherence Agreement**” means a joinder to this Agreement substantially in the form set out in Schedule 7;

“**Affiliate**” means, in relation to any Person, a Subsidiary of that Person or any direct or indirect Holding Company of that Person or any other direct or indirect Subsidiary of any such Holding Company;

“**Agency**” means the Canadian Transportation Agency, or any successor agency thereto;

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“Agreement” means this Fifth Bridge Note Purchase Agreement dated as of February 7, 2024;

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Company or its Subsidiaries from time to time concerning or relating to bribery or corruption, including, without limitation, the *Corruption of Foreign Public Officials Acts* (Canada) and the U.S. Foreign Corrupt Practices Act;

“Authorisation” means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;

“Authorised Expenses” means the legal fees of Blake, Cassels & Graydon, LLP, incurred in connection with: (a) the negotiation and documentation of the term sheet relating to this Agreement; and (b) the negotiation and documentation of the Transaction Documents and all ancillary documents connected thereto;

“BIA” means the *Bankruptcy and Insolvency Act* (Canada), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation;

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

“Boeing Order” means the Purchase Agreement No. ABQ-PA-04427 between The Boeing Company and the Guarantor dated as of October 18, 2015, as amended and supplemented from time to time, including, without limitation, by way of all exhibits, schedules, letter agreements, proprietary letter agreements and supplemental agreements with The Boeing Company, and (a) all rights of the Company in connection with such agreement; (b) all other rights of the Company to receive money due and to become due to in connection with such agreement; (c) all rights of the Company to damages arising out of, or for breach or default in respect of, such agreement; (d) all rights of the Company to perform and exercise all remedies in connection with such agreement; (e) all other rights, entitlements, privileges, benefits, powers, licences and advantages of the Company to be derived from such agreement; and (f) all proceeds thereof;

“Bridge Notes” shall have the meaning ascribed to “Notes” in the Bridge NPA;

“Bridge NPA” means the bridge note purchase agreement dated as of February 24, 2023 among, the Company, the Guarantor and Indigo, as amended from time to time;

“Business Day” means any day (other than Saturday or Sunday) which is not a public holiday and on which banks are open for normal banking business in Toronto, Ontario, Calgary, Alberta and New York, New York;

“Canadian” shall have the meaning ascribed to such term in the CTA, as supplemented by the Exemption;

“Canadian Benefit Plan” means any plan, fund, program, or policy, whether oral or written, formal or informal, funded or unfunded, insured or uninsured, providing employee benefits, including medical, hospital care, dental, sickness, accident, disability, life

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insurance, pension, retirement or savings benefits, under which the Company or its Subsidiaries has any liability with respect to any employee or former employee, but excluding any Canadian Pension Plan;

“Canadian Pension Plan” means each pension plan required to be registered under Canadian federal or provincial law that is maintained or contributed to by the Company or its Subsidiaries for its employees or former employees, but does not include the Canada Pension Plan as maintained by the Government of Canada;

“Capital Event” shall have the meaning ascribed to such term in Condition 15.1 of Schedule 11;

“Cash Equivalents” means any of the following:

- (a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the Government of Canada or of any Canadian province (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the Government of Canada or of such Canadian province), in each case maturing within one year from the date of acquisition thereof;
- (b) investments in certificates of deposit, bankers' acceptances and time deposits maturing within 180 days from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of Canada or of any Canadian province which has a combined capital surplus and undivided profits of not less than \$500,000,000 and a senior unsecured rating of “A-” or better by S&P and “A3” or better by Moody's;
- (c) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the Government of the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the Government of the United States of America), in each case maturing within one year from the date of acquisition thereof;
- (d) marketable and freely tradeable securities evidencing direct obligations of corporations, hospitals, municipal boards or school boards having, at the date of acquisition, a rating from DBRS of A, from Moody's of A 2 or from S&P of A, in each case maturing within 180 days from the date of acquisition thereof; or
- (e) deposits in bank accounts made in the ordinary course of business and otherwise permitted hereunder;

“CCAA” means the *Companies' Creditors Arrangement Act* (Canada), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation;

“Class A Common Shares” shall have the meaning ascribed to such term in the Noteholders' and Shareholders' Agreement;

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“Class B Common Shares” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“Common Shares” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“Company Bank Account” means the bank account of the Company, the details of which are as follows:

Account:	Lynx Air Holdings Corporation
Bank:	ATB Financial Calgary Stephen Ave Branch 102 8 Ave SW Calgary AB T2P 1B3
Bank Code:	0219
Transit /Branch	07609
Account:	00390932879
Swift Code:	ATBRCA6EXXX

“Completion” means performance of the obligations set forth in clause 4 provided always that Completion shall under no circumstances occur unless the Indigo Note Amount (less the Pre-Completion Expenses) shall have been received in the Company Bank Account for value in immediately available funds;

“Completion Date” means the date on which Completion occurs;

“Conditions” means the conditions and other provisions of the Notes set out in Schedule 11;

“Confidential Information” means any information, whether acquired before or after the date of this Agreement, that relates to:

- (a) this Agreement;
- (b) any member of the Group or their respective businesses;
- (c) any of the Group’s customers, businesses, assets, contracts, employees or affairs; and
- (d) any Party or any of their Affiliates, in each case, in respect of their identity, their being a party to this Agreement and their holdings of Notes and/or Common Shares and making an investment in the Group or any other information relating

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to any of the foregoing that has been obtained pursuant to the negotiation of this Agreement or any of the documents referred to herein,

save for, in each case:

- (i) information that is independently developed by the relevant Person from information that was neither: (A) provided pursuant to this Agreement; (B) provided by any member of the Group or any Party; nor (C) provided by a third party to the extent that it was provided with any limitation on disclosure or obligation of confidence; or
- (ii) information which is at the date of disclosure within the public domain (otherwise than as a result of a breach of this Agreement);

“Consent” means a written consent, in form and substance satisfactory to the Noteholder, from The Boeing Company addressed to the Noteholder in respect of a security interest granted by the Guarantor in favour of the Noteholder in the Boeing Order and the assignment of the Boeing Order to the Noteholder in the event that the Noteholder exercises any or all of its rights, remedies, powers or discretions under the Transaction Documents;

“Control” shall have the meaning ascribed to such term in the definition of “Affiliation” in the CTA. **“Controlling”** and **“Controlled”** have meanings correlative thereto;

“Controlling Interest” means a direct or indirect beneficial interest in more than 50% of the Fully Diluted Share Capital, or the ability of any Person, either alone or in conjunction with Persons acting in concert with such Person to control a direct or indirect beneficial interest in more than 50% of the Fully Diluted Share Capital, as the context requires;

“Conversion Date” means, in respect of any conversion of Notes, the date on which the Company is required to issue the Conversion Shares to the relevant Noteholder pursuant to the conversion of such Notes;

“Conversion Shares” means, in respect of any Notes, the Class B Common Shares that would result from the conversion of such Notes in accordance with their terms and the relevant provisions of this Agreement and as calculated in accordance with the provisions of Condition 13.1 of Schedule 11;

“Converting Noteholder” shall have the meaning ascribed to such term in Condition 10.2 of Schedule 11;

“Corporate Articles” means the articles of incorporation of the Company in the Agreed Form;

“Covenants” shall have the meaning ascribed to such term in clause 12.110.2;

“CTA” means the *Canada Transportation Act*, as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation;

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“**DBRS**” means Dominion Bond Rating Service Limited, or its successor;

“**Default**” means an Event of Default or any event or circumstance specified in Schedule 12 which would (with the expiry of a grace period, the giving of notice, the making of any determination by the Noteholder that it is entitled to make under any of the Transaction Documents or any combination of the foregoing) be an Event of Default;

“**Default Rate**” means, at any time, the applicable Interest Rate plus 1%;

“**Director**” means a member of the Board;

“**Dollar**”, “**Canadian Dollar**”, “**\$**” and “**CAD**” means the lawful currency of Canada for the time being, unless an explicit reference is made to U.S. or other currency;

“**Equivalent Amount**” means, with respect to any specified amount of currency other than Canadian Dollars, the amount of Canadian Dollars that may be purchased with such amount of other currency at the spot wholesale transactions buying rate of The Royal Bank of Canada for the purchase of Canadian Dollars with such other currency in effect as of 11:00 a.m. on the Business Day with respect to which such computation is required for the purpose of this Agreement or, in the absence of such a buying rate on such date, using such other rate as the Lender may reasonably select;

“**Event of Default**” means any event or circumstance specified in Schedule 12;

“**Exemption**” means the exemption order issued by the Minister of Transport to the Guarantor on December 2, 2016 relating to the CTA;

“**Financial Indebtedness**” means, without double counting, any indebtedness for or in respect of:

- (a) moneys borrowed or raised (including overdrafts);
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, shares or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a finance or capital lease;
- (e) receivables sold, discounted or factored (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised by the issue of redeemable shares if the shares are redeemable automatically or at the relevant shareholder’s option before the Redemption Date;
- (g) any amount of any liability under an advance or deferred purchase agreement if:
 - (i) one of the primary reasons behind entering into the agreement is to raise

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financing; or (ii) the agreement is in respect of the supply of material assets or services and payment is due more than 60 days after the date of supply;

- (h) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account);
- (i) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution;
- (j) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing; and
- (k) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (j) above;

“Flair Term Sheet” means the term sheet dated as of January 11, 2024 between Flair Airlines Ltd. and the Company;

“Flair Transaction” means the transaction as substantially contemplated by the Flair Term Sheet;

“Fourth Bridge Notes” shall have the meaning ascribed to “Notes” in the Fourth Bridge NPA;

“Fourth Bridge NPA” means the fourth bridge note purchase agreement dated as of February 2, 2024 among, the Company, the Guarantor and Indigo, as amended from time to time;

“Fully Diluted Share Capital” means, at any time, the aggregate number of Common Shares that would be issued assuming the conversion (in full) of all Notes (whether or not, on their terms, the same are actually convertible into Common Shares at such time);

“GAAP” means in relation to any Person, the generally accepted accounting principles in Canada, as in effect from time to time with respect to such Person, including International Financial Reporting Standards and the Canadian accounting standards for private enterprises as set out in Part II of the Chartered Professional Accountants of Canada Handbook, as issued by the Accounting Standard Boards in Canada, other than known deviations as previously disclosed to the Noteholder relating to the treatment of leases as a consequence of International Financial Reporting Standards Rule 16;

“Group” means the Company and its Subsidiaries from time to time;

“Holding Company” means, in relation to a corporation, any other corporation in respect of which it is a Subsidiary;

“Indigo Note Amount” shall have the meaning set out in clause 2.1;

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“Interest Rate” means 20% per annum;

“Initial Note” means the convertible promissory note (substantially in the form set out in Schedule 9) to be issued by the Company to Indigo pursuant to and in accordance with clause 2.1;

“Interest Payment Date” shall have the meaning ascribed to such term in the Notes.

“IPO” means an initial public offering, whether on a treasury or secondary basis, resulting in the holding of equity of the Company, directly or indirectly, by the public, or a transaction giving rise to a stock market listing on any Recognised Securities Exchange or over-the-counter quotation of equity of the Company, directly or indirectly, and includes an amalgamation, securities exchange take-over bid or other transaction having a similar result, and an offering of units of an income trust or similar offering where the trust, directly or indirectly, owns equity of the Company **“IPO Conversion Notice”** shall have the meaning ascribed to such term in Condition 12.4 of Schedule 11;

“Lenders” means Indigo (and any Person to whom Indigo has transferred any Notes in accordance with the terms of this Agreement);

“Material Adverse Effect” means, in the reasonable opinion of Indigo, a material adverse effect on:

- (a) the ability of any member of the Group to pay any amount of principal or interest or other amount (if payable in cash) in respect of the Notes or to perform any of its material obligations under this Agreement; or
- (b) the business, operations, property, condition (financial or otherwise) or prospects of the Group taken as a whole;

“Moody’s” means Moody’s Investors Service, Inc.;

“New Note Funds” means the money received by the Company pursuant to the sale of Notes in accordance with clause 2;

“Non-Canadian” means any Person that does not qualify as Canadian;

“Non-Indigo Party” means any Party other than Indigo (and any Person to whom Indigo has transferred any Notes in accordance with the terms of this Agreement);

“Note Conversion Notice” shall have the meaning ascribed to such term in Condition 10.3 of Schedule 11;

“Noteholder” means any holder for the time being of Notes;

“Noteholder Resolution” shall have the meaning ascribed to such term in paragraph 2.1 of Schedule 8;

“Noteholders’ and Shareholders’ Agreement” means the noteholders’ and shareholders’ agreement originally dated as of December 20, 2018 by and between the

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Company, the Subsidiaries, Indigo, the Noteholders and the Shareholders (in each case, as defined therein), as amended from time to time;

“**Notes**” means, collectively, the Initial Note and the PIK Notes;

“**Obligor**” means the Company or the Guarantor, and the term “**Obligors**” means the Company and the Guarantor;

“**Obligor Warranties**” means, collectively, the statements set out in Schedule 5;

“**Ordinary Course of Business**” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“**Original Notes**” shall have the meaning ascribed to “Notes” in the Original NPA;

“**Original NPA**” means the note purchase agreement dated as of December 20, 2018 among, the Company, the Guarantor and Indigo, as amended from time to time;

“**Outstanding Expenses**” shall have the meaning ascribed to such term in clause 10.5(B);

“**Ownership and Control Requirements**” means the rules or regulations governing the ownership and control of Canadian airlines constituted pursuant to the federal laws of Canada including (without limitation) the CTA, as supplemented by the Exemption;

“**Party**” means a party to this Agreement;

“**Permitted Transferee**” means, in respect of a Lender:

- (a) any Subsidiary or Holding Company of such Lender;
- (b) any company, fund (including any unit trust or investment trust), partnership or other entity which is Controlled by any entity falling within (a) above (or by any two or more such entities);
- (c) any company, fund (including any unit trust or investment trust), partnership or other entity the major part of the assets of which are managed (whether solely or jointly with others) from time to time by any entity falling within (a) and/or (b) above (or by any two or more such entities); or
- (d) any company, fund (including any unit trust or investment trust), partnership or other entity that is managed by or Controlled by the same Person or Persons who manage or Control the Lender at the date of this Agreement;

“**Person**” includes any natural person, corporation, company, limited liability company, trust, joint venture, association, incorporated organization, partnership, governmental authority or other entity;

“**PIK Notes**” shall have the meaning ascribed to such term in paragraph 4.1 of Schedule 11;

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“Pre-Completion Expenses” shall have the meaning ascribed to such term in clause 10.3(B);

“Proposed Conversion Date” shall have the meaning ascribed to such term in Condition 10.2 of Schedule 11;

“Qualifying Takeover Offer” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“Recognised Securities Exchange” means the Toronto Stock Exchange or any other recognized securities exchange in Canada or the United States of America;

“Redemption Date” shall mean the earlier to occur of: (a) the consummation of the Flair Transaction and (b) the Long Stop Date (as defined in the Flair Term Sheet);

“Register” means the register of the Notes required to be maintained by the Company pursuant to clause 9;

“Relevant Conversion Price” means \$0.10, subject to adjustment on a pro-rata basis in the event that the Company effects any share split, consolidation, sub-division or other reorganization of any part of its share capital after the date of this Agreement, which such price shall be equal to the price of the Common Shares on the date of this Agreement;

“S&P” means Standard & Poor’s Ratings Services, a division of the McGraw-Hill Companies, Inc;

“Sanctions” means, at any time, economic or financial sanctions or trade embargoes imposed, administered or enforced by (a) the Office of Foreign Assets Control of the U.S. Department of Treasury; or (b) any other governmental authority that are applicable to any party at such time;

“Sanctioned Person” means, at any time, any Person with whom any party is prohibited or restricted from transacting or otherwise dealing under any Sanction, whether by reason of designation under such Sanction or otherwise;

“Second Bridge NPA” means the second bridge note purchase agreement dated as of October 26, 2023 among, the Company, the Guarantor and Indigo, as amended from time to time;

“Second Bridge Notes” shall have the meaning ascribed to “Notes” in the Second Bridge NPA;

“Security” means, (a) with respect to any asset, any mortgage, deed of trust, lien (statutory or otherwise), deemed trust, pledge, hypothec, hypothecation, encumbrance, charge, security interest, royalty interest, adverse claim, defect of title or right of set off in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, title retention agreement or consignment agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to any asset, (c) any purchase option, call or similar right of a third party with

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respect to such assets, (d) any netting arrangement, defeasance arrangement or reciprocal fee arrangement, and (e) any other arrangement having the effect of providing security;

“**Security Documents**” means the documents that constitute the Security required to be granted or put in place pursuant to clause 14 and Schedule 6;

“**Shareholder**” means a shareholder of the Company;

“**Subsidiary**” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“**Takeover Conversion Notice**” shall have the meaning ascribed to such term in Condition 11.3 of Schedule 11;

“**Takeover Offer**” shall have the meaning ascribed to such term in the Noteholders’ and Shareholders’ Agreement;

“**Tax**” means all taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, harmonized sales, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, real property and personal property taxes, and any other taxes, customs duties, fees, assessments, or similar charges in the nature of a tax, including *Canada Pension Plan* and provincial pension plan contributions, employment insurance payments and workers’ compensation premiums, together with any instalments with respect thereto, and any interest, fines and penalties with respect thereto, imposed by any governmental authority (including federal, state, provincial, municipal and foreign governmental authorities), and whether disputed or not;

“**Third Bridge Notes**” shall have the meaning ascribed to “Notes” in the Third Bridge NPA;

“**Third Bridge NPA**” means the third bridge note purchase agreement dated as of January 12, 2024 among, the Company, the Guarantor and Indigo, as amended from time to time;

“**Transaction Documents**” means this Agreement, the Noteholders’ and Shareholders’ Agreement, the Security Documents, and each other agreement or document entered into or executed pursuant to any of the foregoing;

“**Transferring Noteholder**” shall have the meaning ascribed to such term in Condition 6.1 of Schedule 11;

“**Unrestricted Cash Balance**” means, at any time, the aggregate amount of unrestricted cash and Cash Equivalents held by an Obligor at such time, in accounts maintained with a financial institution that has executed an account control agreement, blocked account agreement or other similar agreement (in each case, in form and substance satisfactory to Indigo, acting reasonably) in favour of Indigo;

“**Winding-Up**” means, in respect of any Person,

(a) that such Person:

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- (i) admits in writing that it is insolvent or unable to pay its liabilities as they generally become due;
 - (ii) commits an act of bankruptcy under the BIA, files a voluntary assignment in bankruptcy under the BIA, makes a proposal (or files a notice of its intention to do so) under the BIA or seeks any other relief in respect of itself under the BIA;
 - (iii) institutes any proceedings seeking relief in respect of itself under the CCAA;
 - (iv) institutes any proceeding seeking relief in respect of itself under the WURA;
 - (v) in addition to the forgoing, institutes any other proceeding seeking: (a) to adjudicate itself an insolvent person or a bankrupt; (b) to liquidate, dissolve or wind-up its business or assets; (c) to compromise, arrange, adjust or declare a moratorium in respect of the payment of, its debts; (d) to stay the rights of creditors generally (or any class of creditors); (e) any other relief in respect of itself under any federal, provincial or foreign applicable Law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, receivership, restructuring of business, assets or debt, reorganization of business, assets or debt or protection of debtors from their creditors (such applicable Law includes any applicable corporations legislation to the extent the relief sought under such corporations legislation relates to or involves the compromise, settlement, adjustment or arrangement of debt); or (f) any other relief which provides for plans or schemes of reorganization, plans or schemes of arrangement or plans or schemes of compromise, in respect of itself, to be submitted or presented to creditors (or any class of creditors);
 - (vi) applies for the appointment of, or has a receiver (either court or privately appointed), interim receiver, receiver/manager (either court or privately appointed), sequestrator, conservator, custodian, administrator, trustee, liquidator or other similar official appointed in respect of it, or any substantial part of its property; or
 - (vii) threatens to do any of the foregoing, or takes any action, corporate or otherwise, to approve, effect, consent to or authorize any of the actions described in (i) to (vi) above; or
- (b) that any petition is filed, application made or other proceeding instituted against or in respect of any Person:
- (i) seeking to adjudicate it an insolvent person;
 - (ii) seeking a bankruptcy order against it under the BIA;
 - (iii) seeking to institute proceedings against it under the CCAA;

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- (iv) seeking to institute proceedings against it under the WURA;
- (v) seeking, in addition to the forgoing: (a) to adjudicate it an insolvent person or a bankrupt; (b) to liquidate, dissolve or wind-up its business or assets; (c) to compromise, arrange, adjust or declare a moratorium in respect of the payment of, its debts; (d) to stay the rights of creditors generally (or any class of creditors); (e) any other relief in respect of it under any federal, provincial or foreign applicable Law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, receivership, restructuring of business, assets or debt, reorganization of business, assets or debt, or protection of debtors from their creditors (such applicable Law includes any applicable corporations legislation to the extent the relief sought under such corporations legislation relates to or involves the compromise, settlement, adjustment or arrangement of debt); or (f) any other relief which provides plans or schemes of reorganization, plans or schemes of arrangement or plans or schemes of compromise in respect of it, to be submitted or presented to creditors (or any class of creditors); or
- (vi) seeking the issuance of an order for the appointment of a receiver, interim receiver, receiver/manager, sequestrator, conservator, custodian, administrator, trustee, liquidator or other similar official in respect of it or any substantial part of its property; and

“WURA” means the *Winding Up and Restructuring Act* (Canada), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

1.2 In this Agreement, unless a contrary indication appears:

- (a) references to “**clauses**” and “**Schedules**” are references to clauses of and schedules to this Agreement, references to “**paragraphs**” are references to paragraphs of the Schedule (or clause) in which the reference appears and references to this Agreement include the Schedules;
- (b) reference to any gender shall include every other gender;
- (c) the singular shall include the plural and vice versa;
- (d) the headings and sub-headings are inserted for convenience only and shall not affect the construction of this Agreement;
- (e) references to dollars means Canadian Dollars unless an explicit reference is made to U.S. or other currency;
- (f) references to “**indebtedness**” include any obligation (whether incurred as principal, as guarantor or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

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- (g) references to a “**regulation**” include any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or reorganisation;
- (h) references to “**Indigo**”, any “**Noteholder**”, any “**Shareholder**”, any “**Lender**”, and/or any “**Party**” shall be construed so as to include its successors, permitted assigns and permitted transferees;
- (i) references to any document being in “**Agreed Form**” are to that document in the form signed by or on behalf of each of the Lenders, the Company and the Guarantor for the purposes of identification;
- (j) references to “**assets**” include present and future properties, revenues and rights of every description;
- (k) references to any agreement or instrument is a reference to that agreement or instrument as amended, varied, supplemented or novated (however fundamentally) from time to time but excluding for these purposes any amendment, variations, supplement or novation which is contrary to the provisions of any such agreement or instrument;
- (l) references to “**guarantee**” mean any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assure any indebtedness of any Person or to make an investment in or loan to any Person or to purchase assets of any Person where, in each case, such obligation is assumed in order to maintain or assist the ability of such Person to meet its indebtedness (and “guaranteed” and “guarantor” shall be construed accordingly); and
- (m) references to a provision of law are references to that provision as amended or re-enacted and include any subordinate legislation.

2. SALE OF NOTES

- 2.1 Indigo hereby agrees to purchase the Initial Note at Completion for U.S.\$5,000,000 (the “**Indigo Note Amount**”) on the terms and subject to the conditions set out in this Agreement.
- 2.2 All Notes shall constitute “Notes” for the purpose of the Noteholders’ and Shareholders’ Agreement.
- 2.3 The Financial Indebtedness arising under this Agreement and the Notes, the Bridge NPA and the Bridge Notes, and the Second Bridge NPA and the Second Bridge Notes, the Third Bridge NPA and the Third Bridge Notes and the Fourth Bridge NPA and the Fourth Bridge Notes rank in priority to all of the Company’s and the Guarantor’s other secured Financial Indebtedness, including, without limitation, under the Original NPA and the Original Notes.

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3. INTEREST

The Notes shall each bear interest at the rate and in accordance with the provisions set forth in Condition 4 of Schedule 11.

4. COMPLETION

4.1 Subject to the terms of this Agreement, completion shall take place as soon as reasonably possible after the last of the conditions in clause 5 has been satisfied (or waived in accordance with clause 5.2) provided that this Agreement shall lapse and be of no further force and effect if Completion shall not have occurred by the earlier of:

(A) February 7, 2024; and

(B) the Winding-Up of the Company or any Subsidiary of the Company,
or such later date as Indigo may agree in writing.

4.2 Subject to clause 4.3, at Completion:

(A) Indigo will transfer the Indigo Note Amount (less the Pre-Completion Expenses) to the Company Bank Account by direct credit transfer; and

(B) the Company shall execute and deliver to Indigo the Initial Note required to be issued pursuant to clause 2.1 of this Agreement, each of which will be issued in Indigo's name and dated as of the Completion Date.

4.3 For all purposes under this Agreement, Completion shall not be deemed to have occurred unless and until all of the obligations set forth in this clause 4 shall have been performed in full in accordance with the provisions set forth herein and the Indigo Note Amount (less the Pre-Completion Expenses) shall have been received in the Company Bank Account for value in immediately available funds.

5. CONDITIONS PRECEDENT

5.1 Completion is conditional on:

(A) the Company having delivered (or procured the delivery) to Indigo (or its solicitors on its behalf) the following documents:

(i) counterparts of any Adherence Agreement (as defined in the Noteholders' and Shareholders' Agreement) duly executed by each Noteholder not already a party thereto;

(ii) a counterpart to a guarantee given by the Guarantor in favour of the Lenders;

(iii) a counterpart to a general security agreement given by each of the Company and the Guarantor in favour of the lenders (the "**GSA**");

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- (iv) a detailed 90-day cash-flow forecast of the Company for the period ending March 31, 2024, and Indigo confirms receipt of such forecast;
 - (v) confirmation from a senior officer of the Company that the forecast referred to in clause 5.1(A)(iv) above remains true, complete and correct as of the Completion Date such that there are no material changes to the information set out therein;
 - (vi) a counterpart by every party thereto to the amendment no. 6 to the Noteholders' and Shareholders' Agreement, such amendment to be entered into to reflect the issuance of the Notes pursuant to this Agreement and all transactions contemplated hereby; and
 - (vii) such legal opinions and supporting materials as may be requested by Indigo;
- (B) Indigo is satisfied with the condition of the Company, in its sole discretion;
- (C) the GSA shall have been registered in all offices in which, in the opinion of Indigo or its counsel, registration is necessary or of advantage to perfect or render opposable to third parties the Security intended to be created thereby;
- (D) [Intentionally Deleted];
- (E) [Intentionally Deleted];
- (F) confirmation by the Company, to the satisfaction of Indigo, that no event or circumstance exists or has occurred which constitutes a default under any agreement or instrument which is binding on it or the Group or to which its or any of the Group's assets are subject which has or might have a Material Adverse Effect, other than the Company failing to redeem the Original Notes on December 20, 2023 as required pursuant to the terms of the Original NPA, which the Company and Indigo hereby acknowledge constitutes a Default under the Original NPA, which Default is not waived by Indigo and in respect of which Default Indigo reserves all rights;
- (G) [Intentionally Deleted];
- (H) [Intentionally Deleted];
- (I) confirmation by the Company, to the satisfaction of Indigo, that none of the Group's debt (including, without limitation, any debt payable to any Shareholder) which exists as of the date hereof, will be repaid, rescheduled or modified in any way (other than the payments of any accounts payable in the ordinary course of business or any interest and principal scheduled under existing terms) unless approved by Indigo in writing;
- (J) [Intentionally Deleted]; and
- (K) [Intentionally Deleted].

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5.2 Indigo may agree to waive all or any part of the conditions in clause 5.1 or to modify such conditions.

6. POST-COMPLETION OBLIGATIONS

6.1 The Company shall promptly and, in any event, on such date as required pursuant to the Third Bridge NPA cause The Boeing Company to provide the Consent.

7. PURPOSE

7.1 Subject to clause 7.3, the Company shall apply the New Note Funds towards:

(A) making intra-group loans to, or equity investments in, the Subsidiary to enable such Subsidiary to discharge amounts referred to in clause 7.2; and

(B) general working capital purposes, but not towards the making of acquisitions of or investments in companies, businesses or undertakings other than as contemplated in clause 7.1(A) above.

7.2 For so long as any Notes remain outstanding, the Company shall procure that the New Note Funds are applied as follows:

(A) first, general working capital purposes; and

(B) second, any other purpose approved by the Lenders in writing.

7.3 Notwithstanding any other provision contained in this Agreement, (A) the Guarantor will not engage, and will not use the New Note Funds to engage, to any material extent, in any material business other than business of providing a low fare, low cost airline, and (B) the Company will not, and will not use the New Note Funds to, (i) engage in any business (other than non-operating business and management services, in each case typically conducted by a holding company), (ii) own any assets (other than bank accounts and shares in the Guarantor), (iii) incur any indebtedness (other than that as approved by the Lenders), or (iv) incur any expenses other than customary and reasonable administrative expenses associated with maintaining its corporate existence.

7.4 The Lenders are not bound to monitor or verify the application of any amount borrowed pursuant to this Agreement and the Lenders will not be responsible for, or for the consequences of, any such borrowing.

8. CERTIFICATES

8.1 Every certificate for Notes shall be in the form or substantially in the form set out in Schedule 9 and shall have endorsed thereon or attached thereto:

(A) a conversion notice in the form or substantially in the form set out in Schedule 10; and

(B) a copy of the Conditions.

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- 8.2 Every Noteholder shall be entitled, without charge, to one certificate for the Notes held by it save that joint holders shall be entitled to one certificate only in respect of the Notes held by them jointly which certificate shall be delivered to the holder whose name stands first in the Register in respect of such joint holding. The Company shall not be bound to register more than four Persons as joint holders of any Notes.
- 8.3 Where some but not all of the Notes comprised in any certificate are transferred or repaid, the Company shall forthwith issue free of charge to the relevant Noteholder a fresh certificate in accordance with the other provisions of this Agreement for the balance of the Notes retained by such Noteholder.
- 8.4 The Company hereby undertakes and covenants that for such time as any of the Notes remain outstanding, the Company shall carry on and conduct its affairs so as to comply with:
- (A) the provisions contained in the certificates for the Notes;
 - (B) the Conditions;
 - (C) the provisions of this Agreement, including (without limitation) the provisions of:
 - (i) Schedule 6;
 - (ii) Schedule 12; and
 - (iii) Schedule 13,

and the Notes shall be held subject to and with the benefit of such provisions and Conditions all of which shall be deemed to be incorporated in this Agreement and which shall be binding upon the Company and the Noteholders and all Persons claiming through or under them respectively with the intent that the Notes shall enure for the benefit of each Noteholder who shall, for the avoidance of doubt, be entitled to sue for the performance and observance of such provisions and Conditions in respect of any Notes held by such Noteholder.

9. REGISTER

- 9.1 The Company shall keep an accurate register of the Notes at its registered office or at such other place as the Directors may determine from time to time and there shall be entered in the Register:
- (A) the names, addresses and nationality for the purposes of the Ownership and Control Requirements of the holders for the time being of the Notes;
 - (B) the nominal amount of the Notes held by every registered holder;
 - (C) the date upon which the name of every such registered holder is entered in respect of the Notes standing in its name;
 - (D) the serial number of each Note; and

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- (E) details of any account designated by any Noteholder for the purpose of receiving payments pursuant to the terms of the Notes.
- 9.2 Any change of name, address or nationality on the part of any Noteholder shall be notified as soon as is reasonably practicable to the Company and the Company shall amend the Register accordingly.
- 9.3 Any Noteholder and any Person authorized by any Noteholder shall be at liberty at all reasonable times during office hours to inspect the Register and to take copies of or extracts from the Register or any part thereof and shall be entitled to obtain from the Company by telephone or by facsimile confirmation of its registered address and the aggregate nominal amount of the Notes in issue from time to time.

10. FEES AND EXPENSES

- 10.1 In consideration for Indigo agreeing to enter into this Agreement and for other valuable consideration, the Company will pay (for and on behalf of itself and the Subsidiaries) the following fees and expenses:
 - (A) [Intentionally Deleted]; and
 - (B) the Authorised Expenses, in accordance with clauses 10.2 to 10.7 below.
- 10.2 [Intentionally Deleted].
- 10.3 Prior to Completion, Indigo shall deliver to the Company a statement containing an itemised list of the Authorised Expenses as follows:
 - (A) those Authorised Expenses actually incurred by Indigo in respect of the period up to Completion (together with invoices or other supporting evidence of the same, which may include a letter from the relevant law firm setting out the amounts due to it by Indigo);
 - (B) a reasonable estimate (if necessary) of any Authorised Expenses that remain to be incurred by Indigo in respect of the period up to Completion;(the Authorised Expenses referred to in clauses 10.3(A) and 10.3(B) being the “**Pre-Completion Expenses**”).
- 10.4 Indigo will deduct the Pre-Completion Expenses from the Indigo Note Amount prior to the transfer of the same to the Company pursuant to clause 2.1 above.
- 10.5 Within 15 Business Days after the execution of the last document required to be executed in connection with the Security, Indigo will submit a final statement to the Company setting out the following:
 - (A) the aggregate amount of the Lenders’ Authorised Expenses incurred by the Lender; and

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(B) the amount of Lenders' Authorised Expenses (if any) that remains due to such Lender (the "**Outstanding Expenses**"), being the amount referred to in clause 10.5(A).

10.6 If there are Outstanding Expenses, Indigo shall deliver copies of invoices in respect of the outstanding amount and the Company shall settle such invoices within 5 Business Days of receipt of the same.

10.7 Any fees, costs and expenses required to be paid or reimbursed to Indigo or any other Affiliates of Indigo by the Company or a Subsidiary pursuant to any of the Transaction Documents shall be paid by the Company to the maximum extent permissible by law or otherwise by the Guarantor.

11. WARRANTIES

11.1 The Obligors jointly and severally warrant to each of the Lenders that each of the Obligor Warranties is true and correct on the date of this Agreement in respect of each of the Obligors.

11.2 The Obligors each acknowledge to the Lenders that:

(A) they have agreed to give the Obligor Warranties in respect of itself in consideration of the execution by Indigo of this Agreement and the performance of the obligations contained herein; and

(B) Indigo has entered into this Agreement, and the Lenders will perform their obligations in accordance with the provisions of this Agreement, in reliance, inter alia, on the Obligor Warranties.

11.3 The Obligors each hereby acknowledge and agree that each of the Obligor Warranties shall be separate and independent and save as expressly provided shall not be limited by reference to any other of the Obligor Warranties or anything in this Agreement.

12. COVENANTS

12.1 Each of the Company and the Subsidiary give the covenants set forth in Schedule 13 (the "**Covenants**") to the Lenders and agree the same will remain in force from the date of this Agreement for so long as the Notes remain outstanding, provided that it shall not be a breach of any covenant under this Agreement arising from the Company or any Subsidiary complying with any other specific obligation under any of the Transaction Documents apart from the Covenants.

13. [INTENTIONALLY DELETED]

14. SECURITY

14.1 The Company and the Subsidiary undertake to provide and maintain the Security in favour of the Lenders in accordance with the provisions of Schedule 6.

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15. TRANSFERS AND ADHERENCE AGREEMENT REQUIREMENTS

- 15.1 All transfers of Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) shall be regulated in accordance with Conditions 6 to 9 (inclusive).
- 15.2 Notwithstanding any other provision contained in this Agreement, no transfer of any Note shall be made by any Person unless the transferee shall have first executed an Adherence Agreement, pursuant to which the transferee agrees to adhere to and be bound by the provisions of this Agreement (including this clause) so far as it binds the transferor of the relevant Note(s).
- 15.3 Upon the execution of an Adherence Agreement pursuant to clause 15.2 above, the Parties (other than the transferor if the transferor retains no Notes after the relevant transfer) agree to adhere to and be bound by the provisions of this Agreement (including this clause) as if the transferee were an original party to the Agreement in place of the transferor.
- 15.4 This Agreement shall have effect accordingly, provided that no Adherence Agreement need be executed where the transferee is already a Party in the same capacity.
- 15.5 Any Party proposing to transfer any Notes in accordance with Conditions 6 to 9 of Schedule 11 (inclusive) or to direct its nominees to do so, shall procure that the transferee or the Person who will become the beneficial owner of the Notes to be transferred shall enter into an Adherence Agreement before the completion of the transfer.
- 15.6 The Company undertakes to procure, insofar as they are able to procure by the exercise of the voting rights of themselves and their nominees as shareholders of the Company and of their appointed Directors (subject to the fiduciary duties of such Directors) that:
- (A) no transfer of any Notes shall be registered unless any Adherence Agreement required by this clause 15.6 has been duly executed and delivered; and
 - (B) all necessary resolutions required to be passed to effect conversion of any Notes in accordance with the Corporate Articles are duly passed.
- 15.7 The obligations contained in this Agreement shall be binding upon the personal representatives and successors in title of the Parties but none of them shall be entitled to the benefit of this Agreement unless and until they have entered into an Adherence Agreement.

16. CONFIDENTIALITY

16.1 Obligations of Confidentiality

- (A) Each Party shall keep all Confidential Information strictly confidential and secret (and to ensure that each of its Affiliates, and its and their officers, employees, agents and professional and other advisers shall keep all Confidential Information strictly confidential and secret);

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- (B) Without limitation to its general obligation of confidentiality:
- (i) no Party shall disclose to any third party any Confidential Information;
 - (ii) no Party shall use or permit the use of any Confidential Information for any purpose other than assessing its investment in the Group and making decisions in relation to that investment;
 - (iii) each Party shall use its reasonable endeavours to alert the Company and the Lenders as soon as is reasonably practical after it becomes aware of any request from a third party for disclosure of any Confidential Information and upon the Company's reasonable request will join it in asserting against any third party that the Confidential Information and its contents are protected by privilege and that, as against such third party, that privilege has not been waived.

16.2 General Exceptions from Confidentiality Obligations

- (A) The obligations of confidentiality under clauses 16.1(A) and 16.1(B) do not apply to:
- (i) the disclosure of information solely to the extent required to be disclosed by law, legal process, regulation or any regulatory authority provided always that prior to such disclosure, the Party proposing to disclose information pursuant to this clause 16.2(A)(i) shall immediately inform each of the Lenders and shall co-operate in good faith with the Lenders about the timing and content of such disclosure to the extent reasonably practicable;
 - (ii) the disclosure in confidence to professional advisers, or any Affiliate of a Party, as the case may be, or their respective professional advisers, in each case where the disclosure is for a purpose reasonably incidental to this Agreement or for the purpose of assessing such Person's investment in the Group or any member of it (and only to the extent the disclosed information is reasonably required for such purpose);
 - (iii) any bona fide potential purchaser of any Note or Common Shares from any Lender provided such purchaser shall have entered into a confidentiality undertaking in favour of the seller on substantially the same terms as clause 16.1;
 - (iv) any shareholder or investor (or potential shareholder or investor) in or of any of the Lenders;
 - (v) any present or future financier of any of the Lenders;
 - (vi) the disclosure of information to any tax authority to the extent reasonably required for the purposes of the tax affairs of the Person disclosing the information or any Affiliate of such Person, as the case may be;

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- (vii) the disclosure by any Director, officer, employee, representative or consultant to the Group in the proper performance of their duties or by any employee of the Group making a protected disclosure relating to employment in accordance with applicable law; and
 - (viii) the disclosure by any Lender of Confidential Information to any Affiliate of such Lender.
- (B) Other than in respect of disclosure pursuant to clause 16.2(A)(iv), each Party shall inform (and shall ensure that any Affiliates shall inform) any Person to whom it provides Confidential Information pursuant to clause 16.2(A), that such information is confidential and, in the case of disclosure pursuant to clauses 16.2(A)(ii) shall only provide such Confidential Information to such Person if they agree:
- (i) to keep it confidential on the terms of and otherwise to comply with, this clause; and
 - (ii) not to disclose it to any third party (other than those Persons to whom it has already been disclosed in accordance with the terms of this Agreement).
- (C) A Party may only disclose Confidential Information pursuant to clauses 16.2(A)(iv) and 16.2(A)(v) on the basis that the recipient of such Confidential Information shall have entered into a confidentiality agreement with the disclosing Party on substantially the same terms as clause 16.1.

16.3 Breaches of Confidentiality restrictions

Each Party shall procure that promptly upon becoming aware of any breach (by any Person) of this clause 16, such Party shall promptly notify each of the Lenders of such fact and shall provide such information relating to the breach as any Lender may reasonably request.

17. GENERAL

- 17.1 The provisions of this Agreement shall be enforceable by and enure for the benefit of the Parties and their respective successors and permitted assigns.
- 17.2 Any release, waiver or compromise or any other arrangement of any kind by any Party shall not affect the rights and remedies of the Party concerned as regards any other Party or its rights and remedies against the Party in whose favour the release, waiver, compromise or other arrangement is granted or made, except (in any event) to the express extent of the release, waiver, compromise or other arrangement, and no such release, waiver, compromise or other arrangement shall have effect unless granted or made in writing.
- 17.3 If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of

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such provision under the law of any other jurisdiction will in any way be affected or impaired.

- 17.4 No failure to exercise, nor any delay in exercising, on the part of a Party, any right or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.
- 17.5 The Parties hereto confirm that it is their wish that this Agreement and any other document executed in connection with the transactions contemplated herein be drawn up in the English language only and that all other documents contemplated thereunder or relating thereto, including notices, may also be drawn up in the English language only. *Les Parties aux présentes confirment que c'est leur volonté que cette convention et les autres documents de crédit soient rédigés en langue anglaise seulement et que tous les documents, y compris tous avis, envisagés par cette convention et les autres documents peuvent être rédigés en langue anglaise seulement.*
- 17.6 All payments to be made by the Company under this Agreement shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.
- 17.7 Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- 17.8 During any extension of the due date for payment of any principal or unpaid sum under this Agreement interest is payable on the principal or unpaid sum at the rate payable on the original due date.
- 17.9 Any interest, conversion or fee or compounded return accruing under this Agreement will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days or 366 days, as applicable. For the purposes of the *Interest Act* (Canada) and disclosure thereunder, whenever any interest or any fee to be paid hereunder or in connection herewith is to be calculated on the basis of a 365-day or 366-day year, the yearly rate of interest to which the rate used in such calculation is equivalent is the rate so used multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 365 or 366, as applicable, computed on the basis of the actual number of days elapsed over a year of 365 days or 366 days, as the case may be. The rates of interest under this Agreement are nominal rates, and not effective rates or yields. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement.
- 17.10 No amendment to, or waiver of, any provision of this Agreement shall be effective unless it is in writing and signed by each of the Parties hereto.
- 17.11 The obligations of the Parties contained in this Agreement shall be several save that the obligations of the Obligors shall be joint and several among the Obligors.

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17.12 If any provision of this Agreement would oblige the Company to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate which would be prohibited by applicable Law or would result in a receipt by that Lender of “interest” at a “criminal rate” (as such terms are construed under the *Criminal Code* (Canada)), then, notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law or so result in a receipt by that Lender of “interest” at a “criminal rate”, such adjustment to be effected, to the extent necessary (but only to the extent necessary), by reducing any fees, commissions, costs, expenses, premiums and other amounts required to be paid to the affected Lender which would constitute interest for purposes of Section 347 of the *Criminal Code* (Canada).

18. REGULATORY PROVISIONS

18.1 The Company undertakes to procure, insofar as they are able to procure, that no Non-Canadian Person or entity shall acquire or exercise control over the Company, either alone or in combination with others if, and for so long, as such control would constitute a breach of the Ownership and Control Requirements.

18.2 If at any time it is determined by the Agency, a court or a competent regulatory authority that a non-Canadian Person or entity may exercise effective control over the Company, that Person or entity, to the extent that it is a Party, will take immediate steps to ensure that control is no longer effective (provided that this clause 18.2 shall not require any such Non-Canadian Party to convert any Notes or divest itself of any Common Shares, other than pursuant to and on the basis set forth in clause 3 of the Corporate Articles or the Notes). For purposes of this clause 18.2 and clause 18.3, “effective control” shall mean “controlled in fact” as defined in the CTA and interpreted, in practice, by the Agency.

18.3 The provisions of this Agreement take effect subject always to this clause 18.3. This Agreement shall not confer on Indigo any rights, and Indigo shall not do or omit to do anything, which would result in Indigo acquiring or exercising Control or effective control, or being deemed to acquire or exercise Control or effective control of the Company. References in this Agreement to “complying with”, “not breaching”, “acting in accordance with” and “for the purposes of” the Ownership and Control Requirements, or any wording similar to or deriving from such phrases, shall include an obligation on Indigo to ensure that Indigo is not required to file a submission under: (i) any regulations governing the ownership and control of Canadian airlines; or (ii) the *Competition Act* (Canada). To the extent that Notes have been issued and, subsequently, the Agency determines that there is a breach of the Ownership and Control Requirements as a result of such Notes and/or other arrangements between Indigo and any of the Group, the affected Noteholders shall be entitled to redeem their Notes as if it was the Redemption Date.

19. COUNTERPARTS

This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same agreement.

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20. ENTIRE AGREEMENT

- 20.1 This Agreement, the Noteholders' and Shareholders' Agreement, the Corporate Articles, and the Security Documents constitute the entire agreement of the Parties with respect to the subject matter of this Agreement.

21. FURTHER ASSURANCES

The Parties shall (and shall procure that their respective nominees shall) do and execute and perform all further deeds, documents, assurances, acts and things that may reasonably be required to give effect to the terms of this Agreement and the Parties (other than the Company) shall at all times use and exercise the votes that they control (which shall be deemed to include all votes held by their respective nominees and board appointees) at both general meetings and/or Board meetings and/or any meetings of any committee of the Company to ensure, in so far as each is reasonably able to, the maintenance and observance of the terms of this Agreement and the Corporate Articles as may be amended from time to time with the agreement of the Lenders.

22. GOVERNING LAW AND JURISDICTION

- 22.1 This Agreement is governed by, and to be construed in accordance with the laws of Province of Ontario and the laws of Canada applicable in such Province.
- 22.2 Each Party hereto agrees (i) that any action or proceeding relating to this Agreement may (but need not) be brought in any court of competent jurisdiction in the Province of Ontario, and for that purpose now irrevocably and unconditionally attorns and submits to the jurisdiction of such Ontario court; (ii) that it irrevocably waives any right to, and shall not, oppose any such Ontario action or proceeding on any jurisdictional basis, including forum non conveniens; and (iii) not to oppose the enforcement against it in any other jurisdiction of any judgment or order duly obtained from an Ontario court as contemplated by this clause 22.2.

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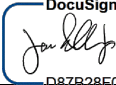
[Signature blocks follow on the next page]

Execution Version

STRICTLY PRIVATE & CONFIDENTIAL

IN WITNESS WHEREOF THE Parties hereto have executed this Agreement as of the date first set forth above.

LYNX AIR HOLDINGS CORPORATION

DocuSigned by:

By: _____
Name: Jim Sullivan
Title: Interim Chief Executive Officer

1263343 ALBERTA INC.

DocuSigned by:

By: _____
Name: Jim Sullivan
Title: Interim Chief Executive Officer

INDIGO NORTHERN VENTURES LP by its
general partner **INDIGO NORTHERN
VENTURES GP, LLC**

By: _____
Name: William A. Franke
Title: Managing Member

Execution Version

STRICTLY PRIVATE & CONFIDENTIAL

IN WITNESS WHEREOF THE Parties hereto have executed this Agreement as of the date first set forth above.

LYNX AIR HOLDINGS CORPORATION

By: _____
Name: Jim Sullivan
Title: Interim Chief Executive Officer

1263343 ALBERTA INC.

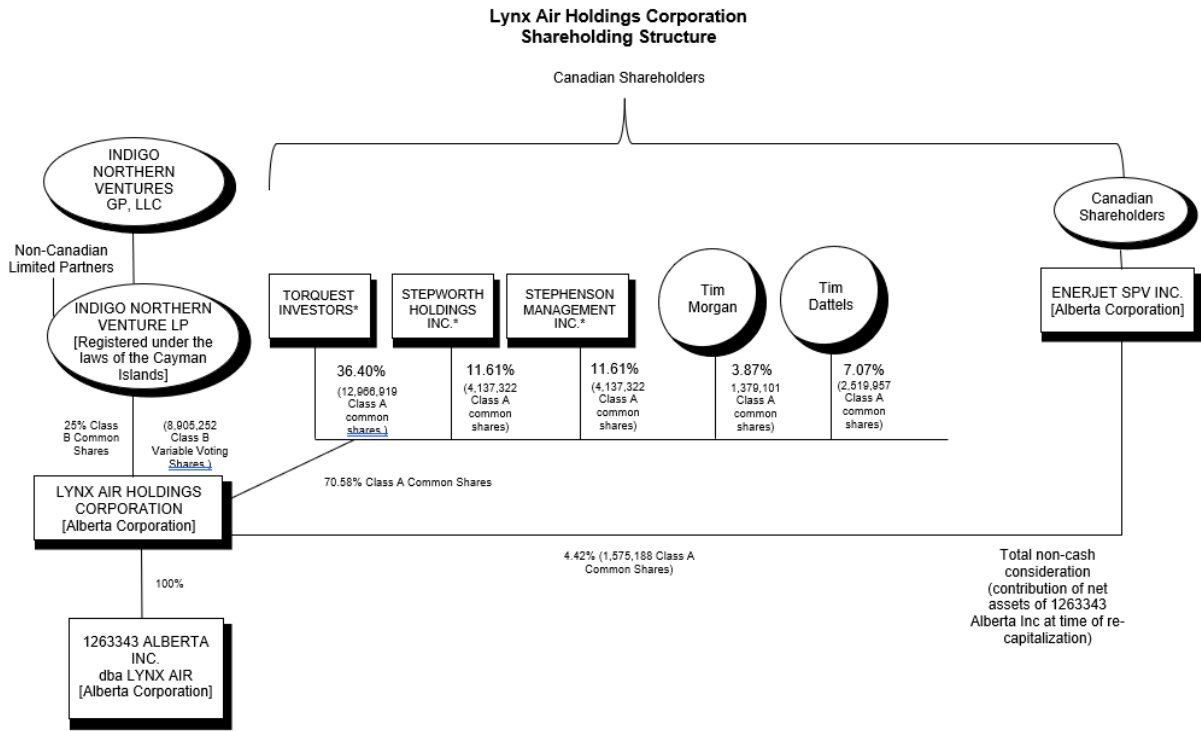
By: _____
Name: Jim Sullivan
Title: Interim Chief Executive Officer

INDIGO NORTHERN VENTURES LP by its
general partner **INDIGO NORTHERN
VENTURES GP, LLC**

By: _____
Name: William A. Franke
Title: Managing Member

DocuSigned by:
William A. Franke
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Schedule 1 Corporate Structure



Schedule 2 Intentionally Deleted

Schedule 3 INTENTIONALLY DELETED

Schedule 4 Post-Closing Holdings

Lynx Air

Capital Table

As at February 6, 2024

Convertible Debt

Indigo Convertible Shares	C\$	C\$/share	Shares	Comment	Redemption Date	Note
Initial Notes	71,242,031	\$1.00	71,242,031	Outstanding	12/20/2023	
Bridge Loan (Feb-2023)	7,110,000	\$0.25	28,440,000	Outstanding	See Note 1	
Bridge Loan (Mar-2023)	5,169,375	\$0.25	20,677,500	Outstanding	See Note 1	
Bridge Loan (Oct 2023)	10,000,000	\$0.10	100,000,000	Outstanding	See Note 1	
Bridge Loan (Jan 2024)	6,695,500	\$0.10	66,955,000	Outstanding	See Note 1	See Note 2
Bridge Loan (Feb 2024)	6,698,500	\$0.10	66,985,000	Outstanding	See Note 1	See Note 3
Bridge Loan (Feb 2024)	6,753,000	\$0.10	67,530,000	Outstanding	See Note 1	See Note 4
Total	113,668,406	\$0.27	421,829,531			

Capital Table

	Share Equivalents			Ownership	
	Common	Fully Diluted	Total	Common	Fully Diluted
Existing Shareholders					
Indigo Northern Ventures	8,905,252	421,829,531	430,734,783	25.000%	93.712%
Torquest Partners	12,966,919	-	12,966,919	36.402%	2.821%
Stephenson Management	4,137,322	-	4,137,322	11.615%	0.900%
Stepworth Holdings	4,137,322	-	4,137,322	11.615%	0.900%
Tim Dattels	2,519,957	-	2,519,957	7.074%	0.548%
Tim Morgan	1,379,101	-	1,379,101	3.872%	0.300%
Enerjet SPV	1,575,190	-	1,575,190	4.422%	0.343%
Option Holders (Strike @ \$1/sh)	-	2,183,829	2,183,829	0.000%	0.475%
Total	35,621,063	424,013,360	459,634,423	100.000%	100.000%

Options

Option Holders	Outstanding	Strike Price (C\$/sh)	In Money?	Option Treatment ⁽⁵⁾		Notes
				Dilution Impact (Treasury Method)	Cash Impact Company Funded	
Merren McArthur	801,473	\$1.00	FALSE	-	-	
Tim Morgan	427,452	\$1.00	FALSE	-	-	
Vijay Bathija	427,452	\$1.00	FALSE	-	-	
Michael Holditch	-	\$1.00	FALSE	-	-	Expired Dec 2023
Jim Sullivan	427,452	\$1.00	FALSE	-	-	
Greg Melchin	100,000	\$1.00	FALSE	-	-	
Total	2,183,829	\$1.00		-	-	

Illustrative Share Value (C\$/sh) \$0.33

1. "Redemption Date" shall mean the earlier to occur of: (a) the consummation of the Flair Transaction and (b) the Long Stop Date (as defined in the Flair Term Sheet)
2. "6,695,500" is the "the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000"
3. "6,698,500" is the "the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000"
4. "6,753,000" is the "the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000"
5. Note option impact is illustrated in two ways: a) treasury method or cashless, where shares issued post exercise are purchased back at market rates for net dilution, and b) cash payment at the difference between market and strike price.

Schedule 5 Obligor Warranties

1. Status

- (A) It is a company, duly incorporated, validly existing and in good standing under
 - (i) the laws of the Province of Alberta in the case of the Company, and
 - (ii) the laws of the Province of Alberta in the case of the Guarantor.
- (B) It has the power to own its property and assets and carry on its business as it is being conducted.
- (C) It is in compliance with all applicable laws and regulations (including, without limitation, the laws of the provinces of Alberta and Ontario and the federal laws of Canada).

2. Binding Obligations

This Agreement has been duly authorized, executed and delivered by it and is a valid and binding obligation of it enforceable against it in accordance with its terms, subject only to bankruptcy, insolvency, liquidation, reorganization, moratorium and other similar laws generally affecting the enforcement of creditors' rights, and to the fact that equitable remedies (such as specific performance and injunction) are discretionary remedies.

3. Non-Conflict with Other Obligations

The entry into and performance by it of, and the transactions contemplated by, this Agreement, do not and will not conflict with:

- (A) any law or regulation applicable to it;
- (B) its constitutional documents; or
- (C) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (howsoever described) under any such agreement or instrument.

4. Power and Authority

- (A) It has the corporate power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Agreement and the transactions contemplated herein.
- (B) No limit on its corporate powers will be exceeded as a result of the borrowing or the issue of the Notes contemplated pursuant to the terms of this Agreement.

5. Authorisations

All Authorisations, consents, approvals, permits and license of, and registrations or filings with, any governmental agency or authority required:

- (A) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Agreement;
- (B) to ensure that the obligations expressed to be assumed by it in this Agreement are legal, valid, binding and enforceable;
- (C) to make this Agreement admissible in evidence in its jurisdiction of incorporation; and
- (D) for the conduct of its business, trade and ordinary activities in all material respects, have been obtained or effected and are in full force and effect.

6. Governing Law and Enforcement

- (A) The choice of Ontario law as the governing law of this Agreement will be recognised and enforced in its jurisdiction of incorporation.
- (B) Any judgment obtained in Ontario in relation to this Agreement will be recognised and enforced in its jurisdiction of incorporation.

7. No filing or Stamp Taxes

It is not necessary that this Agreement be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar Taxes or fees be paid on or in relation to this Agreement or the transactions contemplated herein.

8. Taxes

- 8.1 It has filed or caused to be filed when due all Tax returns and reports required to have been filed and has paid or caused to be paid when due all Taxes required to have been paid by it (including all instalments with respect to the current period) and has made adequate provision for Taxes for the current period, except Taxes that are being contested in good faith by appropriate proceedings and for which it has set aside on its books adequate reserves.

9. No Default

- (A) Aside from the Guarantor's practice of deferring payables to certain of its suppliers, lessors and service providers and as disclosed in writing to the Board of Directors of the Company and the Guarantor prior to the Completion Date, no Default has occurred and is continuing or reasonably might be expected to occur as a result of the execution or performance of this Agreement by the Parties.
- (B) No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination

event (howsoever described) under any other agreement or instrument which is binding on it or to which its assets are subject which might have a Material Adverse Effect, (i) other than the Company failing to redeem the Original Notes on December 20, 2023 as required pursuant to the terms of the Original NPA, which the Company and Indigo hereby acknowledge constitutes a Default under the Original NPA, which Default is not waived by Indigo and in respect of which Default Indigo reserves all rights, and (ii) save as otherwise specifically contemplated or specifically permitted by or specifically required to comply with this Agreement.

10. Pari Passu Ranking

Its payment obligations under this Agreement rank at least *pari passu* with (to the fullest extent permitted by law) with all other senior secured creditors of it.

11. No Proceedings Pending or Threatened

No dispute, litigation, arbitration, expert determination, alternative dispute resolution, regulatory or administrative proceedings or investigations of, or before, any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect or which involve a potential liability of any member of the Group exceeding U.S.\$20,000 have been started or (to the best of its knowledge and belief having made due and careful enquiry) threatened in writing (and not withdrawn) against it nor are there any circumstances reasonably likely to give rise to any such dispute, litigation, arbitration, expert determination, alternative dispute resolution, regulatory or administrative proceedings or investigations.

12. No Undisclosed Liabilities

Neither the Company nor any of its Subsidiaries have any Financial Indebtedness, other than arising (i) under this Agreement and the Notes; (ii) pursuant to aircraft or engine leases on commercial terms with third party lessors; (iii) under the Original NPA and the Original Notes; (iv) under the Bridge NPA and the Bridge Notes; (v) under the Second Bridge NPA and the Second Bridge Notes, (vi) under the Third Bridge NPA and the Third Bridge Notes and (vii) under the Fourth Bridge NPA and the Fourth Bridge Notes.

13. Security

Save with regard to the Security in connection with the Original NPA, the Original Notes, the Bridge NPA, the Bridge Notes, the Second Bridge NPA, the Second Bridge Notes, the Third Bridge NPA, the Third Bridge Notes, the Fourth Bridge NPA, the Fourth Bridge Notes, this Agreement, the Notes, and pursuant to aircraft and engine leases on commercial terms with third party lessors, there does not exist any Security over any of its assets or properties.

14. Ownership of Assets

(A) It has title to its owned personal properties, and with respect to leased personal properties, title to the leasehold estate with respect thereto, pursuant to valid and enforceable leases, free and clear of all Security, other than as set out in paragraph 13 of this Schedule.

- (B) It has indefeasible fee simple title to its owned real properties, and with respect to leased real properties, indefeasible title to the leasehold estate with respect thereto, pursuant to valid and enforceable leases, free and clear of all Security, other than as set out in paragraph 13 of this Schedule.

15. Post-Completion Holdings

- (A) Schedule 4 lists all of the Common Shares and Notes that will be outstanding immediately after Completion.
- (B) The information contained in Schedule 4 is complete and accurate in all respects.

16. Financial Condition

- (A) It has furnished to the Noteholder its consolidated balance sheets and statements of income, retained earnings and changes in its financial position as of and for the month ended November 30, 2023. Such financial statements, present fairly, in all material respects, its consolidated financial position and results of operations and cash flows as of the applicable dates and for the applicable periods in accordance with GAAP.
- (B) Since December 31, 2022, other than events occurring in the ordinary course of business as disclosed to the Board of Directors of the Company and the Guarantor, there has been no event, development or circumstance that has had or could reasonably be expected to have a Material Adverse Effect.
- (C) All information (including that disclosed in all financial statements) pertaining to the Group (other than projections) that has been or will be made available to the Noteholder by the Company, taken as a whole, is or will be, when furnished, complete and correct in all material respects and does not or will not, when furnished, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements are made. The projections that have been or will be made available to the Noteholders by the Company have been or will be prepared in good faith based upon reasonable assumptions.

17. Pension Plan

It does not maintain or contribute to any Canadian Benefit Plan or Canadian Pension Plans.

18. Subsidiaries

As of the date hereof, the Company owns 100% of the common voting shares in the capital of Guarantor (being 985,661 common voting shares) and, Schedule 1 correctly sets forth:

- (A) the legal name of each member of the Group and its form of legal entity and jurisdiction of organization;

- (B) the equity securities issued and outstanding by each member of the Group, and the registered and beneficial owners thereof;
- (C) the equity securities owned by each member of the Group; and
- (D) a corporate organizational chart of the Group.

19. Insurance

It maintains insurance policies and coverage in compliance with Schedule 13. Such insurance coverage (a) is sufficient for compliance with all requirements of applicable law and of all agreements to which any member of the Group is a party, (b) is provided under valid, outstanding and enforceable policies, (c) provides adequate insurance coverage in at least such amounts and against at least such risks (but including in any event public liability) as are usually insured against in the same general area by Persons engaged in the same or a similar business to the assets and operations of the Group, and (d) will not in any way be affected by, or terminate or lapse by reason of, the entering into of, and the performance of the transactions contemplated by, this Agreement. All such material policies are in full force and effect, all premiums with respect thereto have been paid in accordance with their respective terms, and no notice of cancellation or termination has been received with respect to any such policy.

20. Solvency

No member of the Group is an “insolvent person” within the meaning of the BIA.

21. Tax

It is a resident of Canada for the purposes of the *Income Tax Act* (Canada).

22. Fiscal Year

The Company’s fiscal year ends on December 31 of each calendar year, and the fiscal quarters end on the last day of each of December, March, June and September of each calendar year. The Guarantor’s fiscal year ends on September 30 of each calendar year, and the fiscal quarters end on the last day of each of December, March, June and September of each calendar year.

23. Anti-Corruption Laws and Sanctions.

Each member of the Group has implemented and maintains in effect policies and procedures designed to ensure compliance by such member and its directors, officers, employees and relevant agents with Anti-Corruption Laws and Sanctions. Each member of the Group and its directors, officers, employees and relevant agents is in compliance with Anti-Corruption Laws and Sanctions. No member of the Group or any of its directors, officers or employees or relevant agents is a Sanctioned Person or is engaged in any activity that would reasonably be expected to result in such member being designated as a Sanctioned Person. No use of proceeds or other transaction contemplated by this Agreement will violate Anti-Corruption Laws or Sanctions.

24. Canadian Ownership

No breach of the Ownership and Control Requirements has occurred or is reasonably expected to occur as a result of the execution or performance of this Agreement by the Parties.

Schedule 6 Security

1. Definitions

1.1 In this Schedule 6:

“Enforcement Action” means, in relation to any Secured Indebtedness, any action whatsoever to: (a) demand payment, declare prematurely due and payable or otherwise seek to accelerate payment of or place on demand all or any part of the Secured Indebtedness; (b) recover all or any part of the Secured Indebtedness (including by exercising any right of set-off or combination of accounts); (c) exercise or enforce any security rights against sureties or any other rights under any other document or agreement against any Security Provider in relation to (or given in support of) all or any part of the Secured Indebtedness (including under any security document); (d) petition for (or take any other steps which may lead to) an insolvency event in relation to any Security Provider; or (e) commence legal proceedings against any Security Provider (but excluding, any action whatsoever in respect of any other document or agreement);

“Note Documents” means this Agreement, the Notes and any document entered into in connection herewith or therewith;

“Secured Indebtedness” means all money and liabilities now or in the future due, owing or incurred to the Noteholders by any member of the Group in respect of the Note Documents in any currency, whether actual or contingent, whether incurred solely or jointly with any other Person and whether as principal or surety, together with all accruing interest and all related costs, charges and expenses; and

“Security Provider” means any member of the Group or any other Person that grants any security or guarantee in respect of, or otherwise becomes liable for, any Secured Indebtedness (being initially each member of the Group as at the date of this Agreement).

2. Guarantees – General

2.1 Guarantees of the Secured Indebtedness are to be provided by each Security Provider in accordance with the agreed principles set out in this Schedule 6.

3. Security – General

3.1 Security for the Secured Indebtedness is to be provided by each Security Provider in accordance with the agreed security principles set out in this Schedule 6.

4. Guarantees And Security – Agreed Principles

4.1 This Schedule 6 addresses (among other things) the manner in which the agreed principles will impact on the guarantees and security proposed to be taken in relation to the Secured Indebtedness.

4.2 In determining the extent of the security, the form of each security document and the extent of the perfection of the security, Indigo agrees to take into account the costs to the relevant Security Provider of providing such security and the proportionate benefit accruing to

Indigo and the impact, if any, of the grant of such security and any restrictions therein on the operations of the grantor of such security.

- 4.3 The extent of the security from each member of the Group will be determined by Indigo (acting reasonably). It is the current intention of Indigo that security will be taken over all material assets of each member of the Group from time to time, according to the principles set out herein, including (without limitation) over all land and buildings, shares, receivables, insurance policies, material contracts and claims, intellectual property and bank accounts of each member of the Group.
- 4.4 The Obligors and Indigo agree to negotiate the form of each security document in good faith. Each security document will be drafted by counsel to Indigo and will be in the form customary for the relevant security and jurisdiction.
- 4.5 It will be the Company's responsibility to ensure that any security interest created under any security document is duly created and perfected in favour of Indigo from time to time within applicable time limits. Costs incurred in respect of the execution of any such security document, or any updating, registration or re-registration to be made for the purpose of complying with such obligations, shall be borne by the Company.
- 4.6 Where a member of the Group which is a Security Provider acquires assets of material value or significance (in the opinion of the Lenders (acting reasonably) or, absent agreement between the Lenders, by Indigo (acting reasonably)) after the date on which it initially grants security, such Security Provider shall grant security in accordance with these agreed principles in respect of such assets if they are of a type which if owned on the date on which it initially grants security would have been secured in accordance with these agreed principles.
- 4.7 All security will be granted to Indigo from time to time or to any security agent or trustee appointed by Indigo to act for them.

5. Enforcement of Debts

Notwithstanding any other provision or principle in this Schedule 6, Indigo shall be entitled to enforce any rights against the Company or member of the Group under this Agreement or relating to the Notes to the extent such rights relate to monies due and owing to Indigo provided that such amounts outstanding and owing to Indigo exceed \$100,000 in aggregate and provided further that such amounts have been outstanding and owing to Indigo for more than 60 days following written notice of the failure to pay such amounts due and owing served on the Company with a copy to Indigo.

Schedule 7 Form of Adherence Agreement

THIS ADHERENCE AGREEMENT is made on the _____ of _____ 202_ by [•] (the “**Transferee**”).

THE PARTIES AGREE as follows:

1. The Transferee confirms that it has read a copy of the fifth bridge note purchase agreement dated February 7, 2024 made between: the Company, the Guarantor and Indigo (which agreement is herein referred to as the “**Note Purchase Agreement**”) and hereby covenants to each of the Persons referred to in paragraph 2(a) and paragraph 2(b) to be bound by the Note Purchase Agreement in all respects as if the Transferee were a party to the Note Purchase Agreement as one of the Noteholders and to perform all the obligations imposed on such a party to the Note Purchase Agreement, to be performed on, as on, or after the date hereof.
2. This Agreement is made for the benefit of:
 - (a) the parties to the Note Purchase Agreement as at the date of the Note Purchase Agreement; and
 - (b) any other Person or Persons who may after the date of the Note Purchase Agreement (and whether prior to or after the date hereof) assume any rights or obligations under the Note Purchase Agreement and be permitted to do so by the terms thereof.
3. Save as expressly set out in the Note Purchase Agreement in favour in the Transferee, the Company does not:
 - (a) make any representations or warranty or assumes any responsibility with respect to the legality, validity, effectiveness, adequacy or enforceability of the Note Purchase Agreement or any agreement entered into pursuant thereto;
 - (b) make any representation or warranty or assumes any responsibility with respect to the content of any information regarding the Company or any member of the Group or otherwise related to the acquisition of shares in the Company;
 - (c) assume any responsibility for the financial condition of the Company or any member of the Group or any other party to the Note Purchase Agreement or any other document; or
 - (d) assume any responsibility for the performance and observance by the Company or any other party to the Note Purchase Agreement or any other document (save as expressly provided therein),

and any and all conditions and warranties, whether express or implied by law or otherwise, are to the extent legally possible excluded.

For the purposes of the Note Purchase Agreement, the Transferee’s address and other details for notices shall be:

Address:

Email address:

For the attention of:

4. Words and expressions defined in the Note Purchase Agreement shall bear the same meanings herein.
5. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereon.

DULY DELIVERED as on the date and year first above written.

EXECUTED)
and **DELIVERED** by)
[Insert name of Transferee])
)

Schedule 8 Noteholders' Resolutions

1. Powers of Noteholders

1.1 Noteholders may, by Noteholder Resolution:

- (A) at the request of the Board, authorize the Company to amalgamate or consolidate with any other Person, or permit any other Person to merge into or amalgamate or consolidate with it, or liquidate or dissolve;
- (B) at the request of the Board, authorize the exchange of the Notes, or any portion thereof, for, or the conversion of the Notes into, any Common Shares, stock, debentures, debenture stock or other obligations or securities of the Company or any other company formed or to be formed;
- (C) at the request of the Board, authorize any modification, abrogation or compromise of or arrangement in respect of the rights that arise under this Agreement or the certificates for the Notes or otherwise;
- (D) assent to any modification or abrogation of the Conditions to which the Notes are subject and/or of the provisions contained in this Agreement and authorise the execution of any supplemental deed embodying any such modification or abrogation; and
- (E) appoint any Persons (whether Noteholders or not) as a committee to represent the interests of the Noteholders and confer upon such committee any powers or discretions which the Noteholders could themselves exercise.

2. Noteholders' Resolutions

2.1 The expression "**Noteholder Resolution**" where used in this Schedule 8 shall mean a written resolution duly executed by or on behalf of Noteholders holding at least 15% of the fully diluted share capital or such higher percentage as may be approved in writing by Indigo.

Schedule 9 Form of Certificate for the Notes

LYNX AIR HOLDINGS CORPORATION

(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

<u>Certificate No.</u>	<u>Principal Amount</u>
VBN-1	CAD\$6,753,000, being the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 2024

THIS IS TO CERTIFY THAT *[NAME]*

Of *[address]*

is/are the registered holder(s) of CAD\$6,753,000, being the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000 in nominal amount of the secured convertible loan notes which are constituted by a fifth bridge note purchase agreement dated February 7, 2024 made between Lynx Air Holdings Corporation (the "**Company**"), 1263343 Alberta Inc. (the "**Guarantor**") and Indigo Northern Ventures LP (as amended, supplemented or restated from time to time, the "**Agreement**") and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.

Interest is payable on the Notes represented by this certificate semi-annually in arrears (each such date, an "**Interest Payment Date**") in each year.

The Notes shall be redeemed in accordance with Condition 3 of Schedule 11 on the Redemption Date, subject to such other redemption date or conversion in accordance with the Conditions.

LYNX AIR HOLDINGS CORPORATION

By _____

Name:

Title:

Dated: February 7, 2024

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.
- (B) No transfer of the whole or any part of the Notes represented by this certificate will be registered without the production of this certificate at the registered office of the Company or at such other place as the Company may from time to time designate.
- (C) Each transfer in point of time of the whole or any part of the Notes represented by this certificate will be registered free of charge.
- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.

Schedule 10 Form of Conversion Notice

To: The Directors of [●]

Notes

I/We, the registered holder(s) of \$[●] in principal nominal amount of Notes, hereby give notice of my/our desire that:

- the Company convert [% of] []* principal nominal amount of such Notes held by me/us;
- that such conversion be effected on [or prior] to []*

and that such conversion be effected in accordance with the Conditions, at the price and on the terms set out in the Conditions.

[Include any further information required to be specified in the relevant notice.]

(Name)

(Address)

Signature(s) of
Noteholders(s)

.....
In the case of joint holdings, all Noteholder(s) must sign. In the case of a corporation this form must be signed by a duly authorised officer of the corporation.

DATED

Schedule 11 Conditions

1. Form and Status

- 1.1 The Notes are issued in amounts or multiples of \$1 in nominal value and constitute secured obligations of the Company.
- 1.2 The aggregate principal amount of the Notes is limited to the Equivalent Amount of US\$5,000,000.
- 1.3 The Notes shall be issued in denominations and integral amounts of \$1 in principal amount subject to and with the benefit of the provisions of this Agreement.
- 1.4 The Notes, when issued, shall rank *pari passu* equally and rateably without discrimination or preference in all respects.
- 1.5 Upon execution of the Security Documents, the Notes will have the benefit of the Security (subject to the provisions of the Security Documents).
- 1.6 Any Notes which have been repaid or otherwise satisfied in accordance with the terms of this Agreement shall be cancelled and shall not be available for re-issue by the Company.

2. Interpretation

- 2.1 In these Conditions, the “**Agreement**” means the agreement constituting the Notes between the Company, and Indigo (in each case, as such terms are defined therein).
- 2.2 Capitalised terms not otherwise defined in these Conditions shall have the meaning given in the Agreement.

3. Redemption

- 3.1 Unless previously converted into Class B Common Shares, repaid or purchased in accordance with these Conditions and the Agreement, including, without limiting, Condition 11 of this Schedule 11, Condition 18.2 of this Schedule 11, or extended pursuant to Condition 3.6 or 3.7 of this Schedule 11, the Company shall redeem all outstanding Notes in full on the Redemption Date.
- 3.2 Upon any redemption of Notes the Company shall pay to each Noteholder an amount equal to the greater of:
 - (A) the fair market value of the corresponding Conversion Shares; and
 - (B) the aggregate of (i) the principal nominal amount of the Notes held by such Noteholder; and (ii) the accrued and unpaid interest on the Notes held by such Noteholder (calculated in accordance with Condition 4 of this Schedule 11) from (and including) the date of issue of such Notes to (and including) the date of redemption of such Notes.

- 3.3 All amounts payable on redemption of any Notes shall be paid subject to any deduction or withholding required by law in respect of any Tax, duty or charge. The Company's payment obligations pursuant to the Agreement and the Notes are absolute, irrevocable and unconditional and irrespective of any contingency (including, without limitation, rights of set-off or counterclaim).
- 3.4 Subject to the provisions of clause 14 and Schedule 6 of the Agreement and to the provisions of the Security Documents (once the same have been entered into), at any time after the Notes shall have become redeemable in accordance with the terms of this Agreement, the Noteholders or any of them may, without further notice, institute such proceedings as they or any of them may think fit to enforce payment of the monies due in respect of the Notes and the performance of the Company's other obligations contained in these Conditions or the Agreement.
- 3.5 Save as otherwise expressly provided in these Conditions or the Noteholders' and Shareholders' Agreement, the Company may not pre-pay the Notes or redeem the same prior to the Redemption Date.
- 3.6 If, at the Redemption Date, the Noteholder is not permitted to convert all of their Notes into Class B Common Shares due to the Ownership and Control Requirements, then, in the absolute discretion of the Noteholder, (i) any portion, as determined in the absolute discretion of the Noteholder, of any of the Notes, may be converted into Class B Common Shares to the extent permitted by the Ownership and Control Requirements and the remaining portion of such Notes shall be redeemed by the Company in accordance with Condition 3.2 of this Schedule 11, (ii) such Notes shall be redeemed by the Company in accordance with Condition 3.2 of this Schedule 11, or (iii) the Redemption Date for such Notes that cannot be converted shall be extended until such time as the Noteholder is permitted to convert such Notes.
- 3.7 At any time prior to the Redemption Date, the Noteholder may, in its absolute discretion, extend the Redemption Date to such other day not later than October 26, 2028.
- 3.8 Any repayment of the Notes shall occur prior to any conversion or repayment of the Original Notes.
- 3.9 For greater certainty, the proceeds of the consummation of the Flair Transaction shall be used first to redeem in full all of the Bridge Notes, the Second Bridge Notes, the Third Bridge Notes, the Fourth Bridge Notes and the Notes, and to repay in full any and all interest relating to the Bridge NPA, the Second Bridge NPA, the Third Bridge NPA, the Fourth Bridge NPA and this Agreement.

4. Interest

- 4.1 Subject to Condition 19 of this Schedule 11, interest on the principal amount outstanding in respect of the Notes shall accrue at the Interest Rate on the basis of the actual number of days elapsed and a year of 365 days or 366 days, as applicable, and shall be payable in-kind, in arrears, on each applicable Interest Payment Date. On each Interest Payment Date, the applicable interest shall be paid by issuing additional Notes under this Agreement on the same terms and conditions as the Notes to which the interest payment relates in a principal amount equal to the interest payable (the "**PIK Notes**"). For greater

certainty, any such PIK Notes shall be dated as of the applicable Interest Payment Date and shall bear interest from and after such date.

5. Title

5.1 The Company shall:

- (A) recognise the registered holder of any Notes as the absolute owner thereof; and
- (B) not be bound (unless ordered to do so by a court of competent jurisdiction) to take notice of, or see to the execution of, any trust whether express, implied or constructive to which any Notes may be subject.

5.2 The receipt by the registered holder of any Notes or, if two or more Persons are registered as joint holders of any Notes or are entitled jointly to any Notes in consequence of the death or bankruptcy of the Noteholder, the receipt by any of them, of the principal, any interest or other monies payable on or in respect of such Notes or payment of a cheque sent in accordance with the Conditions or any instructions contained in the relative Notice of Repayment shall be a valid receipt and a good discharge to the Company notwithstanding any notice (whether express or implied) which any of them may have of any right, title, interest or claim of any other Person to or in respect of such Notes, interest or monies.

5.3 No notice of any trust, express, implied or constructive, shall (except as aforesaid) be entered in the Register in respect of any Notes.

5.4 Every Noteholder will be recognised by the Company as entitled to its Notes free from any equity set-off or cross-claim on the part of the Company against the original or any intermediate holder of the Notes.

5.5 As applicable, in the case of the death of a Noteholder (if applicable), the survivors or survivor, where the deceased was a joint holder, and the executors or administrators of the deceased, where they were a sole or only surviving holder, shall be the only Persons recognised by the Company as having any title to the interest in the Notes.

6. Transfer of Notes

All transfers of Notes shall be regulated in accordance with this Agreement and clause 5 of the Noteholders' and Shareholders' Agreement.

7. Transfer of Notes Pursuant to a Takeover Offer

There shall be no restriction on any transfer of Notes made pursuant to and in accordance with clause 9 of the Noteholders' and Shareholders' Agreement in connection with (and pursuant to and in accordance with the terms of) a Takeover Offer provided that such Takeover Offer constitutes a "Qualifying Takeover Offer", as such term is defined in the Noteholders' and Shareholders' Agreement.

8. Permitted Transfers of Notes

- 8.1 Notwithstanding the provisions of Condition 6 of this Schedule 11, a Noteholder may at any time transfer any of the Notes held by it:
- (A) to any Affiliate of such Noteholder;
 - (B) to its limited partners, in the case of a limited partnership;
 - (C) to any Person in connection with the sale of all or substantially all of the assets of the Noteholder;
 - (D) to any Person or Persons in connection with the dissolution or Winding-up of the Noteholder, or the liquidation of its assets;
 - (E) to a financial institution which carries on the business of providing equity financing as part of a sale of a portfolio of equity interests; or
 - (F) to any Person if it is required by law to do so.
- 8.2 Any Person to whom Notes have been validly transferred pursuant to Condition 8.1 of this Schedule 11 may, at any time, transfer all or any Notes back to the original transferor or to any other Person to whom the original transferor, if it still held such Notes, would have been able to transfer them pursuant to Condition 8.1 of this Schedule 11.
- 8.3 In the event that any Person to whom Notes are transferred pursuant to Condition 8.1 of this Schedule 11 ceases to be within the required relationship to the original holder of such Notes, the holder of such Notes shall without delay notify the Company that such change of relationship has occurred and within ten (10) Business Days of such change of relationship transfer such Notes back to the member who originally held them or to such other Person if any (designated by such original member) to whom such original member, if it still held such Notes, would have been able to transfer pursuant to Condition 8.1 of this Schedule 11.
- 8.4 In the event that any Noteholder which is a corporation holding Notes transferred to it pursuant to Condition 8.1 of this Schedule 11 passes a resolution to commence a liquidation or winding up or has a winding up petition presented which is not discharged or contested in good faith within sixty (60) Business Days or has a receiver or administrator appointed to it (or any analogous proceedings in any jurisdiction), the holder of such Notes shall without delay notify the Company of such event and within ten (10) Business Days of such event shall transfer such Notes back to the member who originally held such Notes or to such other Person if any (designated by such member) to whom such original Noteholder, if it still held such Notes, could transfer such Notes pursuant to Condition 8.1 of this Schedule 11.

9. Transfers of Notes: Mechanics and Other Provisions

- 9.1 The Notes shall be transferable by instrument in writing in any usual or common form (or in any other form acceptable to the Board) and need not be executed as a deed.

- 9.2 Every instrument of transfer must be signed by or on behalf of the transferor but need not be signed by or on behalf of the transferee. The transferor shall remain the holder of the Notes concerned until the name of the transferee is entered in the Register in respect thereof.
- 9.3 Every instrument of transfer must be delivered for registration to the registered office of the Company or to such other place as the Company may appoint from time to time (or which it may notify to a Noteholder for the purposes of any specific transfer) accompanied by the certificate for the Notes to be transferred and, if the transferor is not the registered holder of such Notes, such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer and, if the instrument of transfer is executed by some other Person on behalf of the transferor, the authority of that Person so to do.
- 9.4 All instruments of transfer which are registered may be retained by the Company for so long as it thinks fit together with the cancelled certificates for the Notes.
- 9.5 No fee shall be charged by the Company in respect of the registration of any transfer in point of time of the whole or part of any Notes issued by the Company to any Noteholder or any probate or letters of administration or certificate of marriage or death, or power of attorney or other document relating to or affecting the title to any Notes at any time.

10. General Conversion Rights

- 10.1 Notwithstanding any other provision of these Conditions, no Notes shall be converted into Class B Common Shares (or any other shares in the Company) to the extent that such conversion would result in any breach of Section 3 of the Corporate Articles.
- 10.2 Subject to Condition 10.1 of this Schedule 11, a holder of the Notes (a “**Converting Noteholder**”) may, at any time, require the Company to convert all (or some only) of its Notes (or any portion of any Note, as determined by the Noteholder in its absolute discretion) into fully paid and non-assessable Class B Common Shares. All accrued and unpaid interest thereon shall be satisfied by a payment in cash by the Company to Indigo.
- 10.3 In order to exercise the conversion rights pursuant to Condition 10.2 of this Schedule 11, a holder of Notes shall serve a notice (substantially in the form set out in Schedule 10) (a “**Note Conversion Notice**”) on the Company and the Noteholder not less than 10 Business Days (nor more than 60 Business Days) prior to the date on which the Company is required to convert the Notes, or portion thereof, specified in the Note Conversion Notice (the “**Proposed Conversion Date**”).
- 10.4 A Note Conversion Notice shall specify:
- (A) the Proposed Conversion Date; and
 - (B) the percentage of the Notes, or portion of any Note, then held by the Converting Noteholder required to be converted pursuant to this Condition 10.
- 10.5 Subject to Condition 10.1 above, on the proposed Conversion Date, the Company shall simultaneously convert all of the Notes, or portion thereof, specified in the Note Conversion Notice.

11. Conversion Rights in Relation to a Takeover Offer

- 11.1 If, at any time prior to the conversion or redemption of the Notes and payment of all accrued and unpaid interest thereon (in full in accordance with the terms of these Conditions and the Agreement), a Qualifying Takeover Offer is made:
- (A) the Company shall notify the Noteholder of such Qualifying Takeover Offer in accordance with the relevant provisions of the Noteholders' and Shareholders' Agreement; and
 - (B) the provisions of this Condition 11 shall apply (subject always to Condition 10.1 of this Schedule 11).
- 11.2 A Noteholder may, at its option (exercisable in its absolute discretion) at any time after receiving a notification pursuant to Condition 11.1 of this Schedule 11 require the conversion of all (or some only) of its Notes (or any portion of any Note, as determined by the Noteholder in its absolute discretion) into fully paid and non-assessable Class B Common Shares in the capital of the Company in accordance with (but subject to any restrictions contained in) this Condition 11. All accrued and unpaid interest thereon shall be satisfied by a payment in cash by the Company to Indigo.
- 11.3 In order to effect a conversion of the Notes pursuant to Conditions 11.1 and 11.2 of this Schedule 11, the Noteholder shall serve a notice on the Company (substantially in the form set out in Schedule 10) (a "**Takeover Conversion Notice**").
- 11.4 A Takeover Conversion Notice:
- (A) must be served by the Noteholder not less than 5 Business Days prior to the proposed completion date for first acquisition of Common Shares pursuant to the Qualifying Takeover Offer (as notified to the Noteholder by the Company in accordance with the provisions of the Noteholders' and Shareholders' Agreement);
 - (B) shall be irrevocable save that the Noteholder may specify that such Takeover Conversion Notice is conditional upon a transfer of shares that together constitute a Controlling Interest occurring pursuant to and in the terms of such Qualifying Takeover Offer; and
 - (C) shall specify the principal amount of Notes or, if applicable, portion of any Note that the Company is required to convert and that the Company is required to convert such Notes, or portion thereof, (and all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to this Condition 11.
- 11.5 The Company shall:
- (A) procure that each Noteholder is given the opportunity to convert its Notes or any portion thereof (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to this Condition 11 prior to the occurrence of any transfer of Common Shares pursuant to a Qualifying Takeover Offer; and

- (B) procure that in the event of any Qualifying Takeover Offer being accepted in accordance with the relevant provisions of the Noteholders and Shareholders' Agreement:
 - (i) the Conversion Shares resulting from any conversion of Notes or any portion thereof pursuant to this Condition 11 are sold or transferred pursuant to such Qualifying Takeover Offer (at the same price and, save as set out below, on the same terms as the Common Shares held by the Shareholders);
 - (ii) the Noteholder shall not be required to give any representations or warranties pursuant to such Qualifying Takeover Offer (save with respect to title, absence of encumbrances on any shares to be sold or transferred and capacity); and
 - (iii) the Company shall refuse to register any transfer of shares pursuant to such Qualifying Takeover Offer) unless the Company has fully adhered to its obligations under Condition 11.5(B) of this Schedule 11.

11.6 Upon completion of any transfer of Common Shares pursuant to (and on the terms of) a Qualifying Takeover Offer:

- (A) any Notes or portion of any Notes not converted pursuant to the foregoing provisions of this Condition 11, shall cease to be capable of conversion into Class B Common Shares (or any other class of shares in the capital of the Company or securities of the Company); and
- (B) the Company shall be entitled to pre-pay the Notes or any portion thereof (together with all accrued and unpaid interest calculated in accordance with Condition 4.1 of this Schedule 11 thereon which shall be satisfied by a payment in cash by the Company to Indigo) at any time after the completion of any transfer of Common Shares pursuant to a Qualifying Takeover Offer on not less than 5 Business Days written notice to the relevant Noteholder(s).

12. Conversion Rights in Relation to an IPO

12.1 If, at any time prior to the conversion or redemption of the Notes (and all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) (in full in accordance with the terms of these Conditions and the Agreement), the Board passes any resolution to facilitate an IPO or that may result in an IPO occurring, the provisions of this Condition 12 shall apply.

12.2 The Company shall give each Noteholder not less than 20 Business Days' notice of any proposed IPO.

12.3 Each holder of the Notes (in respect of the maximum amount of Notes capable of being converted under the Ownership and Control Requirements) may, at its option (exercisable in its absolute discretion) require the conversion of all (or some only) of its Notes, (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash

by the Company to Indigo), into fully paid and non-assessable Class B Common Shares in the capital of the Company in accordance with this Condition 12:

- (A) at any time during the period from the notification pursuant to Condition 12.2 of this Schedule 11 up to the 3:00pm (Mountain time) on the Business Day prior to the occurrence of the IPO (such that the relevant Conversion Shares issued to each such Noteholder are listed pursuant to such IPO); or
- (B) at any time after the occurrence of such IPO, by notice served in accordance with Condition 12.5 of this Schedule 11.

12.4 In order to effect a conversion of Notes (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to Condition 12.3 of this Schedule 11, a Noteholder shall serve a notice on the Company (substantially in the form set out in Schedule 10) (an **"IPO Conversion Notice"**).

12.5 An IPO Conversion Notice:

- (A) must be served by the Noteholder:
 - (i) not less than 5 Business Days prior to the proposed date for the IPO (as notified to the Noteholder pursuant to Condition 12.2 of this Schedule 11), if the Noteholder requires the Note(s) to be converted on or immediately prior to the completion of the IPO; or
 - (ii) not less than 10 Business Days prior to the date on which the Noteholder requires the Note(s) to be converted, if the Noteholder requires the Note(s) to be converted after the occurrence of the IPO;
- (B) shall be irrevocable (unless the Noteholder serves such IPO Conversion Notice at least 5 Business Day prior to the proposed completion date of the IPO, as notified to the Noteholder by the Company in the notice required to be served by it pursuant to Condition 12.2 of this Schedule 11, in which case, the Noteholder may specify that such IPO Conversion Notice is conditional upon the IPO occurring);
- (C) shall specify:
 - (i) the principal amount of Notes that such Noteholder requires to be converted;
 - (ii) that the Noteholder requires the Company to convert the Notes (and all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to Condition 12.3 of this Schedule 11; and
 - (iii) the date on or by which such conversion is to be effected (provided that the Noteholder shall comply with the provisions of Condition 12.5(A) of this Schedule 11).

12.6 The Company shall:

- (A) procure that the Noteholder is given a reasonable opportunity to convert its Notes (together with all accrued and unpaid interest thereon which shall be satisfied by a payment in cash by the Company to Indigo) pursuant to this Condition 12 prior to the occurrence of an IPO;
- (B) procure that in the event of an IPO occurring:
 - (i) the Conversion Shares issued to the Noteholder upon a conversion of Notes pursuant to this Condition 12 are listed pursuant to the IPO; and
 - (ii) the Noteholder shall not be required to give any representations or warranties in connection with such IPO or agree to any lock-up period or other orderly marketing arrangements in relation to such IPO.

12.7 The Company shall not permit any of its shares to be listed pursuant to an IPO unless it has fully adhered to its obligations under this Condition 12 prior to the occurrence of such IPO.

12.8 To the extent the Noteholders is unable to convert their Notes pursuant to this Condition 12 as a result of the Ownership and Control Requirements, the Board and the Lenders shall each use best efforts to create a path to liquidity for the Noteholder.

12.9 Nothing in these Conditions shall oblige the Noteholder to convert its Notes.

13. Calculation of Conversion Shares

13.1 Upon any conversion of Notes or portion thereof, the number of Class B Common Shares required to be issued by the Company to the relevant Noteholder (the “**Conversion Shares**”) shall be calculated using the following equation:

$$A = \frac{B}{C}$$

where:

A is the number of Conversion Shares;

B is the principal amount of the Notes or portion of any Note required to be converted (including any accrued and unpaid interest thereon);

C is the Relevant Conversion Price (subject to adjustment in accordance with Condition 15 of this Schedule 11).

14. Mechanics of Conversion

14.1 Each conversion of Notes or portion thereof into Class B Common Shares that is required or permitted to be made pursuant to this Agreement shall be effected by the Company repaying the principal amount of the relevant Notes or portion thereof in full on the Conversion Date and immediately applying such repayment monies to subscribe for the Conversion Shares, or by any such other method as the Board may determine in

accordance with all applicable laws and the Corporate Articles. All accrued and unpaid interest thereon shall be satisfied by a payment in cash to Indigo.

- 14.2 All Conversion Shares shall be credited as fully paid at the time the same are issued to the relevant Noteholder.
- 14.3 A Conversion Notice must be accompanied by the certificate(s) relating to the Notes to be converted.
- 14.4 Conversion Shares arising pursuant to a conversion of Notes or portion thereof shall carry the right to participate in full in all dividends and other distributions accruing on such shares from the Conversion Date. In all other respects, Conversion Shares arising on conversion shall rank *pari passu* and form one class with the shares of that class then in issue.
- 14.5 A conversion of Notes or portion thereof into Class B Common Shares that is required or permitted to be made pursuant to this Agreement shall not constitute a breach of any prohibition on prepayment of the Notes or any accrued and unpaid interest thereon under any of the Transaction Documents.
- 14.6 No fractional shares shall be issued upon any conversion of Notes or portion thereof and the number of Class B Common Shares issuable upon such conversion shall be rounded to the nearest whole number of shares.
- 14.7 The Company shall, as soon as practicable and legally permissible, issue to the relevant Noteholder, or to its nominee(s), a certificate or certificates for the number of Conversion Shares to which it shall be entitled under the Agreement and the Company shall deliver the same to the relevant Noteholder by post at its address for service of notices determined in accordance with Condition 25.1 of this Schedule 11 (or to such other address as may be specified in the relevant Conversion Notice).
- 14.8 Each conversion of Notes or portion thereof into Class B Common Shares that is required or permitted to be made pursuant to this Agreement shall be deemed to have been made immediately prior to the close of business on the date of issuance of the share certificate(s) for the relevant Conversion Shares and the Person or Persons entitled to receive the Conversion Shares shall be treated for all purposes as the record holders of such shares on such date.

15. Adjustments to the Relevant Conversion Price (share splits, consolidations etc.)

- 15.1 If, at any time after the date of this Agreement, the Class B Common Shares shall be subdivided into a greater number of shares or consolidated into a lesser number of shares or an issue of Class B Common Shares by way of capitalisation of profits or reserves including any share premium account or capital redemption reserve shall be made or the Company effects any purchase of its own shares or any other variation in its issued share capital or any distribution of assets in specie occurs (each, a “**Capital Event**”), each Relevant Conversion Price shall be adjusted by multiplying the Relevant Conversion Price in force immediately before such Capital Event (as the same may previously have been adjusted pursuant to this Condition 15 or otherwise) by the following fraction:

$$\frac{A}{B}$$

where:

A is the number of Class B Common Shares in issue immediately before such subdivision, consolidation or capitalisation issue; and

B is the number of Class B Common Shares in issue immediately after such subdivision, consolidation or capitalisation issue.

15.2 The provisions of Condition 15.1 of this Schedule 11 are intended to provide for each Relevant Conversion Price to be adjusted in such a manner as shall place each Noteholder in the same position (as regards the percentage of the equity share capital of the Company which the Noteholder shall be entitled to subscribe pursuant to the conversion on Notes or portion thereof and the aggregate cost of such conversion to the Noteholder) as it would have been in had the relevant Capital Event not taken place.

15.3 In the case of any dispute as to the manner of any adjustment pursuant to this Condition 15.3, the auditors of the Company (acting as experts and not arbitrators) shall determine the same at the request of the Company or the Noteholder and at their joint expense.

15.4 The Company shall not undertake or (so far as it is able) permit to occur any Capital Event which would have the effect of reducing the Relevant Conversion Price (as so adjusted) below the par value amount of a Conversion Share.

16. Company undertakings in respect of the conversion of the Notes

16.1 The Company warrants and undertakes that:

(A) it will maintain sufficient authorised but unissued share capital to enable conversion of Notes in full;

(B) it will procure that the Directors have at all times the requisite authority to allot and issue Conversion Shares in satisfaction of the conversion rights of the Noteholder; and

(C) it will procure the waiver of all pre-emption rights in favour of shareholders of the Company whether under the Corporate Articles, any statute or agreement relating to the shares of the Company or otherwise which might otherwise prevent or preclude or delay the full and effective allotment and issue of Conversion Shares; and

(D) it will procure (so far as it is able) that there is no variation of the rights attaching to shares in the capital of the Company.

17. Noteholder and Shareholder Subscription Rights

17.1 Subject to Section 3 of the Corporate Articles, if, at any time after the date of the Agreement, the Company shall make any offer or invitation to its members by way of rights

(by reference to a record date) to subscribe for shares in the Company, then each Noteholder shall have the right (exercisable by written notice to the Company) to subscribe for the proportionate number and class of shares in the Company on the same terms and conditions (including as to price) as such offer or invitation as if the Notes held by such Noteholder had been exercised, in the case of a rights issue immediately before such record date or, where the offer or invitation is to a third party immediately before the completion by the third party of the subscription pursuant to such offer or invitation.

18. Events of Default and Accelerated Repayment

18.1 Each of the events or circumstances set out in Schedule 12 to the Agreement is an Event of Default.

18.2 Subject to the provisions of paragraph 5 of Schedule 6 of the Agreement (and for any corresponding provisions contained in the Security Documents, once the same have been executed), on and at any time after the occurrence of an Event of Default the Noteholder may, by notice to the Company:

(A) declare that all or some of the Notes:

(i) (together with accrued interest, and all other amounts accrued or outstanding under the Transaction Documents) be immediately due and payable, whereupon they shall become immediately due and payable; and/or

(ii) be payable on demand, whereupon they shall immediately become payable on demand by the Noteholder; and/or

(B) exercise any or all of its rights, remedies, powers or discretions under the Transaction Documents.

19. Default Interest

From the occurrence of an Event of Default, the principal amount due under this Note (together with all accrued and unpaid interest as at the date of the Event of Default) shall bear interest at the Default Rate, compounded quarterly and computed on a 365-day or 366-day year basis on the number of days actually elapsed from the date of the occurrence of such Event of Default until either the cure of such Event of Default by the Company or repayment of the principal amount due under this Note together with accrued interest.

20. No Rights as Shareholder

This Note does not entitle the Noteholder hereof to any voting rights or other rights as a shareholder of the Company prior to the conversion hereof.

21. Surrender of Certificates

21.1 If any Noteholder any of whose Notes are liable to be repaid under these Conditions or the Agreement shall fail or refuse to deliver up the certificate or certificates therefor at the time and place fixed for the repayment thereof or shall fail or refuse to accept payment of the redemption monies payable in respect thereof, the monies payable to such Noteholder

may be set aside by the Company and paid into a separate interest-bearing bank account and when so paid shall be held by the Company in trust for such Noteholder but without interest (except as hereinafter mentioned), and such setting aside and payment shall be deemed for all purposes of these Conditions to be a payment to such Noteholder and the Company shall thereby be discharged from all obligations in connection with such Notes.

- 21.2 If the Company shall place the monies set aside pursuant to the provisions of Condition 21.1 on deposit at a bank the Company shall not be responsible for the safe custody of such monies or for interest thereon except such interest (if any) as the said monies may earn whilst on deposit less any expenses reasonably incurred by the Company in connection therewith.
- 21.3 Any amount set aside pursuant to the provisions of this Condition 21 which remains unclaimed after a period of twelve years from the time when the same is set aside shall revert to the Company notwithstanding that in the intervening period the obligation to pay the same may have been provided for in the books, accounts and other records of the Company.

22. Damaged Certificates

If any certificate for Notes shall be damaged or defaced or alleged to have been lost, stolen or destroyed, a new certificate representing the same Notes may be issued to the holder upon request subject to delivery up of the old certificate or (if alleged to have been lost, stolen or destroyed) compliance with such conditions as to evidence and indemnity as the Directors may reasonably require. An entry as to the issue of the new certificate and indemnity (if any) shall be made in the Register.

23. Cancellation

All Notes prepaid, repaid or purchased by the Company shall be cancelled and shall not be available for reissue.

24. Payment

- 24.1 Subject to Condition 4.1 of this Schedule 11, payment of the principal, interest thereon and any other monies payable in respect of any Notes shall be paid by cheque made payable to and sent to the registered holder thereof at its registered address or, in the case of joint registered holders, made payable to and sent to that one of the joint registered holders who is first named on the Register in respect of such Notes at its registered address or made payable to such Person or Persons and sent to such address as the registered holder or all the joint registered holders may in writing direct.
- 24.2 Every such cheque may be sent through the post at the risk of the registered holder or joint registered holders and payment of any such cheque by the banker upon whom it is drawn shall be a satisfaction of the monies represented thereby.
- 24.3 All payments of principal and interest and other monies by the Company under these provisions will be made after any deduction or withholding Tax, duty or charge required to be made by law.

24.4 In the event of a failure by the Company to pay any amount when due in respect of the Notes (whether principal, interest or otherwise), the Company shall pay interest compounding annually on such unpaid amount at the Default Rate.

25. Notices

25.1 Any notice or document (including a certificate for Notes) may be served on or delivered to any Noteholder by the Company either personally or by sending it by first class post in a prepaid cover addressed to such Noteholder at its registered address or to the address, if any, supplied by the Noteholder to the Company as its address for the service of notices, or by delivering it to such address addressed as aforesaid, or by facsimile on a facsimile number supplied by the Noteholder to the Company. Any notice or document served on or delivered to that one of the joint holders of any Notes whose name stands first in the Register in respect of such Notes shall be sufficient notice to or service on all the joint holders in their capacity as such.

25.2 Notice may be given to the Persons entitled to any Notes in consequence of the death or bankruptcy of any Noteholder by sending the same by first class post in a pre-paid envelope addressed to them by name or by the title of the representatives or trustees of such holder at the address (if any) supplied for the purpose by such Persons or, until such address is supplied, by giving in the manner in which it would have been given if the death or bankruptcy had not occurred.

25.3 Where a notice or other document is served or sent by post, service or delivery shall be deemed to be effected at the expiration of 24 hours after the time when the cover containing the same is posted, and in proving such service or delivery it shall be sufficient to prove that such cover was properly addressed, stamped and posted.

25.4 Where a notice or other document is served by facsimile, delivery shall be deemed to be effected (subject to evidence of effective transmission) on the Business Day on which transmitted.

25.5 The Company shall be entitled to rely on any document purporting to be signed by or on behalf of a Noteholder and shall not be obliged to enquire into the authenticity of any such signature.

26. Transmission

(A) Any Person becoming entitled to Notes in consequence of the death or bankruptcy of a Noteholder may, upon supplying to the Company such evidence as the Directors may reasonably require to show its title to the Notes, elect to be registered itself as holder of such Notes or, subject to these Conditions, the provisions of the Agreement, to transfer such Notes without itself being registered as the holder of such Notes.

(B) The Company may, in its absolute discretion, withhold payment of any monies payable in respect of Notes until the Person entitled to be registered in respect thereof has been duly registered or, as the case may be, any transfer of such Notes has been registered.

27. Assignment

- 27.1 Subject to these Conditions and the provisions of the Agreement, neither this Note nor any of the rights, interests or obligations hereunder may be assigned, transferred, charged or otherwise dealt in, in whole or in part, by any Party without the prior written consent of the other Parties.
- 27.2 Any purported assignment, transfer, charge or dealing in contravention of this Condition 27 shall be void.
- 27.3 The rights and obligations of the Company and Noteholder shall be binding upon and benefit the successors, assigns, and permitted transferees of the Parties.
- 27.4 Any Noteholder may assign its rights hereunder to one or more of its Affiliates at any time (provided that any such assignment may only be made on the basis that immediately upon any assignee under this Condition 27.4 ceasing to be an Affiliate of the assignor Party, such assignee shall assign back all such rights to the original assignor Party).

28. Severability

If any provision of this Note shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

29. Rights of the Third Parties

No Person who is not a Noteholder shall have any right to enforce any term of this Note.

30. Governing Law and Jurisdiction

- 30.1 This Note is governed by, and to be construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.
- 30.2 Each Party hereto agrees (i) that any action or proceeding relating to this Agreement may (but need not) be brought in any court of competent jurisdiction in the Province of Ontario, and for that purpose now irrevocably and unconditionally attorns and submits to the jurisdiction of such Ontario court; (ii) that it irrevocably waives any right to, and shall not, oppose any such Ontario action or proceeding on any jurisdictional basis, including forum non conveniens; and (iii) not to oppose the enforcement against it in any other jurisdiction of any judgment or order duly obtained from an Ontario court as contemplated by this Condition 30.

Schedule 12 Events of Default

1. Non-payment

An Obligor does not pay on the due date any amount payable pursuant to a Transaction Document at the place at and in the currency in which it is expressed to be payable unless:

- (A) its failure to pay is caused by administrative or technical error; and
- (B) payment is made within 5 Business Days of its due date.

2. Covenants

Any material requirement, as determined by Indigo, in its sole discretion, of clause 12 of the Agreement is not satisfied.

3. Other Obligations

- 3.1 An Obligor fails to observe or perform any covenant or other agreement contained in the Transaction Documents, including, without limitation, any failure or delay in obtaining the Consent on the terms of Section 6.1 of the Agreement, or does not comply with any other provision of the Transaction Documents, in each case other than as specified in paragraph 1 above.

4. Misrepresentation

Any material representation or statement made or deemed to be made by an Obligor in the Transaction Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Transaction Document is or proves to have been incorrect or misleading when made or deemed to be made.

5. Cross default

- 5.1 No Event of Default will occur under this paragraph 5 if the action set out in paragraphs 5.3 to 5.5 are cured within any originally applicable grace period, if any, as set out in the document giving rise to such Financial Indebtedness.
- 5.2 Any Financial Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period.
- 5.3 Any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- 5.4 Any commitment for any Financial Indebtedness of any member of the Group is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described).

- 5.5 Any creditor of any member of the Group becomes entitled to declare any Financial Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).
- 5.6 No Event of Default will occur under this paragraph 5 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs 5.2 to 5.5 above is less than U.S.\$100,000 (or its equivalent in any other currency or currencies).

6. Insolvency

- 6.1 A member of the Group is unable or admits inability to generally pay its debts as they fall due, suspends or threatens to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.
- 6.2 A moratorium is declared in respect of any indebtedness of any member of the Group.

7. Insolvency Proceedings

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (A) the suspension of payments, a moratorium of any indebtedness, Winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any member of the Group (other than a solvent liquidation or reorganisation of any member of the Group which is not an Obligor);
- (B) a composition, compromise, assignment or arrangement with any creditor of any member of the Group;
- (C) the appointment of a liquidator (other than in respect of a solvent liquidation of a member of the Group which is not an Obligor), receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any member of the Group or any of its assets; or
- (D) enforcement of any Security over any assets of any member of the Group,

or any analogous procedure or step is taken in any jurisdiction.

8. Creditors' process

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of a member of the Group having an aggregate value in excess of U.S.\$100,000 (and the amount that is the subject of the related claim is U.S.\$100,000 or more) and the same is not discharged within 15 days.

9. Ownership of the Obligors

- 9.1 The Guarantor is not or ceases to be a direct or indirect wholly-owned Subsidiary of the Company.

10. Unlawfulness

It is or becomes unlawful for an Obligor to perform any of its obligations under the Transaction Documents or any Security created or expressed to be created or evidenced by the Security Documents ceases to be effective.

11. Invalidity

Any obligation or obligations of any Obligor under any Transaction Document are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Noteholder under the Transaction Documents.

12. Cessation of business

Any member of the Group suspends or ceases, or threatens or proposes in writing to suspend or cease, to carry on all or a substantial part of its business.

13. Compulsory acquisition

All or any material part of the property or assets of any member of the Group is seized, nationalised, expropriated or compulsorily acquired by, or by the order of, any central or local governmental authority in respect of which full market compensation is not paid.

14. Repudiation

An Obligor repudiates a Transaction Document or evidences an intention to repudiate a Transaction Document.

15. Material adverse change

Any event or circumstance occurs which is reasonably likely to have a Material Adverse Effect.

16. Miscellaneous

The Company applies any part of the New Note Funds for any purpose not specified in clause 7 of the Agreement.

17. Qualified Audit

The auditors of any Obligor materially qualify their audit.

18. Disputes

Any dispute, litigation, arbitration, expert determination, alternative dispute resolution, regulatory or administrative proceedings or investigations of, or before, any court, arbitral body or agency involving any Obligor or any other member of the Group is commenced which, if adversely determined, would be reasonably likely to have a Material Adverse Effect or which would involve a liability exceeding U.S.\$100,000 (or its equivalent).

19. Regulatory proceeding

Any regulatory proceeding into an Obligor or any other member of the Group is commenced (or any proceedings conducted by any regulatory body having jurisdiction over an Obligor or any other member of the Group are commenced in relation to a third party and that third party seeks to involve, or such proceedings in any way relate to, an Obligor or any other member of the Group), other than any regulatory proceeding by the Agency as a result of the Transaction Documents.

Schedule 13 Covenants

1. Authorisations

Each Obligor shall promptly:

- (A) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (B) if requested, supply certified copies to the Noteholder of,

any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under the Transaction Documents to which it is a party, to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of each such Transaction Document and to own its property and assets and to carry on its business, trade and ordinary activities.

2. Compliance with laws

2.1 Each Obligor shall comply in all respects with all laws to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under the Transaction Documents.

2.2 Each Obligor shall (and the Company shall ensure that each other member of the Group will) at all times comply with:

- (A) the terms of its articles of incorporation (or equivalent) and other constitutional documents from time to time; and
- (B) all laws and regulations applicable to it in respect of the conduct of its business breaches of which would have a significantly unfavourable effect on their activities, their assets and their financial situation.

3. Negative pledge

3.1 Subject to paragraph 3.3 below, no Obligor shall (and the Company shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets except with the prior written consent of Indigo.

3.2 Subject to paragraph 3.3 below, no Obligor shall (and the Company shall ensure that no other member of the Group will):

- (A) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by an Obligor or any other member of the Group save for any assignment of insurances or requisition compensation relating to any aircraft;
- (B) sell, transfer or otherwise dispose of any of its receivables on recourse terms;

(C) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or

(D) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

3.3 Paragraphs 3.1 and 3.2 above do not apply to:

(A) the Security provided pursuant to the Security Documents;

(B) any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;

(C) any lien arising by operation of law and in the ordinary course of business including, without limitation, permitted liens under any aircraft operating lease agreements to which any of the Obligor is a party and any guarantee and assignment of insurances granted by any of the Obligor in connection with such aircraft operating lease agreement (and not as a result of any default or omission by any member of the Group);

(D) any Security over or affecting any asset acquired by a member of the Group after the date of this Agreement if:

(i) the Security was not created in contemplation of the acquisition of that asset by a member of the Group;

(ii) the principal amount secured has not been increased in contemplation of, or since the acquisition of, that asset by a member of the Group; and

(iii) the Security is removed or discharged within 2 months of the date of acquisition of such asset;

(E) any Security over or affecting any asset of any company which becomes a member of the Group after the date of this Agreement, where the Security is created prior to the date on which that company becomes a member of the Group, if:

(i) the Security was not created in contemplation of the acquisition of that company; and

(ii) the principal amount secured has not increased in contemplation of or since the acquisition of that company;

(F) any Security entered into pursuant to any Transaction Document;

(G) any Security arising out of title retention provisions (and not as a result of any default or omission by any member of the Group) in a supplier's standard conditions of supply of goods where the goods in question are supplied on credit

and are acquired by the relevant member of the Group in the ordinary course of trading;

- (H) any Security, as directed by the Board, so long as such Security (i) is not outside of the Ordinary Course of Business, and (ii) such action does not have a Material Adverse Effect; or
- (I) the Security provided pursuant to the Original NPA, the Original Notes, the Bridge NPA, the Bridge Notes, the Second Bridge NPA, the Second Bridge Notes, the Third Bridge NPA, the Third Bridge Notes, the Fourth Bridge NPA and the Fourth Bridge Notes.

4. Change of Business

4.1 The Company shall:

- (A) procure that no substantial change is made to the general nature of its business from that carried on at the date of this Agreement;
- (B) maintain, carry on and develop its business in the ordinary and usual course; and
- (C) not take any material act outside its ordinary and normal course of business, and the Company shall procure that each of its Subsidiaries complies with the covenants set forth in paragraphs 4.1(A), 4.1(B) and 4.1(C) in respect of their respective businesses.

5. Trading on arm's length terms

No Obligor shall (and the Company shall ensure that no other member of the Group will) enter into any transaction other than on commercial arm's length terms.

6. Notification of approaches

The Company shall (and the Company shall procure that each other member of the Group will) notify the Noteholder as soon as reasonably practicable following receipt of any approach or offer (unless such offer is made by a member of the Noteholder's group) which could lead to a sale of Company (whether by sale of securities by Company and/or its shareholders or a sale of assets by the Company or any other sale) or an IPO but in any event at least 10 Business Days prior to the execution of a definitive agreement for the same.

7. Distributions and reductions in share capital

For so long as Indigo together with its Permitted Transferees continues to hold not less than 15% of the Fully Diluted Share Capital, no Obligor shall (and the Company shall ensure that no other member of the Group will):

- (A) declare, make or pay any distribution or dividend to its members; or
- (B) repurchase or redeem any of its issued share capital or otherwise reduce its share capital,

except to the extent that (i) such Obligor's Unrestricted Cash Balance, after giving effect to the action set out in (A) or (B) above, is not less than 33^{1/3}% of the Obligor's trailing 12 months revenue or expenses, whichever is greater, and (ii) any action under this paragraph 7 cannot occur more than once per financial year.

8. No incurring of additional Financial Indebtedness

8.1 Subject to paragraph 8.2 below, no Obligor shall (and the Company shall ensure that no other member of the Group will) incur any Financial Indebtedness.

8.2 Paragraph 8.1 above does not apply to any Financial Indebtedness that is incurred:

- (A) under the Transaction Documents or as specifically contemplated or specifically permitted by the Transaction Documents;
- (B) if Indigo (together with its Permitted Transferees) at such time holds at least 15% of the Fully Diluted Share Capital, with the prior written approval of Indigo;
- (C) at the direction of the Board in respect of Financial Indebtedness for amounts not greater than U.S.\$1,000,000, in the aggregate, in any 12 month period;
- (D) Financial Indebtedness relating to expenditures in the Ordinary Course of Business;
- (E) Financial Indebtedness for which an intercreditor agreement is required by such new lender to be entered into between such new lender and Indigo, on terms satisfactory to Indigo;
- (F) Financial Indebtedness which does not have a Material Adverse Effect, as determined by Indigo, acting reasonably; or
- (G) under the Original NPA, the Original Notes, the Bridge NPA, the Bridge Notes, the Second Bridge NPA, the Second Bridge Notes, the Third Bridge NPA, the Third Bridge Notes, the Fourth Bridge NPA and the Fourth Bridge Notes.

9. Compliance with the CTA

Each Obligor shall (and the Company shall procure that each other member of the Group will) ensure that the ownership and control of each member of the Group complies at all times with the Ownership and Control Requirements.

10. No Restricted Payments

10.1 For so long as Indigo (together with its Permitted Transferees) continues to hold not less than 15% of the Fully Diluted Share Capital, without the prior written consent of Indigo,

- (A) subject to paragraph 10.2 below, no Obligor shall (and the Company shall ensure that no other member of the Group will) make any payment to:
 - (i) any shareholder of any Obligor (a "**Relevant Shareholder**");

- (ii) any family member or relative of any Relevant Shareholder;
 - (iii) any trust in which any Relevant Shareholder (or any family member or relative of any Relevant Shareholder) has an interest (whether contingent discretionary or otherwise) or any trustee of such a trust;
 - (iv) any company which is Controlled by any of the Persons or entities falling within paragraph 10.1(A)(i) to (iii) above, or by any two or more of them; or
 - (v) any body corporate, partnership or undertaking in which any of the Persons or entities falling within paragraphs 10.1(A)(i) to (iv) above own (legally or beneficially) more than 30% of the issued and outstanding share capital; and
- (B) notwithstanding any other provision of this Agreement (other than paragraph 10.3 below), no Obligor shall make any payment to any Person:
- (i) unless such payment is of a type which is not outside the Ordinary Course of Business; or
 - (ii) if the effect of such payment (if made) would be to cause:
 - i. the aggregate amount of any type or class of payments made by the Obligors during such period to be outside the Ordinary Course of Business; or
 - ii. the aggregate amount of all payments made by the Obligors during such period to be outside the Ordinary Course of Business;

10.2 Subject to paragraph 10.1(B) above, paragraph 10.1 (A) shall not apply to:

- (A) salary payments by the Obligors to their employees (provided, in each case, that the same are consistent with the relevant employees salary payments over the six (6) months immediately prior to the date of this Agreement);
- (B) any intra-Group payments by the Obligors;
- (C) payments by the Obligors to providers of office space provided that such payments: (i) are not outside the Ordinary Course of Business; and (ii) do not exceed \$2,000,000 in total per annum; and
- (D) any dividend or distribution in respect of any share capital, to the extent permitted or required under the terms of the Transaction Documents.

11. Claims to rank *pari passu*

Each of the Obligors shall procure that Noteholders' claims under this Agreement and the other Transaction Documents rank and will rank at least *pari passu* with all its other unsecured obligations (except for obligations mandatorily preferred by law applying to companies generally).

12. Financing Disclosure

On the fifteenth day of each calendar month prior to the Redemption Date (or, if such day is not a Business Day, the next Business Day thereafter), the Company shall provide the Noteholders with a cash flow forecast of the Company for the next ninety (90) calendar days.

13. Payment of taxes

Each Obligor shall (and the Company shall procure that each other member of the Group will) promptly pay all Taxes due and payable by it to any competent authority or body.

14. Insurance

14.1 Each Obligor shall (and the Company shall procure that each other member of the Group will) insure and keep insured with reputable insurers their respective insurable assets and undertakings to the extent, in the amounts and against the risks which a prudent licensed and operating airline would insure (including, without limitation, all those insurances which are required for a licensed and operating airline) and which are approved by the Board.

14.2 Each Obligor shall (the Company shall procure that no other member of the Group will) maintain directors and officers insurance to the fullest extent permitted by law and in an amount which a prudent licensed and operating airline would insure (including, without limitation, all those insurances which are required for a licensed and operating airline) and which are approved by the Board.

14.3 No Obligor shall (and the Company shall procure that no other member of the Group will), do anything or, as far as practicable suffer anything to be done, whereby any of the insurance policies effected in accordance with paragraph 14.1 shall become void or voidable or an increased premium thereon shall become payable.

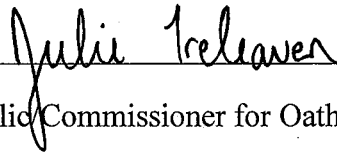
14.4 The Company will:

- (A) supply to the Noteholders on request copies of each policy of insurance required to be maintained in accordance with paragraph 14.1 above (the “**policies**”), together with the current premium receipts relating to the policies;
- (B) promptly notify the Noteholders of any material change to the insurance cover of any member of the Group; and
- (C) promptly notify the Noteholders of any claim under any policy which is for, or is reasonably likely to result in a claim under that policy for, an amount in excess of U.S.\$10,000 (or its equivalent) and keep the Noteholders advised of the progress of any such claim.

15. Confidential Information

Each Obligor shall (and the Company shall procure that each other member of the Group will), take commercially reasonable steps within their respective powers together with such steps which are required or approved by the Lenders to protect information which is confidential to them (or any other member or the Group) or the Noteholders.

This is **Exhibit "17"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor



Assignment of Deposit Certificate

Bank Key: **021907409**

Customer BPID: **107588**

To ATB Financial, previously Alberta Treasury Branches ("ATB"):

FOR VALUABLE CONSIDERATION the undersigned Assignor, being the holder of Certificate No. (s) issued to the Assignor by ATB at **Stephen Avenue Main** Branch, for the principal sum of **Two Hundred Thousand US** Dollars (\$200,000) USD maturing on the day of **May, 2021** HEREBY ASSIGNS, TRANSFERS AND SETS OVER unto ATB Financial

(hereinafter called the "Assignee") subject to the conditions set forth thereon, the said Certificate(s) and all renewals, replacements and substitutions thereof and all monies whatsoever payable or accrued or which may at any time hereafter become payable or accrue thereunder, with full power to the Assignee to recover and receive the said monies or any portion thereof, to surrender and redeem the said Certificate(s) and all renewals, replacements and substitutions thereof at any time, whether before, at or after the date of maturity thereof, as the Assignee in his sole discretion may see fit, and to give full, final and complete receipts, releases and discharges for and of the said Certificate(s) and all renewals, replacements and substitutions thereof and any such monies or any portion thereof.

This Assignment may be executed electronically; this Assignment may be delivered by email, facsimile or other functionally-equivalent electronic means.

IN WITNESS WHEREOF the Assignor has hereto set his hand this day of May, 2020.

1263343 Alberta Inc o/a Enerjet

Witness

Witness

FOR USE BY BRANCH OF ISSUE ONLY

ASSIGNMENT RECEIVED AND ACKNOWLEDGED

at

Date

Manager, ATB Financial

(Branch of Issue)



ASSIGNMENT OF MONIES ON DEPOSIT

TO: ATB FINANCIAL ("ATB")

FOR VALUABLE CONSIDERATION

The undersigned hereby assigns and transfers to ATB the sum of \$ 279,645.96 standing to the credit of the undersigned in Pay As You Go account 00128048124 on the books of the ATB at 102 8th Ave SW CALGARY, Alberta T2P 1B3

and all or any sums at anytime or from time to time at the credit of the said account and all interest that may accrue or become due or payable on said monies. The said monies shall be held by ATB as a continuing collateral security for the payment of the present and future indebtedness and/or liability direct or indirect and howsoever arising and any ultimate unpaid balance thereof 1263343 Alberta Inc

(hereinafter called "the Borrower") and/or the undersigned to ATB so long as any such indebtedness or liability exists or is accruing due or payable and the said monies shall not be withdrawn from ATB or be subject to cheques drawn by the undersigned. ATB may grant extensions, take and give up securities, accept compositions, grant releases and discharges, and otherwise deal with the Borrower and with other parties and securities as ATB may see fit without prejudice to the liability of the Borrower or the undersigned to ATB or the rights of ATB to hold or deal with the said monies aforesaid, and ATB may at any time it sees fit apply on account or in payment of any liability or indebtedness of the Borrower and/or the undersigned to ATB the said monies of any portion thereof.

This assignment shall be binding upon the heirs, executors, administrators and assigns of the undersigned.

This assignment may be executed electronically; this assignment may be delivered by email, facsimile or other functionally-equivalent means.

Dated at Calgary this 4th day of April , 2022 .

1263343 Alberta Inc

Michael S. Holditch



Signature

Signature

ATB Representative:

Signature



Assignment of Deposit Certificate

Bank Key: 021907609 Client BPID: 107588

To ATB Financial ("ATB"):


FOR VALUABLE CONSIDERATION the undersigned Assignor, being the holder of Guaranteed Investment Certificate No.(s) _____ issued to the Assignor by ATB at Calgary Stephen Avenue Centre Branch, for the principal sum of Nine hundred Fifty thousand Dollars (\$ 950,000.00 (CAD)) maturing on the _____ day of _____, _____ HEREBY ASSIGNS, TRANSFERS AND SETS OVER unto ATB Financial

(hereinafter called the "Assignee") subject to the conditions set forth thereon, the said Certificate(s) and all renewals, replacements and substitutions thereof and all monies whatsoever payable or accrued or which may at any time hereafter become payable or accrue thereunder, with full power to the Assignee to recover and receive the said monies or any portion thereof, to surrender and redeem the said Certificate(s) and all renewals, replacements and substitutions thereof at any time, whether before, at or after the date of maturity thereof, as the Assignee in his sole discretion may see fit, and to give full, final and complete receipts, releases and discharges for and of the said Certificate(s) and all renewals, replacements and substitutions thereof and any such monies or any portion thereof.

This Assignment may be executed electronically; this Assignment may be delivered by email, facsimile or other functionally-equivalent electronic means.

IN WITNESS WHEREOF the Assignor has hereto set his hand this 15 day of March, 2023.

1263343 Alberta Inc.

Per: 

Hanna Prokopiv



Witness: Catherine Pressaco

Per: _____
Individual Borrower's Name

Witness: _____

FOR USE BY BRANCH OF ISSUE ONLY		
ASSIGNMENT RECEIVED AND ACKNOWLEDGED	_____	_____ at _____
	Date	Manager, ATB Branch of Issue



RELEASE OF ASSIGNMENT

FOR ADEQUATE CONSIDERATION to whom the above Certificate was assigned, hereby relinquish(es) all interest in the said Certificate and the proceeds thereof.

IN WITNESS WHEREOF _____ have hereunto set
_____ hand this
_____ day _____, 20_____.

Witness Signature

Client Signature

Witness Name

Client Name

RELEASE OF ASSIGNMENT APPROVED AND RECORDED on	_____ at _____ Date Manager, ATB Branch of Issue
--	---

CLIENT RECEIPT		
_____ Certificate No.	_____ Date	_____ Client Signature

DISPOSITION OF CERTIFICATE IF NOT RECEIVED BY CLIENT



Assignment of Deposit Certificate

Bank Key: 021907609 Client BPID: 107588

To ATB Financial ("ATB"):

FOR VALUABLE CONSIDERATION the undersigned Assignor, being the holder of Guaranteed Investment Certificate No.(s) _____ issued to the Assignor by ATB at Calgary Stephen Avenue Centre Branch, for the principal sum of One Million Two hundred Thousand Dollars (\$ 1,200,000.00 (CAD)) maturing on the _____ day of _____, _____ HEREBY ASSIGNS, TRANSFERS AND SETS OVER unto ATB Financial

(hereinafter called the "Assignee") subject to the conditions set forth thereon, the said Certificate(s) and all renewals, replacements and substitutions thereof and all monies whatsoever payable or accrued or which may at any time hereafter become payable or accrue thereunder, with full power to the Assignee to recover and receive the said monies or any portion thereof, to surrender and redeem the said Certificate(s) and all renewals, replacements and substitutions thereof at any time, whether before, at or after the date of maturity thereof, as the Assignee in his sole discretion may see fit, and to give full, final and complete receipts, releases and discharges for and of the said Certificate(s) and all renewals, replacements and substitutions thereof and any such monies or any portion thereof.

This Assignment may be executed electronically; this Assignment may be delivered by email, facsimile or other functionally-equivalent electronic means.

IN WITNESS WHEREOF the Assignor has hereto set his hand this 28 day of March, 2023.

1263343 Alberta Inc.

Per: Hanna Prokopiv
Hanna Prokopiv


Witness: Mike Woodward

Per: _____
Individual Borrower's Name

Witness: _____

FOR USE BY BRANCH OF ISSUE ONLY	
ASSIGNMENT RECEIVED AND ACKNOWLEDGED	_____ at _____ Date Manager, ATB Branch of Issue



RELEASE OF ASSIGNMENT

FOR ADEQUATE CONSIDERATION to whom the above Certificate was assigned, hereby relinquish(es) all interest in the said Certificate and the proceeds thereof.

IN WITNESS WHEREOF _____ have hereunto set
_____ hand this
_____ day _____, 20_____.

Witness Signature

Client Signature

Witness Name

Client Name

RELEASE OF ASSIGNMENT APPROVED AND RECORDED on	_____ at _____ Date Manager, ATB Branch of Issue
--	---

CLIENT RECEIPT		
_____ Certificate No.	_____ Date	_____ Client Signature

DISPOSITION OF CERTIFICATE IF NOT RECEIVED BY CLIENT



Assignment of Deposit Certificate

Bank Key: 021907609 Client BPID: 107588

To ATB Financial ("ATB"):

FOR VALUABLE CONSIDERATION the undersigned Assignor, being the holder of Guaranteed Investment Certificate No.(s) _____ issued to the Assignor by ATB at Calgary Stephen Avenue Centre Branch, for the principal sum of One Million Four Hundred Fifty Thousand Dollars (\$ 1,450,000.00 (CAD)) maturing on the _____ day of _____, _____ HEREBY ASSIGNS, TRANSFERS AND SETS OVER unto ATB Financial

(hereinafter called the "Assignee") subject to the conditions set forth thereon, the said Certificate(s) and all renewals, replacements and substitutions thereof and all monies whatsoever payable or accrued or which may at any time hereafter become payable or accrue thereunder, with full power to the Assignee to recover and receive the said monies or any portion thereof, to surrender and redeem the said Certificate(s) and all renewals, replacements and substitutions thereof at any time, whether before, at or after the date of maturity thereof, as the Assignee in his sole discretion may see fit, and to give full, final and complete receipts, releases and discharges for and of the said Certificate(s) and all renewals, replacements and substitutions thereof and any such monies or any portion thereof.

This Assignment may be executed electronically; this Assignment may be delivered by email, facsimile or other functionally-equivalent electronic means.

IN WITNESS WHEREOF the Assignor has hereto set his hand this 04 day of April, 2023.

1263343 Alberta Inc.

Per: Hanna Prokopiv
Hanna Prokopiv

Witness: Catherine Pressacco

Per: _____
Individual Borrower's Name

Witness: _____

FOR USE BY BRANCH OF ISSUE ONLY	
ASSIGNMENT RECEIVED AND ACKNOWLEDGED	_____ at _____ Date Manager, ATB Branch of Issue



RELEASE OF ASSIGNMENT

FOR ADEQUATE CONSIDERATION to whom the above Certificate was assigned, hereby relinquish(es) all interest in the said Certificate and the proceeds thereof.

IN WITNESS WHEREOF _____ have hereunto set
_____ hand this
_____ day _____, 20_____.

Witness Signature

Client Signature

Witness Name

Client Name

RELEASE OF ASSIGNMENT APPROVED AND RECORDED on	_____ at _____ Date Manager, ATB Branch of Issue
--	---

CLIENT RECEIPT		
_____ Certificate No.	_____ Date	_____ Client Signature

DISPOSITION OF CERTIFICATE IF NOT RECEIVED BY CLIENT



Assignment of Deposit Certificate

Bank Key: 021907609 Client BPID: 107588

To ATB Financial ("ATB"):

FOR VALUABLE CONSIDERATION the undersigned Assignor, being the holder of Guaranteed Investment Certificate No.(s) _____ issued to the Assignor by ATB at Calgary Stephen Avenue Centre Branch, for the principal sum of One Million Seven Hundred Thousand Dollars (\$ 1,700,000.00 (CAD)) maturing on the _____ day of _____, _____ HEREBY ASSIGNS, TRANSFERS AND SETS OVER unto ATB Financial

(hereinafter called the "Assignee") subject to the conditions set forth thereon, the said Certificate(s) and all renewals, replacements and substitutions thereof and all monies whatsoever payable or accrued or which may at any time hereafter become payable or accrue thereunder, with full power to the Assignee to recover and receive the said monies or any portion thereof, to surrender and redeem the said Certificate(s) and all renewals, replacements and substitutions thereof at any time, whether before, at or after the date of maturity thereof, as the Assignee in his sole discretion may see fit, and to give full, final and complete receipts, releases and discharges for and of the said Certificate(s) and all renewals, replacements and substitutions thereof and any such monies or any portion thereof.

This Assignment may be executed electronically; this Assignment may be delivered by email, facsimile or other functionally-equivalent electronic means.

IN WITNESS WHEREOF the Assignor has hereto set his hand this 12 day of April, 2023.

1263343 Alberta Inc.

Per: Hanna Prokopiv
Hanna Prokopiv

Catherine Pressacco
Catherine Pressacco (Apr 12, 2023 14:51 MDT)
Witness: Catherine Pressacco

Per: _____
Individual Borrower's Name

Witness: _____

FOR USE BY BRANCH OF ISSUE ONLY	
ASSIGNMENT RECEIVED AND ACKNOWLEDGED	_____ at _____ Date Manager, ATB Branch of Issue



RELEASE OF ASSIGNMENT

FOR ADEQUATE CONSIDERATION to whom the above Certificate was assigned, hereby relinquish(es) all interest in the said Certificate and the proceeds thereof.

IN WITNESS WHEREOF _____ have hereunto set
_____ hand this
_____ day _____, 20_____.

Witness Signature

Client Signature

Witness Name

Client Name

RELEASE OF ASSIGNMENT APPROVED AND RECORDED on	_____ at _____ Date Manager, ATB Branch of Issue
--	---

CLIENT RECEIPT		
_____	_____	_____
Certificate No.	Date	Client Signature

DISPOSITION OF CERTIFICATE IF NOT RECEIVED BY CLIENT







7005FormAssignmentofDepositCertificate

Final Audit Report

2023-04-12

Created:	2023-04-12
By:	Hanna Prokopiv (hanna.prokopiv@lynxair.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAyTjDZAqEvFT9TyTWxu4ITbxKYBvH6ebo

"7005FormAssignmentofDepositCertificate" History

-  Document created by Hanna Prokopiv (hanna.prokopiv@lynxair.com)
2023-04-12 - 8:38:40 PM GMT
-  Document emailed to catherine.pressacco@lynxair.com for signature
2023-04-12 - 8:39:35 PM GMT
-  Email viewed by catherine.pressacco@lynxair.com
2023-04-12 - 8:51:07 PM GMT
-  Signer catherine.pressacco@lynxair.com entered name at signing as Catherine Pressacco
2023-04-12 - 8:51:38 PM GMT
-  Document e-signed by Catherine Pressacco (catherine.pressacco@lynxair.com)
Signature Date: 2023-04-12 - 8:51:40 PM GMT - Time Source: server
-  Agreement completed.
2023-04-12 - 8:51:40 PM GMT

Names and email addresses are entered into the Acrobat Sign service by Acrobat Sign users and are unverified unless otherwise noted.



Assignment of Deposit Certificate

Bank Key: 021907609 Client BPID: 107588

To ATB Financial ("ATB"):

FOR VALUABLE CONSIDERATION the undersigned Assignor, being the holder of Guaranteed Investment Certificate No.(s) _____ issued to the Assignor by ATB at Calgary Stephen Avenue Centre Branch, for the principal sum of One Million Nine Hundred Fifty Thousand Dollars (\$ 1,950,000.00 (CAD)) maturing on the _____ day of _____, _____ HEREBY ASSIGNS, TRANSFERS AND SETS OVER unto ATB Financial

(hereinafter called the "Assignee") subject to the conditions set forth thereon, the said Certificate(s) and all renewals, replacements and substitutions thereof and all monies whatsoever payable or accrued or which may at any time hereafter become payable or accrue thereunder, with full power to the Assignee to recover and receive the said monies or any portion thereof, to surrender and redeem the said Certificate(s) and all renewals, replacements and substitutions thereof at any time, whether before, at or after the date of maturity thereof, as the Assignee in his sole discretion may see fit, and to give full, final and complete receipts, releases and discharges for and of the said Certificate(s) and all renewals, replacements and substitutions thereof and any such monies or any portion thereof.

This Assignment may be executed electronically; this Assignment may be delivered by email, facsimile or other functionally-equivalent electronic means.

IN WITNESS WHEREOF the Assignor has hereto set his hand this 20 day of April, 2023.

1263343 Alberta Inc.

Per: Hanna Prokopiv
Hanna Prokopiv

Catherine Pressacco
Catherine Pressacco (Apr 20, 2023 13:31 MDT)
Witness: Catherine Pressacco

Per: _____
Individual Borrower's Name

Witness: _____

FOR USE BY BRANCH OF ISSUE ONLY	
ASSIGNMENT RECEIVED AND ACKNOWLEDGED	_____ at _____ Date Manager, ATB Branch of Issue



RELEASE OF ASSIGNMENT

FOR ADEQUATE CONSIDERATION to whom the above Certificate was assigned, hereby relinquish(es) all interest in the said Certificate and the proceeds thereof.

IN WITNESS WHEREOF _____ have hereunto set
_____ hand this
_____ day _____, 20_____.

Witness Signature

Client Signature

Witness Name

Client Name

RELEASE OF ASSIGNMENT APPROVED AND RECORDED on	_____ at _____ Date Manager, ATB Branch of Issue
--	---

CLIENT RECEIPT		
_____ Certificate No.	_____ Date	_____ Client Signature

DISPOSITION OF CERTIFICATE IF NOT RECEIVED BY CLIENT







7005FormAssignmentofDepositCertificate

Final Audit Report

2023-04-20

Created:	2023-04-20
By:	Hanna Prokopiv (hanna.prokopiv@lynxair.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAA9p_swCMhcUbnWrom62q-yR1Lg164O_fw

"7005FormAssignmentofDepositCertificate" History

-  Document created by Hanna Prokopiv (hanna.prokopiv@lynxair.com)
2023-04-20 - 4:59:00 PM GMT
-  Document emailed to catherine.pressacco@lynxair.com for signature
2023-04-20 - 4:59:29 PM GMT
-  Email viewed by catherine.pressacco@lynxair.com
2023-04-20 - 7:31:08 PM GMT
-  Signer catherine.pressacco@lynxair.com entered name at signing as Catherine Pressacco
2023-04-20 - 7:31:39 PM GMT
-  Document e-signed by Catherine Pressacco (catherine.pressacco@lynxair.com)
Signature Date: 2023-04-20 - 7:31:41 PM GMT - Time Source: server
-  Agreement completed.
2023-04-20 - 7:31:41 PM GMT

Names and email addresses are entered into the Acrobat Sign service by Acrobat Sign users and are unverified unless otherwise noted.



Assignment of Deposit Certificate

Bank Key: 021907609 Client BPID: 107588

To ATB Financial ("ATB"):

FOR VALUABLE CONSIDERATION the undersigned Assignor, being the holder of Guaranteed Investment Certificate No.(s) _____ issued to the Assignor by ATB at Calgary Stephen Avenue Centre Branch, for the principal sum of One Hundred Eighty Four Thousand and Twenty Dollars and Forty Cents Dollars (\$ 184,020.40 (USD)) maturing on the _____ day of _____, _____ HEREBY ASSIGNS, TRANSFERS AND SETS OVER unto ATB Financial

(hereinafter called the "Assignee") subject to the conditions set forth thereon, the said Certificate(s) and all renewals, replacements and substitutions thereof and all monies whatsoever payable or accrued or which may at any time hereafter become payable or accrue thereunder, with full power to the Assignee to recover and receive the said monies or any portion thereof, to surrender and redeem the said Certificate(s) and all renewals, replacements and substitutions thereof at any time, whether before, at or after the date of maturity thereof, as the Assignee in his sole discretion may see fit, and to give full, final and complete receipts, releases and discharges for and of the said Certificate(s) and all renewals, replacements and substitutions thereof and any such monies or any portion thereof.

This Assignment may be executed electronically; this Assignment may be delivered by email, facsimile or other functionally-equivalent electronic means.

IN WITNESS WHEREOF the Assignor has hereto set his hand this 26 day of April, 2023.

1263343 Alberta Inc.

Per: Hanna Prokopiv
Hanna Prokopiv

Catherine Pressacco
Catherine Pressacco (Apr 26, 2023 13:28 MDT)
Witness: Catherine Pressacco

Per: _____
Individual Borrower's Name

Witness: _____

FOR USE BY BRANCH OF ISSUE ONLY	
ASSIGNMENT RECEIVED AND ACKNOWLEDGED	_____ at _____ Date Manager, ATB Branch of Issue



RELEASE OF ASSIGNMENT

FOR ADEQUATE CONSIDERATION to whom the above Certificate was assigned, hereby relinquish(es) all interest in the said Certificate and the proceeds thereof.

IN WITNESS WHEREOF _____ have hereunto set
_____ hand this
_____ day _____, 20_____.

Witness Signature

Client Signature

Witness Name

Client Name

RELEASE OF ASSIGNMENT APPROVED AND RECORDED on	_____ at _____ Date Manager, ATB Branch of Issue
--	---

CLIENT RECEIPT		
_____	_____	_____
Certificate No.	Date	Client Signature

DISPOSITION OF CERTIFICATE IF NOT RECEIVED BY CLIENT







7005FormAssignmentofDepositCertificate (2)

Final Audit Report

2023-04-26

Created:	2023-04-26
By:	Hanna Prokopiv (hanna.prokopiv@lynxair.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAA81J3i02rQTLdN6Pmq8WVrmg0XJCY4Vjg

"7005FormAssignmentofDepositCertificate (2)" History

-  Document created by Hanna Prokopiv (hanna.prokopiv@lynxair.com)
2023-04-26 - 6:20:22 PM GMT
-  Document emailed to catherine.pressacco@lynxair.com for signature
2023-04-26 - 6:22:05 PM GMT
-  Email viewed by catherine.pressacco@lynxair.com
2023-04-26 - 7:12:16 PM GMT
-  Signer catherine.pressacco@lynxair.com entered name at signing as Catherine Pressacco
2023-04-26 - 7:28:18 PM GMT
-  Document e-signed by Catherine Pressacco (catherine.pressacco@lynxair.com)
Signature Date: 2023-04-26 - 7:28:20 PM GMT - Time Source: server
-  Agreement completed.
2023-04-26 - 7:28:20 PM GMT



Assignment of Deposit Certificate

Bank Key: 021907609 Client BPID: 107588

To ATB Financial ("ATB"):

FOR VALUABLE CONSIDERATION the undersigned Assignor, being the holder of Guaranteed Investment Certificate No.(s) _____ issued to the Assignor by ATB at Calgary Stephen Avenue Centre Branch, for the principal sum of Five Hundred Thirty Thousand Dollars (\$ 530,000.00 (CAD)) maturing on the _____ day of _____, _____ HEREBY ASSIGNS, TRANSFERS AND SETS OVER unto ATB Financial

(hereinafter called the "Assignee") subject to the conditions set forth thereon, the said Certificate(s) and all renewals, replacements and substitutions thereof and all monies whatsoever payable or accrued or which may at any time hereafter become payable or accrue thereunder, with full power to the Assignee to recover and receive the said monies or any portion thereof, to surrender and redeem the said Certificate(s) and all renewals, replacements and substitutions thereof at any time, whether before, at or after the date of maturity thereof, as the Assignee in his sole discretion may see fit, and to give full, final and complete receipts, releases and discharges for and of the said Certificate(s) and all renewals, replacements and substitutions thereof and any such monies or any portion thereof.

This Assignment may be executed electronically; this Assignment may be delivered by email, facsimile or other functionally-equivalent electronic means.

IN WITNESS WHEREOF the Assignor has hereto set his hand this 27 day of April, 2023.

1263343 Alberta Inc.

Per: Hanna Prokopiv
Hanna Prokopiv

Catherine Pressacco
Catherine Pressacco (Apr 27, 2023 16:24 MDT)
Witness: Catherine Pressacco

Per: _____
Individual Borrower's Name

Witness: _____

FOR USE BY BRANCH OF ISSUE ONLY	
ASSIGNMENT RECEIVED AND ACKNOWLEDGED	_____ at _____ Date Manager, ATB Branch of Issue



RELEASE OF ASSIGNMENT

FOR ADEQUATE CONSIDERATION to whom the above Certificate was assigned, hereby relinquish(es) all interest in the said Certificate and the proceeds thereof.

IN WITNESS WHEREOF _____ have hereunto set
_____ hand this
_____ day _____, 20_____.

Witness Signature

Client Signature

Witness Name

Client Name

RELEASE OF ASSIGNMENT APPROVED AND RECORDED on	_____ at _____ Date Manager, ATB Branch of Issue
--	---

CLIENT RECEIPT		
_____	_____	_____
Certificate No.	Date	Client Signature

DISPOSITION OF CERTIFICATE IF NOT RECEIVED BY CLIENT







7005FormAssignmentofDepositCertificate

Final Audit Report

2023-04-27

Created:	2023-04-27
By:	Hanna Prokopiv (hanna.prokopiv@lynxair.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAAar-50rCnndSKMsyWSviQolgCZVBJ0KX

"7005FormAssignmentofDepositCertificate" History

-  Document created by Hanna Prokopiv (hanna.prokopiv@lynxair.com)
2023-04-27 - 7:07:52 PM GMT
-  Document emailed to catherine.pressacco@lynxair.com for signature
2023-04-27 - 7:08:35 PM GMT
-  Email viewed by catherine.pressacco@lynxair.com
2023-04-27 - 10:24:21 PM GMT
-  Signer catherine.pressacco@lynxair.com entered name at signing as Catherine Pressacco
2023-04-27 - 10:24:49 PM GMT
-  Document e-signed by Catherine Pressacco (catherine.pressacco@lynxair.com)
Signature Date: 2023-04-27 - 10:24:51 PM GMT - Time Source: server
-  Agreement completed.
2023-04-27 - 10:24:51 PM GMT



Assignment of Deposit Certificate

Bank Key: 021907609 Client BPID: 107588

To ATB Financial ("ATB"):

FOR VALUABLE CONSIDERATION the undersigned Assignor, being the holder of Guaranteed Investment Certificate No.(s) _____ issued to the Assignor by ATB at Calgary Stephen Avenue Centre Branch, for the principal sum of Two Million Four Hundred Fifty Thousand Dollars (\$ 2,450,000.00 (CAD)) maturing on the _____ day of _____, _____ HEREBY ASSIGNS, TRANSFERS AND SETS OVER unto ATB Financial

(hereinafter called the "Assignee") subject to the conditions set forth thereon, the said Certificate(s) and all renewals, replacements and substitutions thereof and all monies whatsoever payable or accrued or which may at any time hereafter become payable or accrue thereunder, with full power to the Assignee to recover and receive the said monies or any portion thereof, to surrender and redeem the said Certificate(s) and all renewals, replacements and substitutions thereof at any time, whether before, at or after the date of maturity thereof, as the Assignee in his sole discretion may see fit, and to give full, final and complete receipts, releases and discharges for and of the said Certificate(s) and all renewals, replacements and substitutions thereof and any such monies or any portion thereof.

This Assignment may be executed electronically; this Assignment may be delivered by email, facsimile or other functionally-equivalent electronic means.

IN WITNESS WHEREOF the Assignor has hereto set his hand this 05 day of May, 2023.

1263343 Alberta Inc.

Per: Hanna Prokopiv
Hanna Prokopiv

Michael Woodward
Michael Woodward (May 5, 2023 14:30 MDT)
Witness: Mike Woodward

Per: _____
Individual Borrower's Name

Witness: _____

FOR USE BY BRANCH OF ISSUE ONLY	
ASSIGNMENT RECEIVED AND ACKNOWLEDGED	_____ at _____ Date Manager, ATB Branch of Issue



RELEASE OF ASSIGNMENT

FOR ADEQUATE CONSIDERATION to whom the above Certificate was assigned, hereby relinquish(es) all interest in the said Certificate and the proceeds thereof.

IN WITNESS WHEREOF _____ have hereunto set
_____ hand this
_____ day _____, 20_____.

Witness Signature

Client Signature

Witness Name

Client Name

RELEASE OF ASSIGNMENT APPROVED AND RECORDED on	_____ at _____ Date Manager, ATB Branch of Issue
--	---

CLIENT RECEIPT		
_____ Certificate No.	_____ Date	_____ Client Signature

DISPOSITION OF CERTIFICATE IF NOT RECEIVED BY CLIENT







7005FormAssignmentofDepositCertificate

Final Audit Report

2023-05-05

Created:	2023-05-05
By:	Hanna Prokopiv (hanna.prokopiv@lynxair.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAcD90NkNd68BSMqVoUkckwEkYGvxKOKMq

"7005FormAssignmentofDepositCertificate" History

-  Document created by Hanna Prokopiv (hanna.prokopiv@lynxair.com)
2023-05-05 - 7:51:11 PM GMT
-  Document emailed to mike.woodward@lynxair.com for signature
2023-05-05 - 7:51:35 PM GMT
-  Email viewed by mike.woodward@lynxair.com
2023-05-05 - 8:30:10 PM GMT
-  Signer mike.woodward@lynxair.com entered name at signing as Michael Woodward
2023-05-05 - 8:30:43 PM GMT
-  Document e-signed by Michael Woodward (mike.woodward@lynxair.com)
Signature Date: 2023-05-05 - 8:30:45 PM GMT - Time Source: server
-  Agreement completed.
2023-05-05 - 8:30:45 PM GMT



Assignment of Deposit Certificate

Bank Key: 021907609 Client BPID: 107588

To ATB Financial ("ATB"):

FOR VALUABLE CONSIDERATION the undersigned Assignor, being the holder of Guaranteed Investment Certificate No.(s) _____ issued to the Assignor by ATB at Calgary Stephen Avenue Centre Branch, for the principal sum of Two Million Seven Hundred Thousand Dollars (\$ 2,700,000.00 (CAD)) maturing on the _____ day of _____, _____ HEREBY ASSIGNS, TRANSFERS AND SETS OVER unto ATB Financial


(hereinafter called the "Assignee") subject to the conditions set forth thereon, the said Certificate(s) and all renewals, replacements and substitutions thereof and all monies whatsoever payable or accrued or which may at any time hereafter become payable or accrue thereunder, with full power to the Assignee to recover and receive the said monies or any portion thereof, to surrender and redeem the said Certificate(s) and all renewals, replacements and substitutions thereof at any time, whether before, at or after the date of maturity thereof, as the Assignee in his sole discretion may see fit, and to give full, final and complete receipts, releases and discharges for and of the said Certificate(s) and all renewals, replacements and substitutions thereof and any such monies or any portion thereof.

This Assignment may be executed electronically; this Assignment may be delivered by email, facsimile or other functionally-equivalent electronic means.

IN WITNESS WHEREOF the Assignor has hereto set his hand this 15 day of May, 2023.

1263343 Alberta Inc.

Per: Hanna Prokopiv
Hanna Prokopiv


Witness: Catherine Pressacco

Per: _____
Individual Borrower's Name

Witness: _____

FOR USE BY BRANCH OF ISSUE ONLY	
ASSIGNMENT RECEIVED AND ACKNOWLEDGED	_____ at _____ Date Manager, ATB Branch of Issue



RELEASE OF ASSIGNMENT

FOR ADEQUATE CONSIDERATION to whom the above Certificate was assigned, hereby relinquish(es) all interest in the said Certificate and the proceeds thereof.

IN WITNESS WHEREOF _____ have hereunto set
_____ hand this
_____ day _____, 20_____.

Witness Signature

Client Signature

Witness Name

Client Name

RELEASE OF ASSIGNMENT APPROVED AND RECORDED on	_____ at _____ Date Manager, ATB Branch of Issue
--	---

CLIENT RECEIPT		
_____ Certificate No.	_____ Date	_____ Client Signature

DISPOSITION OF CERTIFICATE IF NOT RECEIVED BY CLIENT






7005FormAssignmentofDepositCertificate

Final Audit Report

2023-05-12

Created:	2023-05-12
By:	Hanna Prokopiv (hanna.prokopiv@lynxair.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAiLhpQ5II1FGISwVfO2XerRb-jViwrYyM

"7005FormAssignmentofDepositCertificate" History

-  Document created by Hanna Prokopiv (hanna.prokopiv@lynxair.com)
2023-05-12 - 10:46:32 PM GMT
-  Document emailed to Catherine Pressacco (catherine.pressacco@enerjet.ca) for signature
2023-05-12 - 10:46:59 PM GMT
-  Email viewed by Catherine Pressacco (catherine.pressacco@enerjet.ca)
2023-05-12 - 10:51:19 PM GMT
-  Document e-signed by Catherine Pressacco (catherine.pressacco@enerjet.ca)
Signature Date: 2023-05-12 - 10:51:43 PM GMT - Time Source: server
-  Agreement completed.
2023-05-12 - 10:51:43 PM GMT



Assignment of Deposit Certificate

Bank Key: 021907609 Client BPID: 107588

To ATB Financial ("ATB"):

FOR VALUABLE CONSIDERATION the undersigned Assignor, being the holder of Guaranteed Investment Certificate No.(s) _____ issued to the Assignor by ATB at Calgary Stephen Avenue Centre Branch, for the principal sum of Nine Hundred Twenty Five Thousand Dollars (\$ 925,000.00 (CAD)) maturing on the _____ day of _____, _____ HEREBY ASSIGNS, TRANSFERS AND SETS OVER unto ATB Financial


(hereinafter called the "Assignee") subject to the conditions set forth thereon, the said Certificate(s) and all renewals, replacements and substitutions thereof and all monies whatsoever payable or accrued or which may at any time hereafter become payable or accrue thereunder, with full power to the Assignee to recover and receive the said monies or any portion thereof, to surrender and redeem the said Certificate(s) and all renewals, replacements and substitutions thereof at any time, whether before, at or after the date of maturity thereof, as the Assignee in his sole discretion may see fit, and to give full, final and complete receipts, releases and discharges for and of the said Certificate(s) and all renewals, replacements and substitutions thereof and any such monies or any portion thereof.

This Assignment may be executed electronically; this Assignment may be delivered by email, facsimile or other functionally-equivalent electronic means.

IN WITNESS WHEREOF the Assignor has hereto set his hand this 19 day of May, 2023.

1263343 Alberta Inc.

Per: Hanna Prokopiv
Hanna Prokopiv


Witness: Catherine Pressacco

Per: _____
Individual Borrower's Name

Witness: _____

FOR USE BY BRANCH OF ISSUE ONLY	
ASSIGNMENT RECEIVED AND ACKNOWLEDGED	_____ at _____ Date Manager, ATB Branch of Issue



RELEASE OF ASSIGNMENT

FOR ADEQUATE CONSIDERATION to whom the above Certificate was assigned, hereby relinquish(es) all interest in the said Certificate and the proceeds thereof.

IN WITNESS WHEREOF _____ have hereunto set
_____ hand this
_____ day _____, 20_____.

Witness Signature

Client Signature

Witness Name

Client Name

RELEASE OF ASSIGNMENT APPROVED AND RECORDED on	_____ at _____ Date Manager, ATB Branch of Issue
--	---

CLIENT RECEIPT		
_____ Certificate No.	_____ Date	_____ Client Signature

DISPOSITION OF CERTIFICATE IF NOT RECEIVED BY CLIENT






7005FormAssignmentofDepositCertificate

Final Audit Report

2023-05-23

Created:	2023-05-23
By:	Hanna Prokopiv (hanna.prokopiv@lynxair.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAAdffbUHnVJyTCfsQURFhJXefybICMvBmg

"7005FormAssignmentofDepositCertificate" History

-  Document created by Hanna Prokopiv (hanna.prokopiv@lynxair.com)
2023-05-23 - 6:51:36 PM GMT
-  Document emailed to Catherine Pressacco (catherine.pressacco@enerjet.ca) for signature
2023-05-23 - 6:52:03 PM GMT
-  Email viewed by Catherine Pressacco (catherine.pressacco@enerjet.ca)
2023-05-23 - 7:19:23 PM GMT
-  Document e-signed by Catherine Pressacco (catherine.pressacco@enerjet.ca)
Signature Date: 2023-05-23 - 7:19:43 PM GMT - Time Source: server
-  Agreement completed.
2023-05-23 - 7:19:43 PM GMT



Assignment of Deposit Certificate

Bank Key: 021907609 Client BPID: 107588

To ATB Financial ("ATB"):

FOR VALUABLE CONSIDERATION the undersigned Assignor, being the holder of Guaranteed Investment Certificate No.(s) _____ issued to the Assignor by ATB at Calgary Stephen Avenue Centre Branch, for the principal sum of Two Million Nine Hundred Fifty Thousand Dollars (\$ 2,950,000.00 (CAD)) maturing on the _____ day of _____, _____ HEREBY ASSIGNS, TRANSFERS AND SETS OVER unto ATB Financial

(hereinafter called the "Assignee") subject to the conditions set forth thereon, the said Certificate(s) and all renewals, replacements and substitutions thereof and all monies whatsoever payable or accrued or which may at any time hereafter become payable or accrue thereunder, with full power to the Assignee to recover and receive the said monies or any portion thereof, to surrender and redeem the said Certificate(s) and all renewals, replacements and substitutions thereof at any time, whether before, at or after the date of maturity thereof, as the Assignee in his sole discretion may see fit, and to give full, final and complete receipts, releases and discharges for and of the said Certificate(s) and all renewals, replacements and substitutions thereof and any such monies or any portion thereof.

This Assignment may be executed electronically; this Assignment may be delivered by email, facsimile or other functionally-equivalent electronic means.

IN WITNESS WHEREOF the Assignor has hereto set his hand this 23 day of May, 2023.

1263343 Alberta Inc.

Per: Hanna Prokopiv
Hanna Prokopiv

Witness: Catherine Pressacco

Per: _____
Individual Borrower's Name

Witness: _____

FOR USE BY BRANCH OF ISSUE ONLY	
ASSIGNMENT RECEIVED AND ACKNOWLEDGED	_____ at _____ Date Manager, ATB Branch of Issue



RELEASE OF ASSIGNMENT

FOR ADEQUATE CONSIDERATION to whom the above Certificate was assigned, hereby relinquish(es) all interest in the said Certificate and the proceeds thereof.

IN WITNESS WHEREOF _____ have hereunto set
_____ hand this
_____ day _____, 20_____.

Witness Signature

Client Signature

Witness Name

Client Name

RELEASE OF ASSIGNMENT APPROVED AND RECORDED on	_____ at _____ Date Manager, ATB Branch of Issue
--	---

CLIENT RECEIPT		
_____ Certificate No.	_____ Date	_____ Client Signature

DISPOSITION OF CERTIFICATE IF NOT RECEIVED BY CLIENT






7005FormAssignmentofDepositCertificate

Final Audit Report

2023-05-23

Created:	2023-05-23
By:	Hanna Prokopiv (hanna.prokopiv@lynxair.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAGN3AReIYrOMQ-smBi_2xANSP2opqxBiT

"7005FormAssignmentofDepositCertificate" History

-  Document created by Hanna Prokopiv (hanna.prokopiv@lynxair.com)
2023-05-23 - 7:15:00 PM GMT
-  Document emailed to Catherine Pressacco (catherine.pressacco@enerjet.ca) for signature
2023-05-23 - 7:15:21 PM GMT
-  Email viewed by Catherine Pressacco (catherine.pressacco@enerjet.ca)
2023-05-23 - 7:20:13 PM GMT
-  Document e-signed by Catherine Pressacco (catherine.pressacco@enerjet.ca)
Signature Date: 2023-05-23 - 7:20:23 PM GMT - Time Source: server
-  Agreement completed.
2023-05-23 - 7:20:23 PM GMT



Assignment of Deposit Certificate

Bank Key: 021907609 Client BPID: 107588

To ATB Financial ("ATB"):

FOR VALUABLE CONSIDERATION the undersigned Assignor, being the holder of Guaranteed Investment Certificate No.(s) _____ issued to the Assignor by ATB at Calgary Stephen Avenue Centre Branch, for the principal sum of Three Million One Hundred Thousand Dollars (\$ 3,100,000.00 (CAD)) maturing on the _____ day of _____, _____ HEREBY ASSIGNS, TRANSFERS AND SETS OVER unto ATB Financial

(hereinafter called the "Assignee") subject to the conditions set forth thereon, the said Certificate(s) and all renewals, replacements and substitutions thereof and all monies whatsoever payable or accrued or which may at any time hereafter become payable or accrue thereunder, with full power to the Assignee to recover and receive the said monies or any portion thereof, to surrender and redeem the said Certificate(s) and all renewals, replacements and substitutions thereof at any time, whether before, at or after the date of maturity thereof, as the Assignee in his sole discretion may see fit, and to give full, final and complete receipts, releases and discharges for and of the said Certificate(s) and all renewals, replacements and substitutions thereof and any such monies or any portion thereof.

This Assignment may be executed electronically; this Assignment may be delivered by email, facsimile or other functionally-equivalent electronic means.

IN WITNESS WHEREOF the Assignor has hereto set his hand this 2 day of June, 2023.

1263343 Alberta Inc.

Per: Hanna Prokopiv
Hanna Prokopiv

Catherine Pressacco
Catherine Pressacco (Jun 2, 2023 12:58 MDT)
Witness: Catherine Pressacco

Per: _____
Individual Borrower's Name

Witness: _____

FOR USE BY BRANCH OF ISSUE ONLY	
ASSIGNMENT RECEIVED AND ACKNOWLEDGED	_____ at _____ Date Manager, ATB Branch of Issue



RELEASE OF ASSIGNMENT

FOR ADEQUATE CONSIDERATION to whom the above Certificate was assigned, hereby relinquish(es) all interest in the said Certificate and the proceeds thereof.

IN WITNESS WHEREOF _____ have hereunto set
_____ hand this
_____ day _____, 20_____.

Witness Signature

Client Signature

Witness Name

Client Name

RELEASE OF ASSIGNMENT APPROVED AND RECORDED on	_____ at _____ Date Manager, ATB Branch of Issue
--	---

CLIENT RECEIPT		
_____	_____	_____
Certificate No.	Date	Client Signature

DISPOSITION OF CERTIFICATE IF NOT RECEIVED BY CLIENT







7005FormAssignmentofDepositCertificate

Final Audit Report

2023-06-02

Created:	2023-06-02
By:	Hanna Prokopiv (hanna.prokopiv@lynxair.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAATliUm_-zMC0b8ZX-985uiSvPUNuVP_vt

"7005FormAssignmentofDepositCertificate" History

-  Document created by Hanna Prokopiv (hanna.prokopiv@lynxair.com)
2023-06-02 - 6:45:25 PM GMT
-  Document emailed to catherine.pressacco@lynxair.com for signature
2023-06-02 - 6:45:59 PM GMT
-  Email viewed by catherine.pressacco@lynxair.com
2023-06-02 - 6:58:21 PM GMT
-  Signer catherine.pressacco@lynxair.com entered name at signing as Catherine Pressacco
2023-06-02 - 6:58:42 PM GMT
-  Document e-signed by Catherine Pressacco (catherine.pressacco@lynxair.com)
Signature Date: 2023-06-02 - 6:58:44 PM GMT - Time Source: server
-  Agreement completed.
2023-06-02 - 6:58:44 PM GMT



Assignment of Deposit Certificate

Bank Key: 021907609 Client BPID: 107588

To ATB Financial ("ATB"):

FOR VALUABLE CONSIDERATION the undersigned Assignor, being the holder of Guaranteed Investment Certificate No.(s) _____ issued to the Assignor by ATB at Calgary Stephen Avenue Centre Branch, for the principal sum of Fifty Thousand Dollars (\$ 50,000.00 (CAD)) maturing on the _____ day of _____, _____ HEREBY ASSIGNS, TRANSFERS AND SETS OVER unto ATB Financial

(hereinafter called the "Assignee") subject to the conditions set forth thereon, the said Certificate(s) and all renewals, replacements and substitutions thereof and all monies whatsoever payable or accrued or which may at any time hereafter become payable or accrue thereunder, with full power to the Assignee to recover and receive the said monies or any portion thereof, to surrender and redeem the said Certificate(s) and all renewals, replacements and substitutions thereof at any time, whether before, at or after the date of maturity thereof, as the Assignee in his sole discretion may see fit, and to give full, final and complete receipts, releases and discharges for and of the said Certificate(s) and all renewals, replacements and substitutions thereof and any such monies or any portion thereof.

This Assignment may be executed electronically; this Assignment may be delivered by email, facsimile or other functionally-equivalent electronic means.

IN WITNESS WHEREOF the Assignor has hereto set his hand this 28 day of September, 2023.

1263343 Alberta Inc.

Per: Hanna Prokopiv
Hanna Prokopiv

Catherine Pressacco
Catherine Pressacco (Sep 28, 2023 11:17 MDT)
Witness: Catherine Pressacco

Per: _____
Individual Borrower's Name

Witness: _____

FOR USE BY BRANCH OF ISSUE ONLY	
ASSIGNMENT RECEIVED AND ACKNOWLEDGED	_____ at _____ Date Manager, ATB Branch of Issue



RELEASE OF ASSIGNMENT

FOR ADEQUATE CONSIDERATION to whom the above Certificate was assigned, hereby relinquish(es) all interest in the said Certificate and the proceeds thereof.

IN WITNESS WHEREOF _____ have hereunto set
_____ hand this
_____ day _____, 20_____.

Witness Signature

Client Signature

Witness Name

Client Name

RELEASE OF ASSIGNMENT APPROVED AND RECORDED on	_____ at _____ Date Manager, ATB Branch of Issue
--	---

CLIENT RECEIPT		
_____	_____	_____
Certificate No.	Date	Client Signature

DISPOSITION OF CERTIFICATE IF NOT RECEIVED BY CLIENT







7005FormAssignmentofDepositCertificate

Final Audit Report

2023-09-28

Created:	2023-09-28
By:	Hanna Prokopiv (hanna.prokopiv@lynxair.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAS7aS44VvdmToK4D9ITx__vxCesn4xTXq

"7005FormAssignmentofDepositCertificate" History

-  Document created by Hanna Prokopiv (hanna.prokopiv@lynxair.com)
2023-09-28 - 5:13:50 PM GMT
-  Document emailed to catherine.pressacco@lynxair.com for signature
2023-09-28 - 5:14:25 PM GMT
-  Email viewed by catherine.pressacco@lynxair.com
2023-09-28 - 5:15:56 PM GMT
-  Signer catherine.pressacco@lynxair.com entered name at signing as Catherine Pressacco
2023-09-28 - 5:17:05 PM GMT
-  Document e-signed by Catherine Pressacco (catherine.pressacco@lynxair.com)
Signature Date: 2023-09-28 - 5:17:07 PM GMT - Time Source: server
-  Agreement completed.
2023-09-28 - 5:17:07 PM GMT



Assignment of Deposit Certificate

Bank Key: 021907609 Client BPID: 107588

To ATB Financial ("ATB"):

FOR VALUABLE CONSIDERATION the undersigned Assignor, being the holder of Guaranteed Investment Certificate No.(s) _____ issued to the Assignor by ATB at Calgary Stephen Avenue Centre Branch, for the principal sum of Fifty Five Thousand Six Hundred and Seventy Nine and Twenty Two Cents Dollars (\$ 55,679.22 (USD)) maturing on the _____ day of _____, _____ HEREBY ASSIGNS, TRANSFERS AND SETS OVER unto ATB Financial


(hereinafter called the "Assignee") subject to the conditions set forth thereon, the said Certificate(s) and all renewals, replacements and substitutions thereof and all monies whatsoever payable or accrued or which may at any time hereafter become payable or accrue thereunder, with full power to the Assignee to recover and receive the said monies or any portion thereof, to surrender and redeem the said Certificate(s) and all renewals, replacements and substitutions thereof at any time, whether before, at or after the date of maturity thereof, as the Assignee in his sole discretion may see fit, and to give full, final and complete receipts, releases and discharges for and of the said Certificate(s) and all renewals, replacements and substitutions thereof and any such monies or any portion thereof.

This Assignment may be executed electronically; this Assignment may be delivered by email, facsimile or other functionally-equivalent electronic means.

IN WITNESS WHEREOF the Assignor has hereto set his hand this 04 day of October, 2023.

1263343 Alberta Inc.

Per: Hanna Prokopiv
Hanna Prokopiv


Witness: Catherine Pressacco

Per: _____
Individual Borrower's Name

Witness: _____

FOR USE BY BRANCH OF ISSUE ONLY	
ASSIGNMENT RECEIVED AND ACKNOWLEDGED	_____ at _____ Date Manager, ATB Branch of Issue



RELEASE OF ASSIGNMENT

FOR ADEQUATE CONSIDERATION to whom the above Certificate was assigned, hereby relinquish(es) all interest in the said Certificate and the proceeds thereof.

IN WITNESS WHEREOF _____ have hereunto set
_____ hand this
_____ day _____, 20_____.

Witness Signature

Client Signature

Witness Name

Client Name

RELEASE OF ASSIGNMENT APPROVED AND RECORDED on	_____ at _____ Date Manager, ATB Branch of Issue
--	---

CLIENT RECEIPT		
_____	_____	_____
Certificate No.	Date	Client Signature

DISPOSITION OF CERTIFICATE IF NOT RECEIVED BY CLIENT






7005FormAssignmentofDepositCertificate

Final Audit Report

2023-10-05

Created:	2023-10-05
By:	Hanna Prokopiv (hanna.prokopiv@lynxair.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAA5ywIrd8vbwFVoJckmaON_jytxbpwzgmI

"7005FormAssignmentofDepositCertificate" History

-  Document created by Hanna Prokopiv (hanna.prokopiv@lynxair.com)
2023-10-05 - 3:47:50 PM GMT
-  Document emailed to Catherine Pressacco (catherine.pressacco@enerjet.ca) for signature
2023-10-05 - 3:48:12 PM GMT
-  Email viewed by Catherine Pressacco (catherine.pressacco@enerjet.ca)
2023-10-05 - 3:48:34 PM GMT
-  Document e-signed by Catherine Pressacco (catherine.pressacco@enerjet.ca)
Signature Date: 2023-10-05 - 4:50:32 PM GMT - Time Source: server
-  Agreement completed.
2023-10-05 - 4:50:32 PM GMT



Assignment of Deposit Certificate

Bank Key: 021907609 Client BPID: 107588

To ATB Financial ("ATB"):

FOR VALUABLE CONSIDERATION the undersigned Assignor, being the holder of Guaranteed Investment Certificate No.(s) _____ issued to the Assignor by ATB at Calgary Stephen Avenue Centre Branch, for the principal sum of One Hundred and Ten Thousand Dollars (\$ 110,000.00 (USD)) maturing on the _____ day of _____, _____ HEREBY ASSIGNS, TRANSFERS AND SETS OVER unto ATB Financial

(hereinafter called the "Assignee") subject to the conditions set forth thereon, the said Certificate(s) and all renewals, replacements and substitutions thereof and all monies whatsoever payable or accrued or which may at any time hereafter become payable or accrue thereunder, with full power to the Assignee to recover and receive the said monies or any portion thereof, to surrender and redeem the said Certificate(s) and all renewals, replacements and substitutions thereof at any time, whether before, at or after the date of maturity thereof, as the Assignee in his sole discretion may see fit, and to give full, final and complete receipts, releases and discharges for and of the said Certificate(s) and all renewals, replacements and substitutions thereof and any such monies or any portion thereof.

This Assignment may be executed electronically; this Assignment may be delivered by email, facsimile or other functionally-equivalent electronic means.

IN WITNESS WHEREOF the Assignor has hereto set his hand this 06 day of November, 2023.

1263343 Alberta Inc.

Per: Hanna Prokopiv
Hanna Prokopiv

Camila Bueno
Camila Bueno (Nov 7, 2023 14:21 MST)
Witness: Camila Bueno

Per: _____
Individual Borrower's Name

Witness: _____

FOR USE BY BRANCH OF ISSUE ONLY	
ASSIGNMENT RECEIVED AND ACKNOWLEDGED	_____ at _____ Date Manager, ATB Branch of Issue



RELEASE OF ASSIGNMENT

FOR ADEQUATE CONSIDERATION to whom the above Certificate was assigned, hereby relinquish(es) all interest in the said Certificate and the proceeds thereof.

IN WITNESS WHEREOF _____ have hereunto set
_____ hand this
_____ day _____, 20_____.

Witness Signature

Client Signature

Witness Name

Client Name

RELEASE OF ASSIGNMENT APPROVED AND RECORDED on	_____ at _____ Date Manager, ATB Branch of Issue
--	---

CLIENT RECEIPT		
_____ Certificate No.	_____ Date	_____ Client Signature

DISPOSITION OF CERTIFICATE IF NOT RECEIVED BY CLIENT







7005FormAssignmentofDepositCertificate

Final Audit Report

2023-11-07

Created:	2023-11-07
By:	Hanna Prokopiv (hanna.prokopiv@lynxair.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAI_oK-1_Av4m9dNduSmMILzFtvb2vRfDr

"7005FormAssignmentofDepositCertificate" History

-  Document created by Hanna Prokopiv (hanna.prokopiv@lynxair.com)
2023-11-07 - 9:16:54 PM GMT
-  Document emailed to Camila Stankevicius Bueno (camila.bueno@lynxair.com) for signature
2023-11-07 - 9:17:50 PM GMT
-  Email viewed by Camila Stankevicius Bueno (camila.bueno@lynxair.com)
2023-11-07 - 9:20:47 PM GMT
-  Signer Camila Stankevicius Bueno (camila.bueno@lynxair.com) entered name at signing as Camila Bueno
2023-11-07 - 9:21:31 PM GMT
-  Document e-signed by Camila Bueno (camila.bueno@lynxair.com)
Signature Date: 2023-11-07 - 9:21:33 PM GMT - Time Source: server
-  Agreement completed.
2023-11-07 - 9:21:33 PM GMT



Assignment of Deposit Certificate

Bank Key: 021907609 Client BPID: 107588

To ATB Financial ("ATB"):

FOR VALUABLE CONSIDERATION the undersigned Assignor, being the holder of Guaranteed Investment Certificate No.(s) _____ issued to the Assignor by ATB at Calgary Stephen Avenue Centre Branch, for the principal sum of One hundred Sixty Two Thousand Eighty dollars and sixty four cents Dollars (\$ 162,080.64) maturing on the _____ day of _____, _____ HEREBY ASSIGNS, TRANSFERS AND SETS OVER unto ATB Financial

(hereinafter called the "Assignee") subject to the conditions set forth thereon, the said Certificate(s) and all renewals, replacements and substitutions thereof and all monies whatsoever payable or accrued or which may at any time hereafter become payable or accrue thereunder, with full power to the Assignee to recover and receive the said monies or any portion thereof, to surrender and redeem the said Certificate(s) and all renewals, replacements and substitutions thereof at any time, whether before, at or after the date of maturity thereof, as the Assignee in his sole discretion may see fit, and to give full, final and complete receipts, releases and discharges for and of the said Certificate(s) and all renewals, replacements and substitutions thereof and any such monies or any portion thereof.

This Assignment may be executed electronically; this Assignment may be delivered by email, facsimile or other functionally-equivalent electronic means.

IN WITNESS WHEREOF the Assignor has hereto set his hand this 14 day of April, 2022.

1263343 Alberta Inc

Per: 

Witness: _____

Per: _____

Witness: _____

FOR USE BY BRANCH OF ISSUE ONLY	
ASSIGNMENT RECEIVED AND ACKNOWLEDGED	_____ at _____ Date Manager, ATB Branch of Issue



RELEASE OF ASSIGNMENT

FOR ADEQUATE CONSIDERATION to whom the above Certificate was assigned, hereby relinquish(es) all interest in the said Certificate and the proceeds thereof.

IN WITNESS WHEREOF _____ have hereunto set
_____ hand this
_____ day _____, 20_____.

Witness Signature

Client Signature

Witness Name

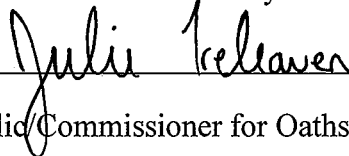
Client Name

RELEASE OF ASSIGNMENT APPROVED AND RECORDED on	_____ at _____ Date Manager, ATB Branch of Issue
--	---

CLIENT RECEIPT		
_____	_____	_____
Certificate No.	Date	Client Signature

DISPOSITION OF CERTIFICATE IF NOT RECEIVED BY CLIENT

This is **Exhibit "18"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

PRIVATE & CONFIDENTIAL

June 30, 2023

Lynx Air Holdings Corporation (formerly known as Enerjet Holdco Inc.)
1400, 350 7th Avenue S.W.
Calgary, Alberta
T2P 3N9
Attention: Merren McArthur

Notice of Interest Option

Ladies and Gentlemen:

Reference is made to the note purchase agreement dated as of December 20, 2018 among Indigo Northern Ventures LP ("**we**"), 1263343 Alberta Inc., doing business as Lynx Air (formerly doing business as Enerjet) and Lynx Air Holdings Corporation (formerly known as Enerjet Holdco Inc.) ("**you**"), as amended by the amending agreement no. 1 dated as of June 30, 2023 (collectively, the "**NPA**"). Capitalized terms used but not defined herein shall have the meanings attributed thereto in the NPA, including by external reference.

This letter shall confirm that, pursuant to section 13.1 of the NPA, you have requested and we, being each of the Noteholders, have agreed that all interest payments prescribed by the Initial Notes shall be deferred and become due and payable by the Company on the Fifth Anniversary. For greater certainty, interest shall continue to accrue on the outstanding amount of the Notes until such interest payment is received by Indigo.


This letter will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

[Remainder of this page intentionally left blank]

S-1

Very truly yours,

INDIGO NORTHERN VENTURES LP by its
general partner **INDIGO NORTHERN VENTURES
GP, LLC**

By:  _____
Name: Brian Franke
Title: Officer

This is **Exhibit "19"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barister & Solicitor

ENERJET HOLDCO INC.
(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

<u>Certificate No.</u>	<u>Principal Amount</u>
P-001	\$12,179,529

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 2018

THIS IS TO CERTIFY THAT INDIGO NORTHERN VENTURES LP

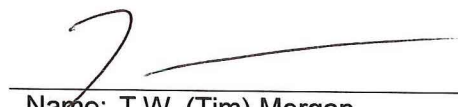
Of 2525 E. Camelback Road, Suite 900, Phoenix, Arizona, USA

is/are the registered holder(s) of \$12,179,529 in nominal amount of the secured convertible loan notes which are constituted by an agreement dated December 20, 2018 made between Enerjet Holdco Inc. (the "Company"), 1263343 Alberta Inc. (the "Guarantor") and Indigo Northern Ventures LP (the "Agreement") and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.

Interest is payable on the Notes represented by this certificate annually in arrears on 10% in each year.

The Notes shall be redeemed in accordance with Condition 3 on December 20, 2023, subject to such other redemption date or conversion in accordance with the Conditions.

ENERJET HOLDCO INC.

By 
Name: T.W. (Tim) Morgan
Title: President

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.
- (B) No transfer of the whole or any part of the Notes represented by this certificate will be registered without the production of this certificate at the registered office of the Company or at such other place as the Company may from time to time designate.
- (C) Each transfer in point of time of the whole or any part of the Notes represented by this certificate will be registered free of charge.
- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.
- (E) The Notes represented by this certificate are subject to the Interest Option, as such term is defined in the Agreement.

ENERJET HOLDCO INC.
(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

<u>Certificate No.</u>	<u>Principal Amount</u>
P-002	\$7,295,806

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 2019

THIS IS TO CERTIFY THAT INDIGO NORTHERN VENTURES LP

Of 2525 E. Camelback Road, Suite 900, Phoenix, Arizona, USA

is/are the registered holder(s) of \$7,295,806 in nominal amount of the secured convertible loan notes which are constituted by an agreement dated December 20, 2018 made between Enerjet Holdco Inc. (the "**Company**"), 1263343 Alberta Inc. (the "**Guarantor**") and Indigo Northern Ventures LP (the "**Agreement**") and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.


Interest is payable on the Notes represented by this certificate annually in arrears on 10% in each year.

The Notes shall be redeemed in accordance with Condition 3 on December 20, 2023, subject to such other redemption date or conversion in accordance with the Conditions.

Dated: May 24, 2019.

ENERJET HOLDCO INC.

By


Name: T.W. (Tim) Morgan
Title: President

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.
- (B) No transfer of the whole or any part of the Notes represented by this certificate will be registered without the production of this certificate at the registered office of the Company or at such other place as the Company may from time to time designate.
- (C) Each transfer in point of time of the whole or any part of the Notes represented by this certificate will be registered free of charge.
- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.
The Notes represented by this certificate are subject to the Interest Option, as such term is defined in the Agreement.

LYNX AIR HOLDINGS CORPORATION
(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

<u>Certificate No.</u>	<u>Principal Amount</u>
P-003	CAD\$10,149,603

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 2022

THIS IS TO CERTIFY THAT INDIGO NORTHERN VENTURES LP

Of 2525 E. Camelback Road, Suite 900, Phoenix, Arizona, USA

is/are the registered holder(s) of CAD\$10,149,603 in nominal amount of the secured convertible loan notes which are constituted by an agreement dated December 20, 2018 made between Lynx Air Holdings Corporation (formerly Enerjet Holdco Inc.) (the "**Company**"), 1263343 Alberta Inc. (the "**Guarantor**") and Indigo Northern Ventures LP (the "**Agreement**") and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.

Interest is payable on the Notes represented by this certificate annually in arrears on 10% in each year.

The Notes shall be redeemed in accordance with Condition 3 on December 20, 2023, subject to such other redemption date or conversion in accordance with the Conditions.

Dated: January 27, 2022.

LYNX AIR HOLDINGS CORPORATION

By 
Name: Michael Holditch
Title: Secretary

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.
- (B) No transfer of the whole or any part of the Notes represented by this certificate will be registered without the production of this certificate at the registered office of the Company or at such other place as the Company may from time to time designate.
- (C) Each transfer in point of time of the whole or any part of the Notes represented by this certificate will be registered free of charge.
- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.
The Notes represented by this certificate are subject to the Interest Option, as such term is defined in the Agreement.

LYNX AIR HOLDINGS CORPORATION
(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

<u>Certificate No.</u>	<u>Principal Amount</u>
P-004	CAD\$13,532,804

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 2022

THIS IS TO CERTIFY THAT INDIGO NORTHERN VENTURES LP

Of 2525 E. Camelback Road, Suite 900, Phoenix, Arizona, USA

is/are the registered holder(s) of CAD\$13,532,804 in nominal amount of the secured convertible loan notes which are constituted by an agreement dated December 20, 2018 made between Lynx Air Holdings Corporation (formerly Enerjet Holdco Inc.) (the "**Company**"), 1263343 Alberta Inc. (the "**Guarantor**") and Indigo Northern Ventures LP (the "**Agreement**") and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.

Interest is payable on the Notes represented by this certificate annually in arrears on 10% in each year.

The Notes shall be redeemed in accordance with Condition 3 on December 20, 2023, subject to such other redemption date or conversion in accordance with the Conditions.

Dated: April 14, 2022.

LYNX AIR HOLDINGS CORPORATION

By 
Name: Michael Holditch
Title: Secretary

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.
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- (C) Each transfer in point of time of the whole or any part of the Notes represented by this certificate will be registered free of charge.
- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.
The Notes represented by this certificate are subject to the Interest Option, as such term is defined in the Agreement.

LYNX AIR HOLDINGS CORPORATION
(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

<u>Certificate No.</u>	<u>Principal Amount</u>
P-005	CAD\$6,766,402

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 2022

THIS IS TO CERTIFY THAT INDIGO NORTHERN VENTURES LP

Of 2525 E. Camelback Road, Suite 900, Phoenix, Arizona, USA

is/are the registered holder(s) of CAD\$6,766,402 in nominal amount of the secured convertible loan notes which are constituted by an agreement dated December 20, 2018 made between Lynx Air Holdings Corporation (formerly Enerjet Holdco Inc.) (the "**Company**"), 1263343 Alberta Inc. (the "**Guarantor**") and Indigo Northern Ventures LP (the "**Agreement**") and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.

Interest is payable on the Notes represented by this certificate annually in arrears on 10% in each year.

The Notes shall be redeemed in accordance with Condition 3 on December 20, 2023, subject to such other redemption date or conversion in accordance with the Conditions.

Dated: August 8, 2022.

LYNX AIR HOLDINGS CORPORATION

By 
Name: Michael Holditch
Title: Secretary

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.
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- (C) Each transfer in point of time of the whole or any part of the Notes represented by this certificate will be registered free of charge.
- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.
The Notes represented by this certificate are subject to the Interest Option, as such term is defined in the Agreement.

LYNX AIR HOLDINGS CORPORATION
(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

<u>Certificate No.</u>	<u>Principal Amount</u>
P-006	CAD\$3,383,200

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 2022

THIS IS TO CERTIFY THAT INDIGO NORTHERN VENTURES LP

Of 2525 E. Camelback Road, Suite 900, Phoenix, Arizona, USA

is/are the registered holder(s) of CAD\$3,383,200 in nominal amount of the secured convertible loan notes which are constituted by an agreement dated December 20, 2018 made between Lynx Air Holdings Corporation (formerly Enerjet Holdco Inc.) (the “**Company**”), 1263343 Alberta Inc. (the “**Guarantor**”) and Indigo Northern Ventures LP (the “**Agreement**”) and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.

Interest is payable on the Notes represented by this certificate annually in arrears on 10% in each year.

The Notes shall be redeemed in accordance with Condition 3 on December 20, 2023, subject to such other redemption date or conversion in accordance with the Conditions.

Dated: October 14, 2022.

LYNX AIR HOLDINGS CORPORATION

By 
 ADAAZ4CFE03441E
 Name: Michael Holditch
 Title: Secretary

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.
- (B) No transfer of the whole or any part of the Notes represented by this certificate will be registered without the production of this certificate at the registered office of the Company or at such other place as the Company may from time to time designate.
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- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.
The Notes represented by this certificate are subject to the Interest Option, as such term is defined in the Agreement.

LYNX AIR HOLDINGS CORPORATION
(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

Certificate No.

P-007

Principal Amount

CAD\$8,119,682

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 2022

THIS IS TO CERTIFY THAT INDIGO NORTHERN VENTURES LP

Of 2525 E. Camelback Road, Suite 900, Phoenix, Arizona, USA

is/are the registered holder(s) of CAD\$8,119,682 in nominal amount of the secured convertible loan notes which are constituted by an agreement dated December 20, 2018 made between Lynx Air Holdings Corporation (formerly Enerjet Holdco Inc.) (the "**Company**"), 1263343 Alberta Inc. (the "**Guarantor**") and Indigo Northern Ventures LP (the "**Agreement**") and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.

Interest is payable on the Notes represented by this certificate annually in arrears on 10% in each year.

The Notes shall be redeemed in accordance with Condition 3 on December 20, 2023, subject to such other redemption date or conversion in accordance with the Conditions.

Dated: November 15, 2022.

LYNX AIR HOLDINGS CORPORATION

By 
Name: Michael Holditch
Title: Secretary

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.
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- (C) Each transfer in point of time of the whole or any part of the Notes represented by this certificate will be registered free of charge.
- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.
The Notes represented by this certificate are subject to the Interest Option, as such term is defined in the Agreement.

LYNX AIR HOLDINGS CORPORATION
(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

Certificate No.

P-008

Principal Amount

CAD\$9,815,005

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 2022

THIS IS TO CERTIFY THAT INDIGO NORTHERN VENTURES LP

Of 2525 E. Camelback Road, Suite 900, Phoenix, Arizona, USA

is/are the registered holder(s) of CAD\$9,815,005 in nominal amount of the secured convertible loan notes which are constituted by an agreement dated December 20, 2018 made between Lynx Air Holdings Corporation (formerly Enerjet Holdco Inc.) (the "**Company**"), 1263343 Alberta Inc. (the "**Guarantor**") and Indigo Northern Ventures LP (the "**Agreement**") and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.

Interest is payable on the Notes represented by this certificate annually in arrears on 10% in each year.

The Notes shall be redeemed in accordance with Condition 3 on December 20, 2023, subject to such other redemption date or conversion in accordance with the Conditions.

Dated: December 13, 2022.

LYNX AIR HOLDINGS CORPORATION

By 
Name: Michael Holditch
Title: Secretary

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.
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- (C) Each transfer in point of time of the whole or any part of the Notes represented by this certificate will be registered free of charge.
- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.
The Notes represented by this certificate are subject to the Interest Option, as such term is defined in the Agreement.

This is **Exhibit “20”** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

GUARANTEE

This Agreement is made as of October 28, 2021.

TO: Indigo Northern Ventures LP

RECITALS:

A. **Enerjet Holdco Inc.** (the “**Debtor**”), **1263343 Alberta Inc. (doing business as Enerjet)** (the “**Guarantor**”) and Indigo Northern Ventures LP (and any Person to whom Indigo Northern Ventures LP has transferred any Notes (as defined in the NPA which, in turn, is defined below) in accordance with the NPA (collectively, the “**Creditor**”), are parties to a note purchase agreement dated as of December 20, 2018 (as amended, supplemented, restated or replaced from time to time, the “**NPA**”).

B. It is in the interests of the Guarantor that the Creditor purchase Notes from the Debtor under the NPA, and the Guarantor is therefore prepared to issue this Agreement to the Creditor in order to induce the Creditor to do so.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by the Guarantor, the Guarantor agrees with and in favour of the Creditor as follows:

1. **Definitions.** In this Agreement capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in the NPA, and the following terms have the following meanings:

“**Agreement**” means this agreement, including the recitals to this agreement, as it or they may be amended, supplemented, restated or replaced from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement.

“**Control**” means, in respect of a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlled**” has a meaning correlative thereto.

“**Creditor**” has the meaning set out in the recitals hereto.

“**Debtor**” has the meaning set out in the recitals hereto.

“**Debtor Liabilities**” means all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of the Debtor to the Creditor (or any of them) under, in connection with or with respect to the Transaction Documents.

“**Event of Default**” means any “Event of Default” as defined in the NPA.

“Governmental Authority” means the government of Canada, any other nation or any political subdivision thereof, whether provincial, state, territorial or local, and any agency, authority, instrumentality, regulatory body, court, central bank, fiscal or monetary authority or other authority regulating financial institutions, and any other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Guarantor” has the meaning set out in the recitals hereto.

“Guarantor Liabilities” means all present and future indebtedness, liabilities and obligations of the Guarantor to the Creditor under this Agreement.

“Insolvency Proceeding” means any proceeding seeking to adjudicate a Person an insolvent, seeking a receiving order against such Person under the *Bankruptcy and Insolvency Act* (Canada), or seeking liquidation, dissolution, winding-up, reorganization, compromise, arrangement, adjustment, protection, moratorium, relief or composition of such Person or its debts or a stay of proceedings of such Person’s creditors generally (or any class of creditors) or any other relief, under any federal, provincial, territorial or foreign law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, reorganization, receivership, plans of arrangement or relief or protection of debtors (including the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada) and any similar legislation in any jurisdiction) or at common law or in equity.

“Laws” means all federal, provincial, municipal, foreign and international statutes, acts, codes, ordinances, decrees, treaties, rules, regulations, municipal by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards or any provisions of the foregoing, including general principles of common and civil law and equity, and all policies, practices and guidelines of any Governmental Authority binding on or affecting the Person referred to in the context in which such word is used (including, in the case of tax matters, any accepted practice or application or official interpretation of any relevant taxation authority); and **“Law”** means any one or more of the foregoing.

“Lien” means, (a) with respect to any asset, any mortgage, deed of trust, lien, pledge, hypothec (whether movable or immovable), hypothecation, encumbrance, charge, security interest, royalty interest, adverse claim, defect to title or right of set off in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, title retention agreement or consignment agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to any asset, (c) any purchase option, call or similar right of a third party with respect to such asset, (d) any netting arrangement, defeasance arrangement or reciprocal fee arrangement, and (e) any other arrangement having the effect of providing security.

“NPA” has the meaning set out in the recitals hereto.

“Original Currency” has the meaning set out in Section 17.

“Other Currency” has the meaning set out in Section 17.

“Organizational Documents” means, with respect to any Person, such Person’s articles or other charter documents, by-laws, unanimous shareholder agreement, partnership agreement or trust

agreement, as applicable, and any and all other similar agreements, documents and instruments relative to such Person.

“**Person**” includes any natural person, corporation, company, limited liability company, unlimited liability company, trust, joint venture, association, incorporated organization, partnership, Governmental Authority or other entity.

“**Security**” means any present or future Lien, or any present or future guarantee or other financial assistance, granted by any Person with respect to any or all of the Debtor Liabilities or Guarantor Liabilities.

2. Guarantee. The Guarantor hereby unconditionally and irrevocably guarantees the prompt payment and performance to the Creditor, of all Debtor Liabilities when due in accordance with their terms. All amounts payable by the Guarantor under this Agreement shall be paid to the Creditor as directed in writing by the Creditor. All Guarantor Liabilities shall be payable or performable forthwith upon demand by the Creditor, and any which are not so paid shall bear interest from the date of such demand at the rate or rates applicable to the corresponding Debtor Liabilities.

3. Guarantor Liabilities. The Guarantor Liabilities are continuing, absolute, unconditional and irrevocable. The Guarantor Liabilities shall remain effective despite, and shall not be released, exonerated, discharged, diminished, subjected to defence, limited or in any way affected by, anything done, omitted to be done, suffered or permitted by the Creditor, the Debtor or any other Person, or by any other matter, act, omission, circumstance, development or other thing of any nature, kind or description, other than the due payment and performance in full of all of the Debtor Liabilities and all of the Guarantor Liabilities.

4. Guarantee Absolute. Without limiting the generality of Section 3, the Guarantor Liabilities shall remain fully effective and enforceable against the Guarantor and shall not be released, exonerated, discharged, diminished, subjected to defence, limited or in any way affected by, and the rights and remedies of the Creditor under this Agreement shall not in any way be diminished or prejudiced by, and the Guarantor hereby consents or waives, as applicable, to the fullest extent permitted by applicable Law:

- (a) any lack of genuineness, legality, validity or enforceability of any of the Debtor Liabilities or of any agreement or arrangement between the Debtor and the Creditor, or any failure by the Debtor to carry out any of its obligations under any such agreement or arrangement;
- (b) any change in the existence, name, objects, business, powers, organization, share capital, Organizational Documents, ownership, control, directors or management of the Debtor or the Guarantor, the reorganization of the Debtor or the Guarantor, any amalgamation or merger by the Debtor or the Guarantor with any other Person or Persons, or any continuation of the Debtor or the Guarantor under the laws of any jurisdiction;
- (c) any lack or limitation of power, incapacity or disability of the Debtor or the Guarantor or of the directors, officers, managers, employees or agents of the Debtor

or the Guarantor or any other irregularity, defect or informality, or any fraud, by the Debtor or the Guarantor or any of their respective directors, officers, managers, employees or agents, with respect to any or all of the Debtor Liabilities or any or all of the Guarantor Liabilities;

- (d) any non-compliance with or contravention by the Guarantor of any provision of any corporate statute applicable to the Guarantor relative to guarantees or other financial assistance given by the Guarantor;
- (e) any impossibility, impracticability, frustration of purpose, force majeure or act of Governmental Authority with respect to the performance of any of the Debtor Liabilities or Guarantor Liabilities;
- (f) any Insolvency Proceeding affecting, or the financial condition of, the Debtor, the Guarantor or the Creditor at any time;
- (g) any law, regulation, limitation or prescription period or other circumstance that might otherwise be a defence available to, or a discharge of, the Debtor or the Guarantor in respect of any or all of the Debtor Liabilities or any or all of the Guarantor Liabilities;
- (h) any loss of, or in respect of, any Security by or on behalf of the Creditor from the Debtor or the Guarantor, whether occasioned through the fault of the Creditor or otherwise;
- (i) any loss or impairment of any right of the Guarantor for subrogation, reimbursement or contribution, whether or not as a result of any action taken or omitted to be taken by the Creditor; or
- (j) any other matter, act, omission, circumstance, development or thing of any and every nature, kind and description whatsoever, whether similar or dissimilar to the foregoing (other than the due payment and performance in full of the Debtor Liabilities and the Guarantor Liabilities) that might in any manner (but for the operation of this Section) operate (whether by statute, at law, in equity or otherwise) to release, discharge, diminish, limit, restrict or in any way affect the liability of, or otherwise provide a defence to, a guarantor, a surety, or a principal debtor, even if known by the Creditor.

5. Dealing with Debtor Liabilities. Without limiting the generality of Section 3, the Guarantor Liabilities shall remain fully effective and enforceable against the Guarantor and shall not be released, exonerated, discharged, diminished, subjected to defence, limited or in any way affected by, and the rights and remedies of the Creditor under this Agreement shall not in any way be diminished or prejudiced by, and the Guarantor hereby consents to or waives, as applicable, to the fullest extent permitted by applicable Law:

- (a) any amendment, alteration, novation or variation in any manner and to any extent (and irrespective of the effect of the same on the Guarantor) of any of the Debtor

Liabilities, any Security or the Creditor's arrangements or agreements with the Debtor;

- (b) any limitation, compromise, subordination, postponement or abandonment of any of the Debtor Liabilities, any of the Guarantor Liabilities, any Security or the Creditor's arrangements or agreements with the Debtor;
- (c) any grant of time, renewal, extension, indulgence, release, discharge or other course of conduct by the Creditor to the Debtor;
- (d) the creation of any new or additional Debtor Liabilities, the increase or reduction of the rate of interest on any or all of the Debtor Liabilities or any other rates or fees payable under or in respect of any or all of the Debtor Liabilities;
- (e) any alteration, settlement, compromise, acceleration, extension or change in the time or manner for payment or performance by the Debtor made or permitted by the Creditor of any or all of the Debtor Liabilities;
- (f) the Creditor taking or abstaining from taking Security from the Debtor or abstaining from completing, perfecting or maintaining the perfection of any Security;
- (g) the Creditor releasing, substituting or adding one or more sureties or endorsers, accepting additional or substituted Security, or releasing, subordinating or postponing any Security;
- (h) the Creditor accepting compromises from the Debtor;
- (i) the creation or addition of any new Transaction Documents;
- (j) the Creditor doing, or omitting to do, anything to enforce the payment or performance of any or all of the Debtor Liabilities or any Security;
- (k) the Creditor giving or refusing to give or continuing to give any credit or any financial accommodation to the Debtor;
- (l) the Creditor proving any claim in any Insolvency Proceeding affecting the Debtor, as it sees fit or refraining from proving any claim or permitting or suffering the impairment of any of the Debtor Liabilities in any such Insolvency Proceeding; making any election in any such Insolvency Proceeding; permitting or suffering the creation of secured or unsecured credit or debt in any such Insolvency Proceeding; or permitting or suffering the disallowance, avoidance, or subordination of any of the Debtor Liabilities or the obligations of any other debtor with respect to the Debtor Liabilities in any such Insolvency Proceeding;
- (m) the Creditor applying any money received from the Debtor or any Security upon such part of the Debtor Liabilities as the Creditor may see fit or changing any such application in whole or in part from time to time as the Creditor may see fit; or

- (n) the Creditor otherwise dealing with the Debtor, the Debtor Liabilities, and all Security as the Creditor may see fit.

6. Settlement of Accounts. Any account settled or stated between the Creditor and the Debtor shall be accepted by the Guarantor as *prima facie* evidence that the amount thereby appearing due by the Debtor to the Creditor is so due.

7. Indemnity. If any or all of the Debtor Liabilities are not duly paid or performed by the Debtor and are not paid or performed by the Guarantor under Section 2 for any reason whatsoever, the Guarantor shall, as a separate and distinct obligation, indemnify and save the Creditor harmless from and against all losses, costs, damages, expenses, claims and liabilities that the Creditor may suffer or incur in connection with or in respect of any failure by the Debtor for any reason to pay or perform any of the Debtor Liabilities, and shall pay all such amounts to the Creditor after demand as herein provided.

8. Guarantor Liable as Principal Debtor. If, and to the extent that, any amount in respect of the Debtor Liabilities is not recoverable from the Guarantor under this Agreement on the basis of a guarantee or the Creditor is not indemnified under Section 7, in each case, for any reason whatsoever, then, notwithstanding any other provision of this Agreement, the Guarantor shall be liable under this Agreement as principal obligor in respect of the due payment of such amount and shall pay such amount to the Creditor after demand as herein provided.

9. Continuing Guarantee. This Agreement is a continuing guarantee and is binding as a continuing obligation of the Guarantor and the Debtor Liabilities shall be conclusively presumed to have been created in reliance on this Agreement. The Guarantor may not in any manner terminate this Agreement or the Guarantor Liabilities other than by the due and punctual payment in full of the Guarantor Liabilities.

10. Stay of Acceleration. If acceleration of the time for payment, or the liability of the Debtor to make payment, of any amount specified to be payable by the Debtor in respect of the Debtor Liabilities is stayed, prohibited or otherwise affected upon any Insolvency Proceeding or other event affecting the Debtor or payment of any of the Debtor Liabilities by the Debtor, all such amounts otherwise subject to acceleration or payment shall nonetheless be deemed for all purposes of this Agreement to be and to have become due and payable by the Debtor and shall be payable by the Guarantor under this Agreement immediately forthwith on demand by the Creditor.

11. Debtor Information. The Guarantor acknowledges and agrees that the Guarantor has not executed this Agreement as a result of, by reason of, or in reliance upon, any promise, representation, statement or information of any kind or nature whatsoever given, or offered to the Guarantor, by or on behalf of the Creditor or any other Person whether in answer to any enquiry by or on behalf of the Guarantor or not and the Creditor was not prior to the execution by the Guarantor of this Agreement, and is not thereafter, under any duty to disclose to the Guarantor or any other Person any information, matter or thing (material or otherwise) relating to the Debtor, its affairs or its transactions with the Creditor, including any information, matter or thing which puts or may put the Debtor in a position which the Guarantor would not naturally expect or any unexpected facts or unusual features which, whether known or unknown to the Guarantor, are present in any transaction between the Debtor and the Creditor, and the Creditor was not and is

not under any duty to do or execute any matter, thing or document relating to the Debtor, its affairs or its transactions with the Creditor. The Guarantor acknowledges and confirms that it has established its own adequate means of obtaining from the Debtor on a continuing basis all information desired by the Guarantor concerning the financial condition of the Debtor and that the Guarantor will look to the Debtor, and not to the Creditor, in order for the Guarantor to keep adequately informed of changes in the Debtor's financial condition.

12. Reinstatement. If, at any time, all or any part of any payment previously applied by the Creditor to any of the Debtor Liabilities is or must be rescinded or returned by the Creditor for any reason whatsoever (including any Insolvency Proceeding affecting the Debtor or any other Person), such Debtor Liabilities shall, for the purpose of this Agreement, to the extent that such payment is or must be rescinded or returned, be deemed to have continued in existence, notwithstanding such application by the Creditor, and this Agreement shall continue to be effective or be reinstated, as the case may be, as to such Debtor Liabilities, all as though such application by the Creditor had not been made.

13. Subrogation. Notwithstanding any payment made by the Guarantor under this Agreement or any setoff or application of funds of the Guarantor by the Creditor, the Guarantor shall have no right of subrogation to, and waives, any right to enforce any remedy which the Creditor now has or may hereafter have against the Debtor, until all of the Debtor Liabilities have been indefeasibly paid in full; and until that time, the Guarantor waives any benefit of, and any right to participate in, any Security now or hereafter held by the Creditor for the Debtor Liabilities.

14. Insolvency Proceedings. In any Insolvency Proceeding affecting the Debtor, the Creditor shall have the right, in priority to the Guarantor, to receive its full claim in respect of such Insolvency Proceeding for all of the Debtor Liabilities. The Creditor shall have the right to include in its claim in any Insolvency Proceeding affecting the Debtor all or any part of the payments made by the Guarantor under this Agreement and, to prove and rank for, and receive dividends in respect of, all such claims, all of which rights and privileges as they relate and apply to the Guarantor are hereby assigned by the Guarantor to the Creditor. The provisions of this Section shall be sufficient authority for any Person making payment of any such dividends to pay the same directly to the Creditor for the benefit of the Creditor. The Creditor shall be entitled to receive for its benefit all dividends or other payments in respect of all of the above referenced claims until all of the Debtor Liabilities are paid and satisfied in full and the Guarantor shall continue to be liable under this Agreement for any unpaid balance of the Debtor Liabilities. If any amount is paid to the Guarantor under any Insolvency Proceeding affecting the Debtor when any of the Debtor Liabilities remain outstanding, such amount shall be received and held in trust by the Guarantor for the benefit of the Creditor and shall be immediately paid to the Creditor to be credited and applied against the Guarantor Liabilities. In any Insolvency Proceeding affecting the Debtor the Creditor may in its discretion value as it sees fit, acting reasonably, or may refrain from valuing, any Security held by or for the benefit of it.

15. Marshalling. The Guarantor waives to the fullest extent permitted by applicable Law, any right or claim of right to cause a marshalling of the Debtor's assets, or to cause the Creditor to proceed against the Debtor or any other Person, or any Security, in any particular order. The Creditor shall not have any obligation to marshal any assets in favour of the Debtor or any other

Person or against or in payment of any of the Debtor Liabilities or any of the obligations of the Guarantor, the Debtor or any other Person owed to the Creditor.

16. Enforcing Rights Against Guarantor. This is a guarantee of payment and performance and not of collection. The Creditor shall not be required to take any action or to exhaust its recourse against the Debtor or any other Person, or to enforce or value any Security, before being entitled to payment from, and to enforce its rights and remedies against, the Guarantor under this Agreement. The Guarantor hereby renounces to the benefits of division and discussion.

17. Foreign Currency Guarantor Liabilities. The Guarantor shall make payment relative to any Debtor Liabilities in the currency (the "**Original Currency**") in which the Debtor is required to pay such Debtor Liabilities. If the Guarantor makes payment relative to any Debtor Liabilities in a currency (the "**Other Currency**") other than the Original Currency (whether voluntarily or pursuant to an order or judgment of a court or tribunal of any jurisdiction), such payment shall constitute a discharge of the Guarantor Liabilities only to the extent of the amount of the Original Currency which the Creditor is able to purchase at Toronto, Ontario with the amount it receives on the date of receipt. If the amount of the Original Currency which the Creditor is able to purchase is less than the amount of such currency originally due to it in respect to the relevant Debtor Liabilities, the Guarantor shall indemnify and save the Creditor harmless from and against any loss or damage arising as a result of such deficiency. This indemnity constitutes an obligation separate and independent from the other obligations contained in this Agreement, gives rise to a separate and independent cause of action, applies irrespective of any indulgence granted by the Creditor and continues in full force and effect notwithstanding any judgment or order in respect of any amount due hereunder or under any judgment or order.

18. Taxes and Set-Off. All payments to be made by the Guarantor hereunder shall be made without set-off, compensation, deduction or counterclaim and without deduction for any taxes, levies, duties, fees, deductions, withholdings, restrictions or conditions of any nature whatsoever. If at any time any applicable Law requires the Guarantor to make any such deduction or withholding from any such payment, the sum due from the Guarantor with respect to such payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Creditor receives a net sum equal to the sum which it would have received had no deduction or withholding been required.

19. Representations and Warranties. The Guarantor represents and warrants, upon each of which representations and warranties the Creditor relies, that each of the representations and warranties relative to the Guarantor in each of the other Transaction Documents is true and correct when made or deemed made.

20. Covenants. The Guarantor shall comply, and shall cause each of its subsidiaries to comply, with all of the provisions, covenants and agreements contained in each of the Transaction Documents to the extent that such provisions, covenants and agreements apply to the Guarantor or its subsidiaries and shall, and shall cause each of its subsidiaries to, take, or refrain from taking, as the case may be, all actions that are necessary to be taken or not taken so that no violation of any provision, covenant or agreement contained in any of the Transaction Documents, and so that no Default or Event of Default under any of the Transaction Documents, is caused by the actions or inactions of the Guarantor or any of its subsidiaries.

21. **Communication.** Any notice or other communication required or permitted to be given under this Agreement shall be made in accordance with the terms of the NPA.

22. **Expenses; Indemnity; Waiver.**

- (a) The Guarantor shall pay to the Creditor (i) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and all applicable taxes, in connection with the preparation and administration of this Agreement, (ii) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and applicable taxes, in connection with any amendments, modifications or waivers of the provisions hereof, and (iii) all out-of-pocket expenses incurred by the Creditor, including the fees, charges and disbursements of any counsel for the Creditor and all applicable taxes, in connection with the assessment, enforcement or protection of their rights in connection with this Agreement, including their rights under this Section, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of the Guarantor Liabilities.
- (b) The Guarantor shall indemnify the Creditor against, and hold the Creditor harmless from, any and all losses, claims, cost recovery actions, damages, expenses and liabilities of whatsoever nature or kind and all reasonable out-of-pocket expenses and all applicable taxes to which the Creditor may become subject arising out of or in connection with (i) the execution or delivery of this Agreement and the performance by the Guarantor of its obligations hereunder, (ii) any actual claim, litigation, investigation or proceeding relating to this Agreement or the Guarantor Liabilities, whether based on contract, tort, delict or any other theory and regardless of whether the Creditor is a party thereto, (iii) any other aspect of this Agreement, or (iv) the enforcement of the Creditor's rights hereunder and any related investigation, defence, preparation of defence, litigation and enquiries; provided that such indemnity shall not, as to the Creditor, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence (it being acknowledged that ordinary negligence does not necessarily constitute gross negligence) or wilful misconduct of or material breach of this Agreement by the Creditor.
- (c) The Guarantor shall not assert, and hereby waives, any claim against the Creditor (or any director, officer or employee thereof), on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement. The Guarantor irrevocably renounces any rights it may have to be released from this Agreement under Article 2362 of the *Civil Code of Québec* and agrees to renew its guarantee hereunder at the request of the Creditor by executing such documents as the Creditor may request from time to time.

- (d) All amounts due under this Section shall be payable to the Creditor for the benefit of the Creditor not later than three Business Days after written demand therefor.
- (e) The indemnifications set out in this Agreement shall survive the payout of the Debtor Liabilities and the Guarantor Liabilities.

23. Additional Security. This Agreement is in addition to, and not in substitution of, any and all other Security previously or concurrently delivered by the Guarantor or any other Person to the Creditor, all of which other Security shall remain in full force and effect.

24. Alteration. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Creditor.

25. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

26. Set-off. If an Event of Default shall have occurred and be continuing, the Creditor is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Law, to set-off, compensate against or combine and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by the Creditor or any of its Affiliates and other obligations at any time owing by the Creditor or any of its Affiliates to or for the credit or the account of the Guarantor against or with any or all of the Guarantor Liabilities, irrespective of whether or not the Creditor shall have made any demand under any Transaction Document and although such obligations may be unmatured. The rights of the Creditor under this Section are in addition to other rights and remedies (including other rights of set-off or combination) which the Creditor may have.

27. Governing Law; Attornment. This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario. Without prejudice to the ability of the Creditor to enforce this Agreement in any other proper jurisdiction, the Guarantor irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of Ontario. To the extent permitted by applicable Law, the Guarantor irrevocably waives any objection (including any claim of inconvenient forum) that it may now or hereafter have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of Ontario. The Guarantor hereby irrevocably consents to the service of any and all process in any such action or proceeding by the delivery of copies of such process to the Guarantor at the address as provided for pursuant to Section 21. Nothing in this Section affects the right of the Creditor to serve process in any manner permitted by applicable Law. In any legal proceeding relating to this Agreement, the Guarantor agrees not to assert that the Commodity Exchange Act applies to this Agreement or any Swap Obligation.

28. Time. Time is of the essence with respect to this Agreement and the time for performance of the obligations of the Guarantor under this Agreement may be strictly enforced by the Creditor. The limitation period applicable to any proceeding relating to a claim under, in connection with,

or with respect to this Agreement shall be solely as prescribed in sections 15-17 of the *Limitations Act, 2002 (Ontario)*, and any other limitation period in respect of such claim (including that provided for in section 4 of the *Limitations Act, 2002 (Ontario)*) is extended accordingly.

29. Interpretation. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “or” is disjunctive; the word “and” is conjunctive. The word “shall” is mandatory; the word “may” is permissive. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented, restated or otherwise modified (subject to any restrictions on such amendments, supplements, restatements or modifications set out herein), (b) any reference herein to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, replaced or re-enacted from time to time, (c) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (e) all references herein to Sections and Schedules shall be construed to refer to Sections and Schedules to, this Agreement. Section headings are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement. In accordance with the *Property Law Act (British Columbia)*, the doctrine of consolidation applies to this Agreement.

30. Successors and Assigns. This Agreement shall enure to the benefit of, and be binding on, the Guarantor and its successors and assigns, and shall enure to the benefit of, and be binding on, the Creditor and its successors and assigns. The Guarantor may not assign this Agreement, or any of its rights or obligations under this Agreement. The Creditor may assign this Agreement and any of their rights and obligations hereunder to any Person that replaces it in its capacity as such. If the Guarantor or the Creditor is an individual, then the term “Guarantor” or “Creditor”, as applicable, shall also include his or her heirs, administrators and executors.

31. Acknowledgment of Receipt. The Guarantor acknowledges receipt of an executed copy of this Agreement.

32. Paramountcy. In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the NPA then, notwithstanding anything contained in this Agreement, the provisions contained in the NPA shall prevail to the extent of such conflict or inconsistency and the provisions of this Agreement shall be deemed to be amended to the extent necessary to eliminate such conflict or inconsistency, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to the Creditor under the NPA. If any act or omission of the Guarantor is expressly permitted under the NPA but is expressly prohibited under this Agreement, such act or omission shall be permitted. If any act or omission is expressly prohibited under this Agreement, but the NPA does not expressly permit such act or omission, or if any act is expressly required to be performed under this Agreement but the NPA does not expressly relieve the Guarantor from such performance, such circumstance shall not

constitute a conflict or inconsistency between the applicable provisions of this Agreement and the provisions of the NPA.

33. Transaction Document. The Guarantor acknowledges and agrees that this Agreement shall constitute a “Transaction Document”.

34. Electronic Signature. Delivery of an executed signature page to this Agreement by the Guarantor by facsimile or other electronic form of transmission shall be as effective as delivery by the Guarantor of a manually executed copy of this Agreement by the Guarantor.

[signatures on the next following page]

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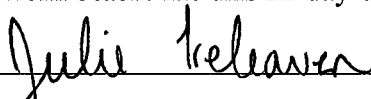
IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

1263343 ALBERTA INC.

By:  DocuSigned by:
Michael Holditch
8110ECB01075411...

Name: Michael Holditch
Title: Chief Financial Officer

This is **Exhibit "21"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

GENERAL SECURITY AGREEMENT

This General Security Agreement is made as of October 28, 2021.

TO: Indigo Northern Ventures LP

RECITALS:

A. **Enerjet Holdco Inc. and 1263343 Alberta Inc. (doing business as Enerjet)** (each a “**Debtor**” and collectively, the “**Debtors**”) are, or may become, indebted or liable to Indigo Northern Ventures LP (and any Person to whom Indigo Northern Ventures LP has transferred any Notes (as defined in the NPA which, in turn, is defined below) in accordance with the NPA (collectively, the “**Creditor**”) pursuant to the terms of a note purchase agreement dated as of December 20, 2018 (as amended, supplemented, restated or replaced from time to time, the “**NPA**”) or otherwise.

B. To secure the payment and performance of its Secured Liabilities, each Debtor has agreed to grant to the Creditor the Security Interests with respect to its Collateral in accordance with the terms of this Agreement.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by each Debtor, each Debtor severally (and not jointly or jointly and severally) agrees with and in favour of the Creditor as follows:

1. **Definitions.** In this Agreement capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in the NPA, and the following terms have the following meanings:

“**Accessions**”, “**Account**”, “**Certificated Security**”, “**Chattel Paper**”, “**Consumer Goods**”, “**Document of Title**”, “**Equipment**”, “**Futures Account**”, “**Futures Contract**”, “**Futures Intermediary**”, “**Goods**”, “**Instrument**”, “**Intangible**”, “**Inventory**”, “**Investment Property**”, “**Money**”, “**Proceeds**”, “**Securities Account**”, “**Securities Intermediary**”, “**Security**”, “**Security Certificate**”, “**Security Entitlement**”, and “**Uncertificated Security**” have the meanings given to them in the PPSA.

“**Agreement**” means this agreement, including the Exhibits and recitals to this agreement, the Supplements and the Schedules, as it or they may be amended, supplemented, restated or replaced from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement.

“**Books and Records**” means, with respect to any Debtor, all books, records, files, papers, disks, documents and other repositories of data recording in any form or medium, evidencing or relating to the Personal Property of such Debtor which are at any time owned by such Debtor or to which such Debtor (or any Person on such Debtor’s behalf) has access.

“**Collateral**” means, with respect to any Debtor, all of the present and future:

- (a) undertaking;
- (b) Personal Property (including any Personal Property that may be described in any Schedule to this Agreement or any schedules, documents or listings that such Debtor may from time to time provide to the Creditor in connection with this Agreement); and
- (c) real property (including any real property that may be described in any Schedule to this Agreement or any schedules, documents or listings that such Debtor may from time to time provide to the Creditor in connection with this Agreement and including all fixtures, improvements, buildings and other structures placed, installed or erected from time to time on any such real property),

of such Debtor, including Books and Records, Contracts, Intellectual Property Rights and Permits, and including all such property in which such Debtor now or in the future has any right, title or interest whatsoever, whether owned, leased, licensed, possessed or otherwise held by such Debtor, and all Proceeds of any of the foregoing, wherever located.

“**Contracts**” means, with respect to any Debtor, all contracts and agreements to which such Debtor is at any time a party or pursuant to which such Debtor has at any time acquired rights, and includes (i) all rights of such Debtor to receive money due and to become due to it in connection with a contract or agreement, (ii) all rights of such Debtor to damages arising out of, or for breach or default with respect to, a contract or agreement, and (iii) all rights of such Debtor to perform and exercise all remedies in connection with a contract or agreement.

“**Control**” means, with respect to a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlled**” has the corresponding meaning.

“**Control Person**” means a “control person”, as such term is defined under applicable Canadian securities laws.

“**Creditor**” has the meaning set out in the recitals hereto.

“**Debtors**” means the Persons delivering a signature page to this Agreement and any other Person which hereafter delivers a Supplement, and “**Debtor**” means any one of them.

“**Event of Default**” means any “Event of Default” as defined in the NPA.

“**Exhibits**” means the exhibits to this Agreement.

“**Governmental Authority**” means the government of Canada, any other nation or any political subdivision thereof, whether provincial, state, territorial or local, and any agency, authority, instrumentality, regulatory body, court, central bank, fiscal or monetary authority or other authority regulating financial institutions, and any other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government,

including the Bank Committee on Banking Regulation and Supervisory Practices of the Bank of International Settlements.

“Intellectual Property Rights” means, with respect to any Debtor, all industrial and intellectual property rights of such Debtor or in which such Debtor has any right, title or interest, including copyrights, patents, inventions (whether or not patented), trade-marks, get-up and trade dress, industrial designs, integrated circuit topographies, plant breeders’ rights, know how and trade secrets, registrations and applications for registration for any such industrial and intellectual property rights, and all Contracts related to any such industrial and intellectual property rights.

“Issuer” has the meaning given to that term in the STA.

“Laws” means all federal, provincial, municipal, foreign and international statutes, acts, codes, ordinances, decrees, treaties, rules, regulations, municipal by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards or any provisions of the foregoing, including general principles of common and civil law and equity, and all policies, practices and guidelines of any Governmental Authority binding on or affecting the Person referred to in the context in which such word is used (including, in the case of tax matters, any accepted practice or application or official interpretation of any relevant taxation authority); and **“Law”** means any one or more of the foregoing.

“Lien” means, (a) with respect to any asset, any mortgage, deed of trust, lien, pledge, hypothec (whether movable or immovable), hypothecation, encumbrance, charge, security interest, royalty interest, adverse claim, defect to title or right of set off in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, title retention agreement or consignment agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to any asset, (c) any purchase option, call or similar right of a third party with respect to such asset, (d) any netting arrangement, defeasance arrangement or reciprocal fee arrangement, and (e) any other arrangement having the effect of providing security.

“NPA” has the meaning set out in the recitals hereto.

“Organizational Documents” means, with respect to any Person, such Person’s articles or other charter documents, by-laws, unanimous shareholder agreement, partnership agreement or trust agreement, as applicable, and any and all other similar agreements, documents and instruments relative to such Person.

“Permits” means, with respect to any Debtor, all permits, licences, waivers, exemptions, consents, certificates, authorizations, approvals, franchises, rights-of-way, easements and entitlements that such Debtor has, requires or is required to have, to own, possess or operate any of its property or to operate and carry on any part of its business.

“Permitted Liens” means the Security Interests of all Debtors, all liens and other security contemplated by Section 3.3 of Schedule 13 to the NPA, and all other Liens permitted in writing by the Creditor.

“Personal Property” means personal property and includes Accounts, Chattel Paper, Documents of Title, Equipment, Goods, Instruments, Intangibles, Inventory, Investment Property and Money.

“Pledged Certificated Securities” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Certificated Security.

“Pledged Futures Contracts” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Futures Contract.

“Pledged Futures Accounts” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Futures Account.

“Pledged Futures Intermediary” means, at any time, any Person which is at such time a Futures Intermediary at which a Pledged Futures Account is maintained.

“Pledged Futures Intermediary’s Jurisdiction” means, with respect to any Pledged Futures Intermediary, its jurisdiction as determined under section 7.1(4) of the PPSA.

“Pledged Issuer” means, with respect to any Debtor at any time, any Person which is an Issuer of, or with respect to, any Pledged Shares of such Debtor at such time.

“Pledged Issuer’s Jurisdiction” means, with respect to any Pledged Issuer, its jurisdiction as determined under section 44 of the STA.

“Pledged Securities” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Security.

“Pledged Securities Accounts” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Securities Account.

“Pledged Securities Intermediary” means, at any time, any Person which is at such time a Securities Intermediary at which a Pledged Securities Account is maintained.

“Pledged Securities Intermediary’s Jurisdiction” means, with respect to any Securities Pledged Securities Intermediary, its jurisdiction as determined under section 45(2) of the STA.

“Pledged Security Certificates” means, with respect to any Debtor, any and all Security Certificates of such Debtor representing the Pledged Certificated Securities.

“Pledged Security Entitlements” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Security Entitlement.

“Pledged Shares” means, with respect to any Debtor, all Pledged Securities and Pledged Security Entitlements of such Debtor.

“Pledged Uncertificated Securities” means, with respect to any Debtor, any and all Collateral of such Debtor that is an Uncertificated Security.

“**PPSA**” means the *Personal Property Security Act* (Ontario), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

“**Receiver**” means an interim receiver, a receiver, a manager or a receiver and manager.

“**Release Date**” means the date on which all the Secured Liabilities of each Debtor have been indefeasibly paid and discharged in full and the Creditor has no further obligations under the Transaction Documents pursuant to which further Secured Liabilities of any Debtor might arise.

“**Reporting Pledged Issuer**” means a Pledged Issuer that is a “reporting issuer”, as such term is defined under applicable Canadian securities laws.

“**Secured Liabilities**” means, with respect to any Debtor, all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of such Debtor to the Creditor under, in connection with or with respect to the Transaction Documents, and any unpaid balance thereof.

“**Schedules**” means the schedules to this Agreement.

“**Security Interests**” means, with respect to any Debtor, the Liens created by such Debtor in favour of the Creditor under this Agreement.

“**STA**” means the *Securities Transfer Act, 2006* (Ontario), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

“**Subsidiary**” means, with respect to any Person (the “**parent**”) at any date, any other Person (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more Subsidiaries of the parent or by the parent and one or more Subsidiaries of the parent.

“**Supplement**” has the meaning given to that term in Section 35.

“**ULC**” means an Issuer that is an unlimited company, unlimited liability corporation or unlimited liability company.

“**ULC Laws**” means the *Companies Act* (Nova Scotia), the *Business Corporations Act* (Alberta), the *Business Corporations Act* (British Columbia), and any other present or future Laws governing ULCs.

“**ULC Shares**” means shares or other equity interests in the capital stock of a ULC.

“**Voting or Equity Securities**” means (a) any “security” (as defined under applicable Canadian securities laws), other than a bond, debenture, note or similar instrument representing

indebtedness (whether secured or unsecured), of an issuer carrying a voting right either under all circumstances or under some circumstances that have occurred and are continuing or (b) a security of an issuer that carries a residual right to participate in the earnings of the issuer and, on liquidation or winding up of the issuer, in its assets.

2. **Grant of Security Interests.** As general and continuing collateral security for the due payment and performance of its Secured Liabilities, each Debtor pledges, mortgages, charges and assigns (by way of security) to the Creditor, and grants to the Creditor a security interest in, the Collateral of such Debtor.

3. **Limitations on Grant of Security Interests.** If the grant of the Security Interests with respect to any Contract, Intellectual Property Right or Permit under Section 2 would result in the termination or breach of such Contract, Intellectual Property Right or Permit, or is otherwise prohibited or ineffective (whether by the terms thereof or under applicable Law), then such Contract, Intellectual Property Right or Permit shall not be subject to the Security Interests but shall be held in trust by the applicable Debtor for the benefit of the Creditor and, on the exercise by the Creditor of any of its rights or remedies under this Agreement following an Event of Default shall be assigned by such Debtor as directed by the Creditor; provided that: (a) the Security Interests of such Debtor shall attach to such Contract, Intellectual Property Right or Permit, or applicable portion thereof, immediately at such time as the condition causing such termination or breach is remedied, and (b) if a term in a Contract that prohibits or restricts the grant of the Security Interests in the whole of an Account or Chattel Paper forming part of the Collateral is unenforceable against the Creditor under applicable Law, then the exclusion from the Security Interests set out above shall not apply to such Account or Chattel Paper. In addition, the Security Interests do not attach to Consumer Goods or extend to the last day of the term of any lease or agreement for lease of real property. Such last day shall be held by the applicable Debtor in trust for the Creditor and, on the exercise by the Creditor of any of its rights or remedies under this Agreement following an Event of Default, shall be assigned by such Debtor as directed by the Creditor. For greater certainty, no Intellectual Property Right in any trademark, get-up or trade dress is presently assigned to the Creditor by sole virtue of the grant of the Security Interests contained in Section 2.

4. **Attachment; No Obligation to Advance.** Each Debtor confirms that value has been given by the Creditor to such Debtor, that such Debtor has rights in its Collateral existing at the date of this Agreement or the date of any Supplement, as applicable, and that such Debtor and the Creditor have not agreed to postpone the time for attachment of the Security Interests to any of the Collateral of such Debtor. The Security Interests with respect to the Collateral of each Debtor created by this Agreement shall have effect and be deemed to be effective whether or not the Secured Liabilities of such Debtor or any part thereof are owing or in existence before or after or upon the date of this Agreement or the date of any Supplement, as applicable. Neither the execution and delivery of this Agreement or any Supplement nor the provision of any financial accommodation by the Creditor shall oblige the Creditor to make any financial accommodation or further financial accommodation available to any Debtor or any other Person.

5. **Representations and Warranties.** Each Debtor represents and warrants to the Creditor that, as of the date of this Agreement or the date of any Supplement, as applicable:

- (a) Debtor Information. All of the information set out in the Schedules and Supplements, as applicable, with respect to such Debtor is accurate and complete.
- (b) Title; No Other Security Interests. Except for Permitted Liens, such Debtor owns (or, with respect to any leased or licensed property forming part of the Collateral of such Debtor, holds a valid leasehold or licensed interest in) its Collateral free and clear of any Liens. Such Debtor is the record and beneficial owner of the Pledged Shares. No security agreement, financing statement or other notice with respect to any or all of the Collateral of such Debtor is on file or on record in any public office, except for filings with respect to Permitted Liens.
- (c) Amount of Accounts. The amount represented by such Debtor to the Creditor from time to time as owing by each account debtor or by all account debtors with respect to its Accounts of such Debtor will at such time be the correct amount so owing by such account debtor or debtors and, unless disclosed in writing by such Debtor to the Creditor at that time, will be owed free of any dispute, set-off or counterclaim. Except as disclosed in writing by such Debtor to the Creditor, neither such Debtor nor (to the best of such Debtor's knowledge) any other party to any Account of such Debtor or Contract of such Debtor is in default or is likely to become in default in the performance or observance of any of the terms of such Account or Contract where such default is or could reasonably be expected to be materially adverse to such Debtor or the Creditor.
- (d) Authority. Such Debtor has full power and authority to grant to the Creditor the Security Interests granted by such Debtor and to execute, deliver and perform its obligations under this Agreement, and such execution, delivery and performance does not contravene any of such Debtor's Organizational Documents or any agreement, instrument or restriction to which such Debtor is a party or by which such Debtor or any of its Collateral is bound.
- (e) Consents and Transfer Restrictions.
 - (i) Except for any consent that has been obtained and is in full force and effect, no consent of any Person (including any counterparty with respect to any Contract, any account debtor with respect to any Account, or any Governmental Authority with respect to any Permit) is required, or is purported to be required, for the execution, delivery, performance and enforcement of this Agreement (this representation being given without reference to the exclusions contained in Section 3). For the purposes of complying with any transfer restrictions contained in the Organizational Documents of any Pledged Issuer, such Debtor hereby irrevocably consents to any transfer of such Debtor's Pledged Securities of such Pledged Issuer.
 - (ii) (A) No order ceasing or suspending trading in, or prohibiting the transfer of the Pledged Shares has been issued and no proceedings for this purpose have been instituted, nor does such Debtor have any reason to

believe that any such proceedings are pending, contemplated or threatened and (B) the Pledged Shares are not subject to any escrow or other agreement, arrangement, commitment or understanding, prohibiting the transfer of the Pledged Shares, including pursuant to applicable Canadian securities laws or the rules, regulations or policies of any marketplace on which the Pledged Shares are listed, posted or traded.

- (f) Execution and Delivery. This Agreement has been duly authorized, executed and delivered by such Debtor and is a valid and binding obligation of such Debtor enforceable against such Debtor in accordance with its terms, subject only to bankruptcy, insolvency, liquidation, reorganization, moratorium and other similar Laws generally affecting the enforcement of creditors' rights, and to the fact that equitable remedies (such as specific performance and injunction) are discretionary remedies.
- (g) No Consumer Goods. Such Debtor does not own any Consumer Goods which are material in value or which are material to the business, operations, property, condition or prospects (financial or otherwise) of such Debtor.
- (h) Intellectual Property Rights. All registrations and applications for registration pertaining to any Intellectual Property Rights of such Debtor, all other material Intellectual Property Rights of such Debtor, and the nature of such Debtor's right, title or interest therein, are described in the Schedules and Supplements as applicable, with respect to such Debtor. Each Intellectual Property Right of such Debtor is valid, subsisting, unexpired, enforceable, and has not been abandoned. In the case of copyright works of such Debtor, such Debtor has obtained full and irrevocable waivers of all moral rights or similar rights pertaining to such works. Except as set out in the Schedules and Supplements, as applicable, none of the Intellectual Property Rights of such Debtor have been licensed or franchised by such Debtor to any Person or, to the best of such Debtor's knowledge, infringed or otherwise misused by any Person. Except as set out in the Schedules and Supplements, as applicable, the exercise of any Intellectual Property Right of such Debtor, or any licensee or franchisee thereof, has not infringed or otherwise misused any intellectual property right of any other Person, and such Debtor has not received and is not aware of any claim of such infringement or other misuse.
- (i) Partnerships, Limited Liability Companies. The terms of any interest in a partnership or limited liability company that is Collateral of such Debtor expressly provide that such interest is a "security" for the purposes of the STA.
- (j) Due Authorization. The Pledged Securities of such Debtor have been duly authorized and validly issued and are fully paid and non-assessable.
- (k) Warrants, Options, etc. There are no outstanding warrants, options or other rights to purchase, or other agreements outstanding with respect to, or property that is

now or hereafter convertible into, or that requires the issuance or sale of, any Pledged Shares of such Debtor.

- (l) **No Required Disposition.** There is no existing agreement, option, right or privilege capable of becoming an agreement or option pursuant to which such Debtor would be required to sell, redeem or otherwise dispose of any Pledged Shares of such Debtor or under which any Pledged Issuer has any obligation to issue any Securities of such Pledged Issuer to any Person.

6. **Survival of Representations and Warranties.** All representations and warranties made by each Debtor in this Agreement (a) are material, (b) shall be considered to have been relied on by the Creditor, and (c) shall survive the execution and delivery of this Agreement and any Supplement or any investigation made at any time by or on behalf of the Creditor and any disposition or payment of the Secured Liabilities until the Release Date.

7. **Covenants.** Each Debtor covenants and agrees with the Creditor that:

- (a) **Further Documentation.** Such Debtor shall from time to time, at the expense of such Debtor, promptly and duly authorize, execute and deliver such further instruments and documents, and take such further action, as the Creditor may reasonably request for the purpose of obtaining or preserving the full benefits of, and the rights and powers granted by, this Agreement (including the filing of any financing statements or financing change statements under any applicable legislation with respect to the Security Interests). In addition, upon the acquisition of interest in any airframe or engine, such Debtor shall notify the Creditor of such acquisition and shall, at the expense of such Debtor, promptly and duly authorize, execute and deliver an aircraft security agreement in respect of such interest in the airframe and engine, in favour of the Creditor, in form and substance acceptable to the Creditor, acting reasonably. The Creditor acknowledges having received prior notice of, and having provided its prior written consent to the following agreements:
 - (i) A Purchase Agreement No. PA-04427 dated October 18, 2015 between 1263343 Alberta Inc. and The Boeing Company, as amended from time to time including by Supplemental Agreement No. 2 dated August 31, 2018, and as further amended by Letter Agreement ABQ-PA-04427-LA-1801243 dated April 22, 2021, in respect of the purchase by 1263343 Alberta Inc. of three (3) Boeing 737 Max 8 Aircraft bearing manufacturer's serial numbers 44312, 44314 and 44306 (as more particularly described therein, the "**Aircraft**") from The Boeing Company;
 - (ii) A Loan Agreement dated April 21, 2021 among 1263343 Alberta Inc. and each of Wellington Leasing No. 39 Limited, Wellington Leasing No. 40 Limited, Wellington Leasing No. 41 Limited, respectively, in respect of each Aircraft;

- (iii) a Sale and Purchase Agreement between 1263343 Alberta Inc., as seller, and each of Wellington Leasing No. 39 Limited, Wellington Leasing No. 40 Limited, Wellington Leasing No. 41 Limited, respectively, in respect of each Aircraft; and
- (iv) a Lease between 1263343 Alberta Inc and each of Wellington Leasing No. 39 Limited, Wellington Leasing No. 40 Limited, Wellington Leasing No. 41 Limited, respectively, in respect of each Aircraft

with delivery of the Aircraft to occur at a future date. In due course, legal counsel to the Creditor will provide an aircraft security agreement in respect of each Aircraft.

Such Debtor acknowledges that this Agreement has been prepared based on the existing Laws in the Province referred to in the “Governing Law” section of this Agreement and that a change in such Laws, or the Laws of other jurisdictions, may require the execution and delivery of different forms of security documentation. Accordingly, such Debtor agrees that the Creditor shall have the right to require that this Agreement be amended, supplemented, restated or replaced, and that such Debtor shall immediately on request by the Creditor authorize, execute and deliver any such amendment, supplement, restatement or replacement (i) to reflect any changes in such Laws, whether arising as a result of statutory amendments, court decisions or otherwise, (ii) to facilitate the creation and registration of appropriate security in all appropriate jurisdictions, or (iii) if such Debtor merges or amalgamates with any other Person or enters into any corporate reorganization, in each case in order to confer on the Creditor Liens similar to, and having the same effect as, the Security Interests.

- (b) Maintenance of Records. Such Debtor shall keep and maintain accurate and complete records of the Collateral of such Debtor, including a record of all payments received and all credits granted with respect to the Accounts and Contracts of such Debtor. At the written request of the Creditor, such Debtor shall mark any Collateral of such Debtor specified by the Creditor to evidence the existence of the Security Interests.
- (c) Right of Inspection. The Creditor may, at all times during normal business hours, without charge, examine and make copies of all Books and Records, and may discuss the affairs, finances and accounts of such Debtor with its officers and accountants. The Creditor may also, without charge, enter the premises of such Debtor where any of the Collateral of such Debtor is located for the purpose of inspecting such Collateral, observing its use or otherwise protecting its interests in such Collateral. Such Debtor, at its expense, shall provide the Creditor with such clerical and other assistance as may be reasonably requested by the Creditor to exercise any of its rights under this paragraph. Notwithstanding the foregoing, the Creditor shall conduct such examinations, inspections and attendance at the premises of the Debtor in such a manner as to reasonably minimize the interruptions of the ordinary business operation of the Debtor.

- (d) Limitations on Other Liens. Such Debtor shall not create, incur or permit to exist, and shall defend the Collateral of such Debtor against, and shall take such other action as is necessary to remove, any and all Liens in and other claims affecting the Collateral of such Debtor, other than the Permitted Liens, and such Debtor shall defend the right, title and interest of the Creditor in and to the Collateral of such Debtor against the claims and demands of all Persons.
- (e) Limitations on Dispositions of Collateral. Such Debtor shall not, without the Creditor's prior written consent, sell, lease or otherwise dispose of any of its Collateral with a value (or for a price) in excess of US\$20,000,000, except that Inventory of such Debtor may be sold, leased or otherwise disposed of and, subject to the terms of this Agreement, Accounts of such Debtor may be collected, in either case in the ordinary course of such Debtor's business. Following an Event of Default, all Proceeds of the Collateral of such Debtor (including all amounts received with respect to Accounts) received by or on behalf of such Debtor, whether or not arising in the ordinary course of such Debtor's business, shall be received by such Debtor as trustee for the Creditor and shall be immediately paid to the Creditor.
- (f) Limitations on Modifications, Waivers, Extensions. Other than as not prohibited by paragraph (g) below, such Debtor shall not (i) amend, modify, terminate, permit to expire or waive any provision of any of such Debtor's Permits, Contracts or any documents giving rise to an Account in any manner which is or could reasonably be expected to be materially adverse to such Debtor or the Creditor, or (ii) fail to exercise promptly and diligently its rights under each of such Debtor's Contracts and documents giving rise to an Account if such failure is or could reasonably be expected to be materially adverse to such Debtor or the Creditor.
- (g) Limitations on Discounts, Compromises, Extensions of Accounts. Other than in the ordinary course of business of such Debtor consistent with previous practices, such Debtor shall not (i) grant any extension of the time for payment of any Account of such Debtor, (ii) compromise, compound or settle any Account of such Debtor for less than its full amount, (iii) release, wholly or partially, any Person liable for the payment of any Account of such Debtor, or (iv) allow any credit or discount of any Account of such Debtor.
- (h) Maintenance of Collateral. Such Debtor shall maintain all tangible Collateral of such Debtor in good operating condition, ordinary wear and tear excepted, and such Debtor shall provide all maintenance, service and repairs necessary for such purpose. Such Debtor shall maintain in good standing all registrations and applications with respect to the Intellectual Property Rights of such Debtor except to the extent that any failure to do so could not reasonably be expected to be materially adverse to such Debtor or the Creditor.
- (i) Insurance. Such Debtor shall keep the Collateral of such Debtor insured with financially sound and reputable companies to its full insurable value against loss

or damage by fire, explosion, theft and such other risks as are customarily insured against by Persons carrying on similar businesses or owning similar property within the vicinity in which such Debtor's applicable business or property is located. The applicable insurance policies shall be in form and substance satisfactory to the Creditor, and shall (i) provide that no cancellation, material reduction in amount or material change in coverage will be effective until at least 30 days after receipt of written notice thereof by the Creditor, and (ii) name the Creditor as loss payee as its interest may appear. Such Debtor shall, from time to time at the Creditor's request, deliver the applicable insurance policies (or satisfactory evidence of such policies) to the Creditor. If such Debtor does not obtain or maintain such insurance, the Creditor may, but need not, do so, in which event such Debtor shall immediately on demand reimburse the Creditor for all payments made by the Creditor in connection with obtaining and maintaining such insurance, and until reimbursed any such payment shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests. Neither the Creditor nor its correspondents or its agents shall be responsible for the character, adequacy, validity or genuineness of any insurance, the solvency of any insurer, or any other risk connected with insurance.

- (j) Further Identification of Collateral. Such Debtor shall promptly furnish to the Creditor such statements and schedules further identifying and describing the Collateral of such Debtor, and such other reports in connection with the Collateral of such Debtor, as the Creditor may from time to time reasonably request, including an updated list of any motor vehicles or other "serial number" goods owned by such Debtor and classified as Equipment, including vehicle identification numbers.
- (k) Amalgamation, Merger or Consolidation. Such Debtor shall not permit any Pledged Issuer of such Debtor to amalgamate, merge or consolidate unless all of the outstanding capital stock of the surviving or resulting corporation is, upon such amalgamation, merger or consolidation, pledged under this Agreement, and no cash, securities or other property is distributed with respect to the outstanding shares of any other constituent corporation.
- (l) Agreements re Intellectual Property Rights. Promptly upon request from time to time by the Creditor, such Debtor shall authorize, execute and deliver any and all agreements, instruments, documents and papers that the Creditor may reasonably request to evidence the Security Interests in any Intellectual Property Rights of such Debtor and, where applicable, the goodwill of the business of such Debtor connected with the use of, and symbolized by, any such Intellectual Property Rights.
- (m) Instruments; Documents of Title; Chattel Paper. Where an Event of Default has occurred and is continuing, promptly upon request from time to time by the Creditor, such Debtor shall deliver to the Creditor, endorsed and/or accompanied by such instruments of assignment and transfer in such form and substance as the Creditor may reasonably request, any and all Instruments, Documents of Title and

Chattel Paper of such Debtor included in or relating to the Collateral of such Debtor as the Creditor may specify in its request.

- (n) Pledged Certificated Securities. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all Pledged Security Certificates of such Debtor and other materials as may be required from time to time to provide the Creditor with control over all Pledged Certificated Securities of such Debtor in the manner provided under section 23 of the STA. Where an Event of Default has occurred and is continuing, promptly, at the request of the Creditor, such Debtor shall cause all Pledged Security Certificates of such Debtor to be registered in the name of the Creditor or its nominee.
- (o) Pledged Uncertificated Securities. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all such documents, agreements and other materials as may be required from time to time to provide the Creditor with control over all Pledged Uncertificated Securities of such Debtor in the manner provided under section 24 of the STA.
- (p) Pledged Security Entitlements. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all such documents, agreements and other materials as may be required from time to time to provide the Creditor with control over all Pledged Security Entitlements of such Debtor in the manner provided under section 25 or 26 of the STA.
- (q) Pledged Futures Contracts. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all such documents, agreements and other materials as may be required from time to time to provide the Creditor with control over all Pledged Futures Contracts of such Debtor in the manner provided under subsection 1(2) of the PPSA.
- (r) Partnerships, Limited Liability Companies. Such Debtor shall ensure that the terms of any interest in a partnership or limited liability company that is Collateral of such Debtor shall expressly provide that such interest is a “security” for the purposes of the STA.
- (s) Transfer Restrictions. If the constating documents of any Pledged Issuer (other than a ULC) restrict the transfer of the Securities of such Pledged Issuer, then such Debtor shall deliver to the Creditor a certified copy of a resolution of the directors, shareholders, unitholders or partners of such Pledged Issuer, as applicable, consenting to the transfer(s) contemplated by this Agreement, including any prospective transfer of the Collateral of such Debtor by the Creditor upon a realization on the Security Interests.
- (t) Notices. Such Debtor shall advise the Creditor promptly, in reasonable detail, of:
 - (i) any change to a Pledged Securities Intermediary’s Jurisdiction, Pledged Issuer’s Jurisdiction, or Pledged Future Intermediary’s Jurisdiction;

- (ii) any change in the location of the jurisdiction of incorporation or amalgamation, chief executive office or domicile of such Debtor;
- (iii) any change in the name of such Debtor;
- (iv) any merger, consolidation or amalgamation of such Debtor with any other Person;
- (v) any additional jurisdiction in which such Debtor has tangible Personal Property with a net book value, in the aggregate, of at least \$100,000;
- (vi) any additional jurisdiction in which material account debtors of such Debtor are located;
- (vii) any acquisition of any right, title or interest in real property by such Debtor;
- (viii) any acquisition of any Intellectual Property Rights which are the subject of a registration or application with any governmental intellectual property or other governing body or registry, or which are material to such Debtor's business;
- (ix) any acquisition of any Instrument, Document of Title or Chattel Paper;
- (x) any creation or acquisition of any Subsidiary of such Debtor;
- (xi) any Lien (other than Permitted Liens) on, or claim asserted against, any of the Collateral of such Debtor;
- (xii) the Debtor becoming (or if the Debtor could reasonably be determined to have become) a Control Person with respect to any Reporting Pledged Issuer;
- (xiii) the issuance of any order ceasing or suspending trading in, or prohibiting the transfer of any Pledged Shares or the institution of proceedings for such purpose, or if such Debtor has any reason to believe that any such proceedings are pending, contemplated or threatened;
- (xiv) any occurrence of any event, claim or occurrence that could reasonably be expected to have a material adverse effect on the value of the Collateral of such Debtor or on the Security Interests; or
- (xv) any additional jurisdiction in which such Debtor carries on business.

Such Debtor shall not effect or permit any of the changes referred to in clauses (ii) through (viii) above unless all filings have been made and all other actions taken that are required in order for the Creditor to continue at all times following such

change to have a valid and perfected first priority Security Interest, subject to Permitted Liens, with respect to all of the Collateral of such Debtor.

8. **Voting Rights.** Unless an Event of Default has occurred and is continuing, each Debtor shall be entitled to exercise all voting power from time to time exercisable with respect to the Pledged Shares of such Debtor and give consents, waivers and ratifications with respect thereto; provided, however, that no vote shall be cast or consent, waiver or ratification given or action taken which would be, or would have a reasonable likelihood of being, prejudicial to the interests of the Creditor or which would have the effect of reducing the value of the Collateral of such Debtor as security for the Secured Liabilities of such Debtor or imposing any restriction on the transferability of any of the Collateral of such Debtor. Immediately upon the occurrence and during the continuance of any Event of Default, but at all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, all such rights of the applicable Debtor to vote and give consents, waivers and ratifications shall cease and the Creditor or its nominee shall be entitled to exercise all such voting rights and to give all such consents, waivers and ratifications.

9. **Dividends; Interest.** Unless an Event of Default has occurred and is continuing, each Debtor shall be entitled to receive any and all cash dividends, interest, principal payments and other forms of cash distribution on the Pledged Shares of such Debtor which it is otherwise entitled to receive, but any and all stock and/or liquidating dividends, distributions of property, returns of capital or other distributions made on or with respect to the Pledged Shares of such Debtor, whether resulting from a subdivision, combination or reclassification of the outstanding capital stock of any Pledged Issuer of such Debtor or received in exchange for such Pledged Shares or any part thereof or as a result of any amalgamation, merger, consolidation, acquisition or other exchange of property to which any Pledged Issuer of such Debtor may be a party or otherwise, and any and all cash and other property received in exchange for any Pledged Shares of such Debtor shall be and become part of the Collateral of such Debtor subject to the Security Interests; and if any of the Pledged Security Certificates have been registered in the name of the Creditor or its nominee, the Creditor shall execute and deliver (or cause to be executed and delivered) to such Debtor all such dividend orders and other instruments as such Debtor may reasonably request for the purpose of enabling such Debtor to receive the dividends, distributions or other payments which such Debtor is authorized to receive and retain pursuant to this Section. If an Event of Default has occurred and is continuing, all rights of such Debtor pursuant to this Section shall cease and the Creditor shall have the sole and exclusive right and authority to receive and retain the cash dividends, interest, principal payments and other forms of cash distribution which such Debtor would otherwise be authorized to retain pursuant to this Section. Any money and other property paid over to or received by the Creditor pursuant to the provisions of this Section shall be retained by the Creditor as additional Collateral hereunder and be applied in accordance with the provisions of this Agreement.

10. **Rights on Event of Default.** If an Event of Default has occurred and is continuing, then and in every such case all of the Secured Liabilities of each Debtor shall, at the option of the Creditor, become immediately due and payable and the Security Interests of each Debtor shall become enforceable and the Creditor, in addition to any rights now or hereafter existing under applicable Law may, personally or by agent, at such time or times as the Creditor in its discretion may determine, do any one or more of the following:

- (a) Rights under PPSA, etc. Exercise against any or all Debtors all of the rights and remedies granted to secured parties under the PPSA and any other applicable statute, or otherwise available to the Creditor by contract, at law or in equity.
- (b) Demand Possession. Demand possession of any or all of the Collateral of any or all Debtors, in which event each such Debtor shall, at the expense of such Debtor, immediately cause the Collateral of such Debtor designated by the Creditor to be assembled and made available to the Creditor.
- (c) Take Possession. Enter on any premises where any Collateral of any or all Debtors is located and take possession of, disable or remove such Collateral.
- (d) Deal with Collateral. Hold, store and keep idle, or operate, lease or otherwise use or permit the use of, any or all of the Collateral of any or all Debtors for such time and on such terms as the Creditor may determine, and demand, collect and retain all earnings and other sums due or to become due from any Person with respect to any of the Collateral of any or all Debtors.
- (e) Carry on Business. At all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, carry on, or concur in the carrying on of, any or all of the business or undertaking of any or all Debtors and enter on, occupy and use (without charge by such Debtor) any of the premises, buildings, plant and undertaking of, or occupied or used by, any or all Debtors.
- (f) Enforce Collateral. Seize, collect, receive, enforce or otherwise deal with any Collateral of any or all Debtors in such manner, on such terms and conditions and at such times as the Creditor deems advisable. Notwithstanding the foregoing, the Creditor may only take such aforementioned action in respect of Collateral comprised of Pledged Securities if such Pledged Securities are promptly transferred to an entity permitted by the Ownership and Control Requirements.
- (g) Dispose of Collateral. Realize on any or all of the Collateral of any or all Debtors and sell, lease, assign, give options to purchase, or otherwise dispose of and deliver any or all of the Collateral of any or all Debtors (or contract to do any of the above), in one or more parcels at any public or private sale, at any exchange, broker's board or office of the Creditor or elsewhere, with or without advertising or other formality, except as required by applicable Law, on such terms and conditions as the Creditor may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery.
- (h) Court-Approved Disposition of Collateral. Obtain from any court of competent jurisdiction an order for the sale or foreclosure of any or all of the Collateral of any or all Debtors.
- (i) Purchase by Creditor. At any public sale, and to the extent permitted by Law on any private sale, bid for and purchase any or all of the Collateral of any or all Debtors offered for sale and, upon compliance with the terms of such sale, hold, retain, sell or otherwise dispose of such Collateral without any further

accountability to any Debtor or any other Person with respect to such holding, retention, sale or other disposition, except as required by Law. In any such sale to the Creditor, the Creditor may, for the purpose of making payment for all or any part of the Collateral of any Debtor so purchased, use any claim for any or all of the Secured Liabilities of such Debtor then due and payable to it as a credit against the purchase price.

- (j) Collect Accounts. Notify (whether in its own name or in the name of any Debtor) the account debtors under any Accounts of any or all Debtors of the assignment of such Accounts to the Creditor and direct such account debtors to make payment of all amounts due or to become due to any or all Debtors with respect to such Accounts directly to the Creditor and, upon such notification and at the expense of any such Debtor, enforce collection of any such Accounts, and adjust, settle or compromise the amount or payment of such Accounts, in such manner and to such extent as the Creditor deems appropriate in the circumstances.
- (k) Transfer of Collateral. At all times subject to the Ownership and Control Requirements or as otherwise permitted by the CTA, transfer any Collateral of any or all Debtors that is Pledged Shares into the name of the Creditor or its nominee.
- (l) Voting. At all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, vote any or all of the Pledged Shares of any or all Debtors (whether or not transferred to the Creditor or its nominee) and give or withhold all consents, waivers and ratifications with respect thereto and otherwise act with respect thereto as though it were the outright owner thereof.
- (m) Exercise Other Rights. At all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, exercise any and all rights, privileges, entitlements and options pertaining to any Collateral of any or all Debtors that is Pledged Shares as if the Creditor were the absolute owner of such Pledged Shares.
- (n) Dealing with Contracts and Permits. Deal with any and all Contracts and Permits of any or all Debtors to the same extent as any such Debtor might (including the enforcement, realization, sale, assignment, transfer, and requirement for continued performance), all on such terms and conditions and at such time or times as may seem advisable to the Creditor.
- (o) Payment of Liabilities. Pay any liability secured by any Lien against any Collateral of any or all Debtors. Each such Debtor shall immediately on demand reimburse the Creditor for all such payments and, until paid, any such reimbursement obligation shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.
- (p) Borrow and Grant Liens. Borrow money for the maintenance, preservation or protection of any Collateral of any or all Debtors or for carrying on any of the

business or undertaking of any or all Debtors and grant Liens on any Collateral of any or all Debtors (in priority to the Security Interests of any or all Debtors or otherwise) as security for the money so borrowed. Each such Debtor shall immediately on demand reimburse the Creditor for all such borrowings and, until paid, any such reimbursement obligations shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.

- (q) Appoint Receiver. Appoint by instrument in writing one or more Receivers of any or all Debtors or any or all of the Collateral of any or all Debtors with such rights, powers and authority (including any or all of the rights, powers and authority of the Creditor under this Agreement) as may be provided for in the instrument of appointment or any supplemental instrument, and remove and replace any such Receiver from time to time. To the extent permitted by applicable Law, any Receiver appointed by the Creditor shall (for purposes relating to responsibility for the Receiver's acts or omissions) be considered to be the agent of any such Debtor and not of the Creditor.
- (r) Court-Appointed Receiver. Obtain from any court of competent jurisdiction an order for the appointment of a Receiver of any or all Debtors or of any or all of the Collateral of any or all Debtors.

The Creditor may exercise any or all of the foregoing rights and remedies without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except as required by applicable Law) to or on any Debtor or any other Person, and each Debtor hereby waives each such demand, presentment, protest, advertisement and notice to the extent permitted by applicable Law. None of the above rights or remedies shall be exclusive of or dependent on or merge in any other right or remedy, and one or more of such rights and remedies may be exercised independently or in combination from time to time. Each Debtor acknowledges and agrees that any action taken by the Creditor hereunder following the occurrence and during the continuance of an Event of Default shall not be rendered invalid or ineffective as a result of the curing of the Event of Default on which such action was based.

11. **Realization Standards.** To the extent that applicable Law imposes duties on the Creditor to exercise remedies in a commercially reasonable manner and without prejudice to the ability of the Creditor to dispose of the Collateral in any such manner, each Debtor acknowledges and agrees that it is not commercially unreasonable for the Creditor to (or not to) (a) incur expenses reasonably deemed significant by the Creditor to prepare the Collateral of such Debtor for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (b) fail to obtain third party consents for access to the Collateral of such Debtor to be disposed of, (c) fail to exercise collection remedies against account debtors or other Persons obligated on the Collateral of such Debtor or to remove Liens against the Collateral of such Debtor, (d) exercise collection remedies against account debtors and other Persons obligated on the Collateral of such Debtor directly or through the use of collection agencies and other collection specialists, (e) dispose of Collateral of such Debtor by way of public auction, public tender or private contract, with or without advertising and without any other formality, (f) contact other Persons, whether or not in the same business of

such Debtor, for expressions of interest in acquiring all or any portion of the Collateral of such Debtor, (g) hire one or more professional auctioneers to assist in the disposition of the Collateral of such Debtor, whether or not such Collateral is of a specialized nature or an upset or reserve bid or price is established, (h) dispose of the Collateral of such Debtor by utilizing internet sites that provide for the auction of assets of the types included in such Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets, (i) dispose of assets in wholesale rather than retail markets, (j) disclaim disposition warranties, such as title, possession or quiet enjoyment, (k) purchase insurance or credit enhancements to insure the Creditor against risks of loss, collection or disposition of the Collateral of such Debtor or to provide to the Creditor a guaranteed return from the collection or disposition of such Collateral, (l) to the extent deemed appropriate by the Creditor, obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Creditor in the collection or disposition of any of the Collateral of such Debtor, (m) dispose of Collateral of such Debtor in whole or in part, (n) dispose of Collateral of such Debtor to a customer of the Creditor, and (o) establish an upset or reserve bid price with respect to Collateral of such Debtor.

12. **Grant of Licence.** For the purpose of enabling the Creditor to exercise its rights and remedies under this Agreement when the Creditor is entitled to exercise such rights and remedies, and for no other purpose, each Debtor grants to the Creditor an irrevocable, non-exclusive licence (exercisable without payment of royalty or other compensation to such Debtor) to use, assign or sublicense any or all of the Intellectual Property Rights of such Debtor, including in such licence reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout of the same. For any trade-marks, get-up and trade dress and other business indicia, such licence includes an obligation on the part of the Creditor to maintain the standards of quality maintained by such Debtor or, in the case of trade-marks, get-up and trade dress or other business indicia licensed to such Debtor, the standards of quality imposed upon such Debtor by the relevant licence. For copyright works, such licence shall include the benefit of any waivers of moral rights and similar rights.

13. **Securities Laws.** The Creditor is authorized, in connection with any offer or sale of any Pledged Shares of any Debtor, to comply with any limitation or restriction as it may be advised by counsel is necessary to comply with applicable Law, including compliance with procedures that may restrict the number of prospective bidders and purchasers, requiring that prospective bidders and purchasers have certain qualifications, and restricting prospective bidders and purchasers to Persons who will represent and agree that they are purchasing for their own account or investment and not with a view to the distribution or resale of such Securities. In addition to and without limiting Section 11, each Debtor further agrees that compliance with any such limitation or restriction shall not result in a sale being considered or deemed not to have been made in a commercially reasonable manner, and the Creditor shall not be liable or accountable to such Debtor for any discount allowed by reason of the fact that such Pledged Shares are sold in compliance with any such limitation or restriction. If the Creditor chooses to exercise its right to sell any or all Pledged Shares of any Debtor, upon written request, such Debtor shall cause each applicable Pledged Issuer to furnish to the Creditor all such information as the Creditor may reasonably request in order to determine the number of shares and other instruments included in the Collateral of such Debtor which may be sold by the Creditor in

exempt transactions under any Laws governing securities, and the rules and regulations of any applicable securities regulatory body thereunder, as the same are from time to time in effect.

14. **ULC Shares.** Each Debtor acknowledges that certain of the Collateral of such Debtor may now or in the future consist of ULC Shares, and that it is the intention of the Creditor and each Debtor that the Creditor should not under any circumstances prior to realization thereon be held to be a “member” or a “shareholder”, as applicable, of a ULC for the purposes of any ULC Laws. Therefore, notwithstanding any provisions to the contrary contained in this Agreement, the NPA or any other Transaction Document, where a Debtor is the registered owner of ULC Shares which are Collateral of such Debtor, such Debtor shall remain the sole registered owner of such ULC Shares until such time as such ULC Shares are effectively transferred into the name of the Creditor or any other Person on the books and records of the applicable ULC.

Accordingly, each Debtor shall be entitled to receive and retain for its own account any dividend on or other distribution, if any, with respect to such ULC Shares (except for any dividend or distribution comprised of Pledged Security Certificates of such Debtor, which shall be delivered to the Creditor to hold hereunder) and shall have the right to vote such ULC Shares and to control the direction, management and policies of the applicable ULC to the same extent as such Debtor would if such ULC Shares were not pledged to the Creditor pursuant hereto. Nothing in this Agreement, the NPA or any other Transaction Document is intended to, and nothing in this Agreement, the NPA or any other Transaction Document shall, constitute the Creditor or any Person other than the applicable Debtor, a member or shareholder of a ULC for the purposes of any ULC Laws (whether listed or unlisted, registered or beneficial), until such time as notice is given to such Debtor and further steps are taken pursuant hereto or thereto so as to register the Creditor or such other Person, as specified in such notice, as the holder of the ULC Shares. To the extent any provision hereof would have the effect of constituting the Creditor as a member or a shareholder, as applicable, of any ULC prior to such time, such provision shall be severed herefrom and shall be ineffective with respect to ULC Shares which are Collateral of any Debtor without otherwise invalidating or rendering unenforceable this Agreement or invalidating or rendering unenforceable such provision insofar as it relates to Collateral of any Debtor which is not ULC Shares. Except upon the exercise of rights of the Creditor to sell, transfer or otherwise dispose of ULC Shares in accordance with this Agreement, each Debtor shall not cause or permit, or enable a Pledged Issuer that is a ULC to cause or permit, the Creditor to: (a) be registered as a shareholder or member of such Pledged Issuer; (b) have any notation entered in their favour in the share register of such Pledged Issuer; (c) be held out as shareholders or members of such Pledged Issuer; (d) receive, directly or indirectly, any dividends, property or other distributions from such Pledged Issuer by reason of the Creditor holding the Security Interests over the ULC Shares; or (e) act as a shareholder of such Pledged Issuer, or exercise any rights of a shareholder including the right to attend a meeting of shareholders of such Pledged Issuer or to vote its ULC Shares.

15. **Application of Proceeds.** All Proceeds of Collateral of any Debtor received by the Creditor or a Receiver may be applied to discharge or satisfy any expenses (including the Receiver’s remuneration and other expenses of enforcing the Creditor’s rights against such Debtor under this Agreement), Liens on the Collateral of such Debtor in favour of Persons other than the Creditor, borrowings, taxes and other outgoings affecting the Collateral of such Debtor or which are considered advisable by the Creditor or the Receiver to protect, preserve, repair, process, maintain or enhance the Collateral of such Debtor or prepare it for sale, lease or other

disposition, or to keep in good standing any Liens on the Collateral of such Debtor ranking in priority to any of the Security Interests, or to sell, lease or otherwise dispose of the Collateral of such Debtor. The balance of such Proceeds may, at the sole discretion of the Creditor, be held as collateral security for the Secured Liabilities of the applicable Debtor or be applied to such of the Secured Liabilities of the applicable Debtor (whether or not the same are due and payable) in such manner and at such times as the Creditor considers appropriate and thereafter shall be accounted for as required by Law.

16. **Continuing Liability of Debtor.** Each Debtor shall remain liable for any Secured Liabilities of such Debtor that are outstanding following realization of all or any part of the Collateral of such Debtor and the application of the Proceeds thereof.

17. **Creditor's Appointment as Attorney-in-Fact.** Effective upon the occurrence and during the continuance of an Event of Default, each Debtor constitutes and appoints the Creditor and any officer or agent of the Creditor, with full power of substitution, as such Debtor's true and lawful attorney-in-fact with full power and authority in the place of such Debtor and in the name of such Debtor or in its own name, from time to time in the Creditor's discretion, to take any and all appropriate action and to execute any and all documents and instruments as, in the opinion of such attorney, may be necessary or desirable to accomplish the purposes of this Agreement. Without limiting the effect of this Section, each Debtor grants the Creditor an irrevocable proxy to vote the Pledged Shares of such Debtor and to exercise all other rights, powers, privileges and remedies to which a holder thereof would be entitled (including giving or withholding written consents of shareholders, calling special meetings of shareholders and voting at such meetings), which proxy shall be effective, automatically and without the necessity of any action (including any transfer of any Pledged Shares of such Debtor on the books and records of a Pledged Issuer or Pledged Securities Intermediary, as applicable), upon the occurrence of an Event of Default. These powers are coupled with an interest and are irrevocable until the Release Date. Nothing in this Section affects the right of the Creditor as secured party or any other Person on the Creditor's behalf, to sign and file or deliver (as applicable) all such financing statements, financing change statements, notices, verification statements and other documents relating to the Collateral and this Agreement as the Creditor or such other Person considers appropriate. Each Debtor hereby ratifies and confirms, and agrees to ratify and confirm, whatever lawful acts the Creditor or any of the Creditor's sub-agents, nominees or attorneys do or purport to do in exercise of the power of attorney granted to the Creditor pursuant to this Section.

18. **Performance by Creditor of Debtor's Obligations.** If any Debtor fails to perform or comply with any of the obligations of such Debtor under this Agreement, the Creditor may, but need not, perform or otherwise cause the performance or compliance of such obligation, provided that such performance or compliance shall not constitute a waiver, remedy or satisfaction of such failure. The expenses of the Creditor incurred in connection with any such performance or compliance shall be payable by such Debtor to the Creditor immediately on demand, and until paid, any such expenses shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.

19. **Interest.** If any amount payable by any Debtor to the Creditor under this Agreement is not paid when due, such Debtor shall pay to the Creditor, immediately on demand, interest on

such amount from the date due until paid, at the Default Rate. All amounts payable by such Debtor to the Creditor under this Agreement, and all interest on all such amounts, compounded monthly on the last Business Day of each month, shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.

20. **Severability.** Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

21. **Rights of Creditor; Limitations on Creditor's Obligations.**

- (a) **Limitations on Creditor's Liability.** The Creditor shall not be liable to any Debtor or any other Person for any failure or delay in exercising any of the rights of such Debtor under this Agreement (including any failure to take possession of, collect, sell, lease or otherwise dispose of any Collateral of such Debtor, or to preserve rights against prior parties). Neither the Creditor, a Receiver, nor any agent of the Creditor (including, in Alberta or British Columbia, any sheriff) is required to take, or shall have any liability for any failure to take or delay in taking, any steps necessary or advisable to preserve rights against other Persons under any Collateral of any Debtor in its possession. Neither the Creditor, any Receiver, nor any agent of the Creditor shall be liable for any, and each Debtor shall bear the full risk of all, loss or damage to any and all of the Collateral of such Debtor (including any Collateral of such Debtor in the possession of the Creditor, any Receiver, or any agent of the Creditor) caused for any reason other than the gross negligence or wilful misconduct of the Creditor, such Receiver or such agent of the Creditor.
- (b) **Debtors Remain Liable under Accounts and Contracts.** Notwithstanding any provision of this Agreement, each Debtor shall remain liable under each of the documents giving rise to the Accounts of such Debtor and under each of the Contracts of such Debtor to observe and perform all the conditions and obligations to be observed and performed by such Debtor thereunder, all in accordance with the terms of each such document and Contract. The Creditor shall have no obligation or liability under any Account of any Debtor (or any document giving rise thereto) or Contract of any Debtor by reason of or arising out of this Agreement or the receipt by the Creditor of any payment relating to such Account or Contract pursuant hereto, and in particular (but without limitation), the Creditor shall not be obligated in any manner to perform any of the obligations of any Debtor under or pursuant to any Account of such Debtor (or any document giving rise thereto) or under or pursuant to any Contract of such Debtor, to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party under any Account of such Debtor (or any document giving rise thereto) or under any Contract of such Debtor, to present or file any claim, to take any action to enforce any performance or to collect the payment of

any amounts which may have been assigned to it or to which it may be entitled at any time.

- (c) Collections on Accounts and Contracts. Each Debtor shall be authorized to, at any time that an Event of Default is not continuing, collect the Accounts of such Debtor and payments under the Contracts of such Debtor in the normal course of the business of such Debtor and for the purpose of carrying on the same. If required by the Creditor at any time an Event of Default has occurred and is continuing, any payments of Accounts of such Debtor or under Contracts of such Debtor, when collected by such Debtor, shall be forthwith (and, in any event, within two Business Days) deposited by such Debtor in the exact form received, duly endorsed by such Debtor to the Creditor if required, in a special collateral account maintained by the Creditor, and until so deposited, shall be held by such Debtor in trust for the Creditor, segregated from the other funds of such Debtor. All such amounts while held by the Creditor (or by such Debtor in trust for the Creditor) and all income with respect thereto shall continue to be collateral security for the Secured Liabilities and shall not constitute payment thereof until applied as hereinafter provided. If an Event of Default has occurred and is continuing, the Creditor may apply all or any part of the amounts on deposit with respect to such Debtor in said special collateral account on account of the Secured Liabilities of such Debtor in such order as the Creditor may elect. At the Creditor's request, such Debtor shall deliver to the Creditor any documents evidencing and relating to the agreements and transactions which gave rise to the Accounts and the Contracts of such Debtor, including all original orders, invoices and shipping receipts.
- (d) Analysis of Accounts. At any time and from time to time, the Creditor shall have the right to analyze and verify the Accounts of any Debtor in any manner and through any medium that it reasonably considers advisable, and each Debtor shall furnish all such assistance and information as the Creditor may reasonably require in connection therewith. If an Event of Default has occurred and is continuing, at any time and from time to time, the Creditor may in its own name or in the name of others (including any Debtor) communicate with account debtors on the Accounts of any Debtor and parties to the Contracts of any Debtor to verify with them to its satisfaction the existence, status, amount and terms of any Account or any Contract of any Debtor. At any time and from time to time, but not more than once per calendar year provided that there is not an Event of Default that is continuing, upon the Creditor's reasonable request and at the expense of the applicable Debtor, such Debtor shall furnish to the Creditor reports showing reconciliations, aging and test verifications of, and trial balances for, the Accounts of such Debtor.
- (e) Use of Agents. The Creditor may perform any of its rights or duties under this Agreement by or through agents and is entitled to retain counsel and to act in reliance on the advice of such counsel concerning all matters pertaining to its rights and duties under this Agreement.

22. **Dealings by Creditor.** The Creditor shall not be obliged to exhaust its recourse against any Debtor or any other Person or against any other security it may hold with respect to the Secured Liabilities of such Debtor or any part thereof before realizing upon or otherwise dealing with the Collateral of such Debtor in such manner as the Creditor may consider desirable. The Creditor may grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with any Debtor and any other Person, and with any or all of the Collateral of any Debtor, and with other security and sureties, as the Creditor may see fit, all without prejudice to the Secured Liabilities of any Debtor or to the rights and remedies of the Creditor under this Agreement. The powers conferred on the Creditor under this Agreement are solely to protect the interests of the Creditor in the Collateral of each Debtor and shall not impose any duty upon the Creditor to exercise any such powers.

23. **Communication.** Any notice or other communication required or permitted to be given under this Agreement will be made in accordance with the terms of the NPA.

24. **Release of Information.** Each Debtor authorizes the Creditor to provide a copy of this Agreement and such other information as may be reasonably requested of the Creditor (i) to the extent necessary to enforce the Creditor's rights, remedies and entitlements under this Agreement, (ii) to any assignee or prospective assignee of all or any part of its Secured Liabilities, and (iii) as required by applicable Law.

25. **Expenses; Indemnity; Waiver.**

- (a) Each Debtor shall pay (i) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and all applicable taxes, in connection with the preparation and administration of this Agreement, (ii) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and applicable taxes, in connection with any amendments, modifications or waivers of the provisions hereof, and (iii) all reasonable out-of-pocket expenses incurred by the Creditor, including the fees, charges and disbursements of any counsel for the Creditor and all applicable taxes, in connection with the assessment, enforcement or protection of their rights in connection with this Agreement, including its rights under this Section, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations with respect to the Secured Liabilities of such Debtor.
- (b) Each Debtor shall indemnify the Creditor against, and hold the Creditor harmless from, any and all losses, claims, cost recovery actions, damages, expenses and liabilities of whatsoever nature or kind and all reasonable out-of-pocket expenses and all applicable taxes to which the Creditor may become subject arising out of or in connection with (i) the execution or delivery of this Agreement and the performance by such Debtor of its obligations hereunder, (ii) any actual claim, litigation, investigation or proceeding relating to this Agreement or the Secured Liabilities of such Debtor, whether based on contract, tort or any other theory and regardless of whether the Creditor is a party thereto, (iii) any other aspect of this

Agreement, or (iv) the enforcement of the Creditor's rights hereunder and any related investigation, defence, preparation of defence, litigation and enquiries; provided that such indemnity shall not, as to the Creditor, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence (it being acknowledged that ordinary negligence does not necessarily constitute gross negligence) or wilful misconduct of or material breach of this Agreement by the Creditor.

- (c) No Debtor shall assert, and each Debtor hereby waives (to the fullest extent permitted by applicable Law), (i) any claim against the Creditor (or any director, officer or employee thereof), on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, and (ii) all of the rights, benefits and protections given by any present or future statute that imposes limitations on the rights, powers or remedies of a secured party or on the methods of, or procedures for, realization of security, including any "seize or sue" or "anti-deficiency" statute or any similar provision of any other statute.
- (d) All amounts due under this Section shall be payable not later than three Business Days after written demand therefor.
- (e) The indemnifications set out in this Section shall survive the Release Date and the release or extinguishment of the Security Interests.

26. **Release of Debtor.** Upon the written request of any Debtor given at any time on or after the Release Date, the Creditor shall at the expense of such Debtor (i) release such Debtor and the Collateral of such Debtor from the Security Interests and such release shall serve to terminate any licence granted in this Agreement and (ii) return, endorsed and/or accompanied by such instruments of assignment and transfer in such form and substance as the Debtor may reasonably request, any and all Collateral pledged by the Debtor to the Creditor pursuant to this Agreement. Upon such release, and at the request and expense of such Debtor, the Creditor shall execute and deliver to such Debtor such releases and discharges as such Debtor may reasonably request.

27. **Additional Security.** This Agreement is in addition to, and not in substitution of, any and all other security previously or concurrently delivered by any Debtor or any other Person to the Creditor, all of which other security shall remain in full force and effect.

28. **Alteration or Waiver.** None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Creditor. The Creditor shall not, by any act or delay, be deemed to have waived any right or remedy hereunder or to have acquiesced in any Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Creditor, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise 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. A waiver by the Creditor of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right

or remedy which the Creditor would otherwise have on any future occasion. Neither the taking of any judgment nor the exercise of any power of seizure or sale shall extinguish the liability of any Debtor to pay the Secured Liabilities of such Debtor, nor shall the same operate as a merger of any covenant contained in this Agreement or of any other liability, nor shall the acceptance of any payment or other security constitute or create any novation.

29. **Environmental Licence and Indemnity.** Each Debtor hereby grants to the Creditor and its employees and agents an irrevocable and non-exclusive licence, subject to the rights of tenants, upon not less than 48 hours prior written notice but not more than once per calendar year provided that there is not an Event of Default that is continuing or a known or reasonably suspected release of a hazardous substance in contravention of applicable environmental laws, to enter any of the premises of such Debtor to conduct audits, testing and monitoring with respect to hazardous substances and to remove and analyze any hazardous substance at the cost and expense of such Debtor (which cost and expense shall form part of the Secured Liabilities of such Debtor and shall be payable immediately on demand and secured by the Security Interests created by this Agreement). Each Debtor shall indemnify the Creditor and hold the Creditor harmless against and from all losses, costs, damages and expenses which the Creditor may sustain, incur or be or become liable at any time whatsoever for by reason of or arising from the past, present or future existence, clean-up, removal or disposal of any hazardous substance on or about any property owned or occupied by the Creditor or compliance with environmental Laws or environmental orders relating thereto, including any clean-up, decommissioning, restoration or remediation of any premises owned or occupied by such Debtor or other affected lands or property. This indemnification shall survive the Release Date. Notwithstanding the foregoing, the Creditor shall conduct such audits, testing and monitoring at the premises of the Debtor in such a manner as to reasonably minimize the interruptions of the ordinary business operation of the Debtor.

30. **Amalgamation.** If any Debtor is a corporation, such Debtor acknowledges that if it amalgamates or merges with any other corporation or corporations, then (i) the Collateral and the Security Interests of such Debtor shall extend to and include all the property and assets of the amalgamated corporation and to any property or assets of the amalgamated corporation thereafter owned or acquired, (ii) the term "Debtor", where used in this Agreement, shall extend to and include the amalgamated corporation, and (iii) the term "Secured Liabilities", where used in this Agreement, shall extend to and include the Secured Liabilities of the amalgamated corporation.

31. **Governing Law; Attornment.** This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario. Without prejudice to the ability of the Creditor to enforce this Agreement in any other proper jurisdiction, each Debtor irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of Ontario. To the extent permitted by applicable Law, each Debtor irrevocably waives any objection (including any claim of inconvenient forum) that it may now or hereafter have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of Ontario.

32. **Interpretation.** The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "or" is

disjunctive; the word “and” is conjunctive. The word “shall” is mandatory; the word “may” is permissive. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set out herein), (b) any reference herein to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time, (c) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (e) all references herein to Sections and Schedules shall be construed to refer to Sections and Schedules to, this Agreement, Section headings are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement. Any reference in this Agreement to a Permitted Lien is not intended to subordinate or postpone, and shall not be interpreted as subordinating or postponing, or as any agreement to subordinate or postpone, any Security Interest to any Permitted Lien.

33. **Paramourncy.** In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the NPA then, notwithstanding anything contained in this Agreement, the provisions contained in the NPA shall prevail to the extent of such conflict or inconsistency and the provisions of this Agreement shall be deemed to be amended to the extent necessary to eliminate such conflict or inconsistency, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to the Creditor under the NPA. If any act or omission of any or all Debtors is expressly permitted under the NPA but is expressly prohibited under this Agreement, such act or omission shall be permitted. If any act or omission is expressly prohibited under this Agreement, but the NPA does not expressly permit such act or omission, or if any act is expressly required to be performed under this Agreement but the NPA does not expressly relieve any or all Debtors from such performance, such circumstance shall not constitute a conflict or inconsistency between the applicable provisions of this Agreement and the provisions of the NPA.

34. **Successors and Assigns.** This Agreement shall enure to the benefit of, and be binding on, each Debtor and its successors and permitted assigns, and shall enure to the benefit of, and be binding on, the Creditor and its successors and assigns. No Debtor may assign this Agreement, or any of its rights or obligations under this Agreement except to successors and assigns as permitted by the NPA. The Creditor may assign this Agreement and any of its rights and obligations hereunder to any Person. If any Debtor or the Creditor is an individual, then the term “Debtor” or “Creditor”, as applicable, shall also include his or her heirs, administrators and executors.

35. **Additional Debtors.** Additional Persons may from time to time after the date of this Agreement become Debtors under this Agreement by executing and delivering to the Creditor a supplemental agreement (together with all schedules thereto, a “**Supplement**”) to this Agreement, in substantially the form attached hereto as Exhibit A. Effective from and after the date of the execution and delivery by any Person to the Creditor of a Supplement:

- (a) such Person shall be, and shall be deemed for all purposes to be, a Debtor under this Agreement with the same force and effect, and subject to the same agreements, representations, indemnities, liabilities, obligations and Security Interests, as if such Person had been an original signatory to this Agreement as a Debtor; and
- (b) all Collateral of such Person shall be subject to the Security Interest from such Person as security for the due payment and performance of the “Liabilities” of such Person in accordance with the provisions of this Agreement.

The execution and delivery of a Supplement by any additional Person shall not require the consent of any Debtor and all of the Secured Liabilities of each Debtor and the Security Interests granted thereby shall remain in full force and effect, notwithstanding the addition of any new Debtor to this Agreement.

36. **Acknowledgment of Receipt/Waiver**. Each Debtor acknowledges receipt of an executed copy of this Agreement and, to the extent permitted by applicable Law, waives the right to receive a copy of any financing statement or financing change statement registered in connection with this Agreement or any verification statement issued with respect to any such financing statement or financing change statement.

37. **Transaction Document**. Each Debtor acknowledges and agrees that this Agreement shall constitute a “Transaction Document”.

38. **Electronic Signature and Counterparts**. Delivery of an executed signature page to this Agreement by any Debtor by facsimile or other electronic form of transmission shall be as effective as delivery by such Debtor of a manually executed copy of this Agreement by such Debtor. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract.

[signatures on the next following pages]

S-1

IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

1263343 ALBERTA INC.

By:  DocuSigned by:
8110ECB01075411...

Name: Michael Holditch
Title: Chief Financial Officer

IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

ENERJET HOLDCO INC.

By:  8110ECB04075411...
Name: Michael Holditch
Title: Chief Financial Officer

SCHEDULE A-1

DEBTOR INFORMATION

Enerjet Holdco Inc.

Full legal name: Enerjet Holdco Inc.

Prior names: N/A

Predecessor companies: N/A

Jurisdiction of incorporation or organization: Alberta

Address of chief executive office: 123 – 1440 Aviation Park NE, Calgary, Alberta T2E 7E2

Addresses of all places where business is carried on or tangible Personal Property is kept:
123 – 1440 Aviation Park NE, Calgary, Alberta T2E 7E2

Jurisdictions in which all material account debtors are located: Alberta

Addresses of all owned real property: N/A

Addresses of all leased real property: N/A

Description of all “serial number” goods (i.e. motor vehicles, trailers, aircraft, boats and outboard motors for boats): N/A

Description of all material Permits: N/A

Subsidiaries of such Debtor: 1263343 Alberta Inc.

Instruments, Documents of Title and Chattel Paper of such Debtor: N/A

Pledged Certificated Securities:

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location
1263343 Alberta Inc.	1 Common Voting Share	100%	CVS - 002	Minute Book [R.O. c/o Lindsey MacCarthy LLP, 1400, 350 7 th Avenue SW, Calgary, Alberta, T2P 3N9]
	985,660 Common Voting Shares		N/A	Minute Book [R.O. c/o Lindsey MacCarthy LLP, 1400, 350 7 th Avenue SW, Calgary, Alberta, T2P 3N9]

Pledged Securities Accounts: Nil

Pledged Securities Intermediary	Securities Account Number	Pledged Securities Intermediary's Jurisdiction	Pledged Security Entitlements

Pledged Uncertificated Securities: Nil

Pledged Issuer	Pledged Issuer's Jurisdiction	Securities Owned	% of issued and outstanding Securities of Pledged Issuer

Pledged Futures Accounts: Nil.

Pledged Futures Intermediary	Futures Account Number	Pledged Futures Intermediary's Jurisdiction	Pledged Futures Contracts

Registered trade-marks and applications for trademark registrations: Nil.

<i>Country</i>	<i>Trade-mark</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Registration Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N] ¹

Patents and patent applications: Nil.

<i>Country</i>	<i>Title</i>	<i>Patent No.</i>	<i>Application Date</i>	<i>Date of Grant</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Copyright registrations and applications for copyright registrations: Nil.

<i>Country</i>	<i>Work</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Industrial designs/registered designs and applications for registered designs: Nil.

<i>Country</i>	<i>Design</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Issue Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N]

¹ If the answer to this or any corresponding column is “yes”, describe the particulars of each such licence.

SCHEDULE A-2

DEBTOR INFORMATION

1263343 Alberta Inc.

Full legal name: 1263343 Alberta Inc.

Prior names: N/A

Predecessor companies: N/A

Jurisdiction of incorporation or organization: Alberta

Address of chief executive office: 123 – 1440 Aviation Park NE, Calgary, Alberta T2E 7E2

Addresses of all places where business is carried on or tangible Personal Property is kept:

123, 1440 Aviation Park NE Calgary Alberta
and
816 55th Avenue NE Calgary Alberta

Jurisdictions in which all material account debtors are located:

Alberta

Addresses of all owned real property: N/A

Addresses of all leased real property:

123, 1440 Aviation Park NE Calgary Alberta
and
816 55th Avenue NE Calgary Alberta

Description of all “serial number” goods (i.e. motor vehicles, trailers, aircraft, boats and outboard motors for boats):

Nil.

Description of all material Permits:

Issuing Authority	Title	'License' Number	Location of Issuance or Amendment	Date of Issuance or Amendment	Expiry Date	Description
Transport Canada	Air Operator Certificate	11035	Ottawa, Ontario	31 MAY 2016	N/A	Entitles the holder to operate within Canadian Aviation Regulations for Airline Operations

Special Authorities Approved By Way of Air Operator Certificate:

- Types of Operation
 1. Cargo
 2. Passenger
- Types of Service
 1. Domestic
 2. Non-Scheduled International
 3. Scheduled International
- Areas of Operation
 1. African Indian Ocean
 2. Caribbean
 3. Europe
 4. Middle East / Asia
 5. North America
 6. North Atlantic
 7. South America
- Special Authorizations
 1. Dangerous Goods
 2. Category II Instrument Approaches
 3. Category IIIA Instrument Approaches
 4. Take-Off Minima – RVR 1200'
 5. Take-Off Minima – RVR 600'
 6. Standard Restricted Instrument Procedures
 7. Instrument Procedures – GNSS
 8. No Alternate IFR
 9. ILS / PRM / LDA / SOIA
 10. CMNPS
 11. NAT – MNPS
 12. Net Take-Off Flight Path Greater Bank Angle
 13. RNP
 14. RVSM
 15. RNAV 1 & 2
 16. RNAV 5
 17. RNP 1
 18. RNP 10 Airspace
 19. En Route Fuel Reserve Reduction
 20. Flight Attendant Requirement - 1:50
 21. Increase In Flight Duty Time
 22. Controlled Rest on the Flight Deck

Issuing Authority	Title	'License' Number	Location of Issuance or Amendment	Date of Issuance or Amendment	Expiry Date	Description
Transport Canada	Approved Maintenance Organization	75-11	Calgary, Alberta	30 SEP 2011	N/A	Entitles the holder to conduct non-specialized maintenance on Boeing 737 series aircraft.

Issuing Authority	Title	'License' Number	Location of Issuance or Amendment	Date of Issuance or Amendment	Expiry Date	Description
Canadian Transportation Agency	Domestic License	080111	Ottawa, Ontario	28 NOV 2008	N/A	Entitles the holder to operate between points in Canada.
Canadian Transportation Agency	Non-Scheduled International License	080112	Ottawa, Ontario	28 NOV 2008	N/A	Entitles the holder to operate non-scheduled international service with large aircraft
Canadian Transportation Agency	Scheduled International License	090108	Ottawa, Ontario	06 NOV 2009	N/A	Entitles the holder to operate scheduled service to the United States with large aircraft
Canadian Transportation Agency	Scheduled International License	100127	Ottawa, Ontario	13 DEC 2010	N/A	Entitles the holder to operate scheduled service to the Republic of Guyana with large aircraft

Issuing Authority	Title	'License' Number	Location of Issuance or Amendment	Date of Issuance or Amendment	Expiry Date	Description
Federal Aviation Administration	Foreign Operations Specifications	As Per Canadian AOC - 11035	El Segundo, California	27 SEPT 2018	N/A	Authorization granted as an extension of approved Canadian Air Operator Certificate

Special Authorities Approved By Way of Foreign Operations Specifications:

- Types of Operation
 1. Cargo
 2. Passenger
- Areas of Operation
 1. The 48 contiguous United States and District of Columbia
 2. The State of Alaska
- Special Authorizations
 1. Day
 2. Night
 3. RVSM
 4. Ground DeIcing
 5. Class I navigation in the US airspace using area or long-range navigation systems
 6. Terminal flight operations under instrument flight rules
 7. Basic instrument approach procedures
 8. Specific IFR take-off minimums, and alternate airports for departure
 9. Category II Instrument Approaches
 10. Category III Instrument Approaches
 11. Circle to land approach maneuvers or contact approach procedures
 12. Terminal area operations with large and turbojet airplanes

Subsidiaries of such Debtor: N/A

Instruments, Documents of Title and Chattel Paper of such Debtor: N/A

Pledged Certificated Securities: Nil.

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location

Pledged Securities Accounts: Nil.

Pledged Securities Intermediary	Securities Account Number	Pledged Securities Intermediary's Jurisdiction	Pledged Security Entitlements

Pledged Uncertificated Securities: Nil.

Pledged Issuer	Pledged Issuer's Jurisdiction	Securities Owned	% of issued and outstanding Securities of Pledged Issuer

Pledged Futures Accounts: Nil.

Pledged Futures Intermediary	Futures Account Number	Pledged Futures Intermediary's Jurisdiction	Pledged Futures Contracts

Registered trade-marks and applications for trademark registrations:

<i>Country</i>	<i>Trade-mark</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Formalized Date</i>	<i>Licensed to or by Debtor</i>
Canada	ALTISAIR ALTIS AIR	1987955	2019-10-01	Pending	2019-10-16	N ²
Canada	LYNX	2122427	2021-07-21	Pending	2021-07-21	N ²
Canada	SKYLINE AIR SKY LINE	1954540	2019-03-29	Pending	2019-04-03	N ²
Canada	FLYTOO FLY TOO	2004841	2020-01-07	Pending	2020-01-28	N ²
Canada	LYNX AIR	2127063	2021-08-12	Pending	2021-08-12	N ²
Canada	LYNX AIRLINE	2127066	2021-08-12	Pending	2021-08-12	N ²

Patents and patent applications: Nil.

<i>Country</i>	<i>Title</i>	<i>Patent No.</i>	<i>Application Date</i>	<i>Date of Grant</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Copyright registrations and applications for copyright registrations: Nil.

<i>Country</i>	<i>Work</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Industrial designs/registered designs and applications for registered designs: Nil.

<i>Country</i>	<i>Design</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Issue Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N]

² If the answer to this or any corresponding column is "yes", describe the particulars of each such licence.

EXHIBIT A
FORM OF SUPPLEMENT
TO
GENERAL SECURITY AGREEMENT

TO: Indigo Northern Ventures LP

RECITALS:

- A. Reference is made to the General Security Agreement (the “**Security Agreement**”) dated as of October 28, 2021 entered into by Enerjet Holdco Inc. and 1263343 Alberta Inc. (doing business as Enerjet) and certain of their affiliates which thereafter signs a Supplement, in favour of the Creditor.
- B. Capitalized terms used but not otherwise defined in this Supplement have the respective meanings given to such terms in the Security Agreement, including the definitions of terms incorporated in the Security Agreement by reference to other agreements.
- C. Section 35 of the Security Agreement provides that additional Persons may from time to time after the date of the Security Agreement become Debtors under the Security Agreement by executing and delivering to the Creditor a supplemental agreement to the Security Agreement in the form of this Supplement.
- D. The undersigned (the “**New Debtor**”) has agreed to become a Debtor under the Security Agreement by executing and delivering this Supplement to the Creditor.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by the New Debtor, the New Debtor agrees with and in favour of the Creditor as follows:

1. The New Debtor has received a copy of, and has reviewed, the Security Agreement and is executing and delivering this Supplement to the Creditor pursuant to Section 35 of the Security Agreement.
2. Effective from and after the date this Supplement is executed and delivered to the Creditor by the New Debtor:
 - (a) the New Debtor shall be, and shall be deemed for all purposes to be, a Debtor under the Security Agreement with the same force and effect, and subject to the same agreements, representations, indemnities, liabilities, obligations and Security Interests, as if the New Debtor had been, as of the date of this Supplement, an original signatory to the Security Agreement as a Debtor; and
 - (b) all Collateral of the New Debtor shall be subject to the Security Interests granted by the New Debtor as security for the due payment and performance of the Liabilities of the New Debtor in accordance with the provisions of the Security Agreement.

In furtherance of the foregoing, the New Debtor, as general and continuing collateral security for the due payment and performance of its Secured Liabilities, pledges, mortgages, charges and assigns (by way of security) to the Creditor, and grants to the Creditor a security interest in, the Collateral of the New Debtor. The terms and provisions of the Security Agreement are incorporated by reference in this Supplement.

3. The New Debtor represents and warrants to the Creditor that each of the representations and warranties made or deemed to have been made by it under the Security Agreement as a Debtor are true and correct on the date of this Supplement.

4. All of the information set out in Schedule A to this Supplement with respect to the New Debtor is accurate and complete as of the date of this Supplement.

5. Upon this Supplement bearing the signature of any Person claiming to have authority to bind the New Debtor coming into the possession of the Creditor, this Supplement and the Security Agreement shall be deemed to be finally and irrevocably executed and delivered by, and be effective and binding on, and enforceable against, the New Debtor free from any promise or condition affecting or limiting the liabilities of the New Debtor. No statement, representation, agreement or promise by any officer, employee or agent of the Creditor, unless expressly set forth in this Supplement, forms any part of this Supplement or has induced the New Debtor to enter into this Supplement and the Security Agreement or in any way affects any of the agreements, obligations or liabilities of the New Debtor under this Supplement and the Security Agreement.

6. Delivery of an executed signature page to this Supplement by the New Debtor by facsimile or other electronic transmission shall be as effective as delivery by the New Debtor of a manually executed copy of this Supplement by the New Debtor.

7. This Supplement shall be governed by and construed in accordance with the laws of the Province of Ontario, and the laws of Canada applicable therein.

8. This Supplement and the Security Agreement shall be binding upon the New Debtor and its successors. The New Debtor shall not assign its rights and obligations under this Supplement or the Security Agreement, or any of its rights or obligations in this Supplement or the Security Agreement.

Dated: [MONTH] [DAY], [YEAR]

[NEW DEBTOR]

By: _____
Name:
Title:

SCHEDULE A
DEBTOR INFORMATION

Full legal name:

Prior names:

Predecessor companies:

Jurisdiction of incorporation or organization:

Address of chief executive office:

Addresses of all places where business is carried on or tangible Personal Property is kept:

Jurisdictions in which all material account debtors are located:

Addresses of all owned real property:

Addresses of all leased real property:

Description of all “serial number” goods (i.e. motor vehicles, trailers, aircraft, boats and outboard motors for boats):

Description of all material Permits:

Subsidiaries of the New Debtor:

Instruments, Documents of Title and Chattel Paper of the New Debtor:

Pledged Certificated Securities:

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location
[SUBCO]	[100 common shares]	[100%]	[C-1]	[Toronto]

Pledged Securities Accounts:

Pledged Securities Intermediary	Securities Account Number	Pledged Securities Intermediary's Jurisdiction	Pledged Security Entitlements
[BROKERAGE HOUSE]	[NUMBER]	[Ontario]	[100 common shares of [COMPANY]]

Pledged Uncertificated Securities:

Pledged Issuer	Pledged Issuer's Jurisdiction	Securities Owned	% of issued and outstanding Securities of Pledged Issuer
[LIMITED PARTNERSHIP]	[Ontario]	[100 limited partnership units]	[50% of all limited partnership interests]

Pledged Futures Accounts:

Pledged Futures Intermediary	Futures Account Number	Pledged Futures Intermediary's Jurisdiction	Pledged Futures Contracts
[BROKERAGE HOUSE]	[NUMBER]	[Ontario]	[Brief description of Contract]

Registered trade-marks and applications for trademark registrations:

<i>Country</i>	<i>Trade-mark</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Registration Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N] ³

Patents and patent applications:

<i>Country</i>	<i>Title</i>	<i>Patent No.</i>	<i>Application Date</i>	<i>Date of Grant</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Copyright registrations and applications for copyright registrations:

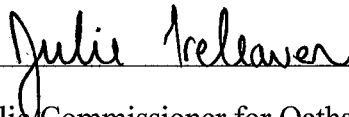
<i>Country</i>	<i>Work</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Industrial designs/registered designs and applications for registered designs:

<i>Country</i>	<i>Design</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Issue Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N]

³ If the answer to this or any corresponding column is “yes”, describe the particulars of each such licence.

This is **Exhibit “22”** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

LYNX AIR HOLDINGS CORPORATION
(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

<u>Certificate No.</u>	<u>Principal Amount</u>
BN-1	CAD \$7,110,000

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 2023

THIS IS TO CERTIFY THAT INDIGO NORTHERN VENTURES LP

of 2525 E. Camelback Road, Suite 900, Phoenix, Arizona, USA


is the registered holder(s) of CAD \$7,110,000 in nominal amount of the secured convertible loan notes which are constituted by an agreement dated February 24, 2023 made between Lynx Air Holdings Corporation (the "**Company**"), 1263343 Alberta Inc. (the "**Guarantor**") and Indigo Northern Ventures LP (as amended, supplemented or restated from time to time, the "**Agreement**") and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.

Interest is payable on the Notes represented by this certificate semi-annually in arrears on August 23, and February 23 (each, an "**Interest Payment Date**") in each year.

The Notes shall be redeemed in accordance with Condition 3 of Schedule 11 on February 24, 2025, subject to such other redemption date or conversion in accordance with the Conditions.

Dated: February 24, 2023

LYNX AIR HOLDINGS CORPORATION

DocuSigned by:

By _____
Name: Merren McArthur
Title: President and CEO

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.
- (B) No transfer of the whole or any part of the Notes represented by this certificate will be registered without the production of this certificate at the registered office of the Company or at such other place as the Company may from time to time designate.
- (C) Each transfer in point of time of the whole or any part of the Notes represented by this certificate will be registered free of charge.
- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.

LYNX AIR HOLDINGS CORPORATION
(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

<u>Certificate No.</u>	<u>Principal Amount</u>
BN-2	CAD \$5,169,375

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 2023

THIS IS TO CERTIFY THAT INDIGO NORTHERN VENTURES LP

of 2525 E. Camelback Road, Suite 900, Phoenix, Arizona, USA

is the registered holder(s) of CAD \$5,169,375 in nominal amount of the secured convertible loan notes which are constituted by an agreement dated February 24, 2023 made between Lynx Air Holdings Corporation (the "**Company**"), 1263343 Alberta Inc. (the "**Guarantor**") and Indigo Northern Ventures LP (as amended, supplemented or restated from time to time, the "**Agreement**") and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.

Interest is payable on the Notes represented by this certificate semi-annually in arrears on August 23, and February 23 (each, an "**Interest Payment Date**") in each year.

The Notes shall be redeemed in accordance with Condition 3 of Schedule 11 on February 24, 2025, subject to such other redemption date or conversion in accordance with the Conditions.

Dated: March 10, 2023

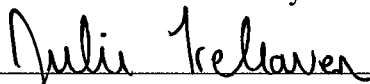
LYNX AIR HOLDINGS CORPORATION

By 
Name: Merren McArthur
Title: President and CEO

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.
- (B) No transfer of the whole or any part of the Notes represented by this certificate will be registered without the production of this certificate at the registered office of the Company or at such other place as the Company may from time to time designate.
- (C) Each transfer in point of time of the whole or any part of the Notes represented by this certificate will be registered free of charge.
- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.

This is **Exhibit “23”** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barister & Solicitor

Execution Version

GUARANTEE

This Agreement is made as of February 24, 2023.

TO: Indigo Northern Ventures LP

RECITALS:

A. **Lynx Air Holdings Corporation** (the “**Debtor**”), **1263343 Alberta Inc. (doing business as Lynx Air)** (the “**Guarantor**”) and Indigo Northern Ventures LP (and any Person to whom Indigo Northern Ventures LP has transferred any Notes (as defined in the NPA which, in turn, is defined below) in accordance with the NPA (collectively, the “**Creditor**”), are parties to a bridge note purchase agreement dated as of February 24, 2023 (as amended, supplemented, restated or replaced from time to time, the “**NPA**”).

B. It is in the interests of the Guarantor that the Creditor purchase Notes from the Debtor under the NPA, and the Guarantor is therefore prepared to issue this Agreement to the Creditor in order to induce the Creditor to do so.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by the Guarantor, the Guarantor agrees with and in favour of the Creditor as follows:

1. **Definitions.** In this Agreement capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in the NPA, and the following terms have the following meanings:

“**Agreement**” means this agreement, including the recitals to this agreement, as it or they may be amended, supplemented, restated or replaced from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement.

“**Control**” means, in respect of a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlled**” has a meaning correlative thereto.

“**Creditor**” has the meaning set out in the recitals hereto.

“**Debtor**” has the meaning set out in the recitals hereto.

“**Debtor Liabilities**” means all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of the Debtor to the Creditor (or any of them) under, in connection with or with respect to the Transaction Documents.

“**Event of Default**” means any “Event of Default” as defined in the NPA.

“Governmental Authority” means the government of Canada, any other nation or any political subdivision thereof, whether provincial, state, territorial or local, and any agency, authority, instrumentality, regulatory body, court, central bank, fiscal or monetary authority or other authority regulating financial institutions, and any other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Guarantor” has the meaning set out in the recitals hereto.

“Guarantor Liabilities” means all present and future indebtedness, liabilities and obligations of the Guarantor to the Creditor under this Agreement.

“Insolvency Proceeding” means any proceeding seeking to adjudicate a Person an insolvent, seeking a receiving order against such Person under the *Bankruptcy and Insolvency Act* (Canada), or seeking liquidation, dissolution, winding-up, reorganization, compromise, arrangement, adjustment, protection, moratorium, relief or composition of such Person or its debts or a stay of proceedings of such Person’s creditors generally (or any class of creditors) or any other relief, under any federal, provincial, territorial or foreign law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, reorganization, receivership, plans of arrangement or relief or protection of debtors (including the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada) and any similar legislation in any jurisdiction) or at common law or in equity.

“Laws” means all federal, provincial, municipal, foreign and international statutes, acts, codes, ordinances, decrees, treaties, rules, regulations, municipal by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards or any provisions of the foregoing, including general principles of common and civil law and equity, and all policies, practices and guidelines of any Governmental Authority binding on or affecting the Person referred to in the context in which such word is used (including, in the case of tax matters, any accepted practice or application or official interpretation of any relevant taxation authority); and **“Law”** means any one or more of the foregoing.

“Lien” means, (a) with respect to any asset, any mortgage, deed of trust, lien, pledge, hypothec (whether movable or immovable), hypothecation, encumbrance, charge, security interest, royalty interest, adverse claim, defect to title or right of set off in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, title retention agreement or consignment agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to any asset, (c) any purchase option, call or similar right of a third party with respect to such asset, (d) any netting arrangement, defeasance arrangement or reciprocal fee arrangement, and (e) any other arrangement having the effect of providing security.

“NPA” has the meaning set out in the recitals hereto.

“Original Currency” has the meaning set out in Section 17.

“Other Currency” has the meaning set out in Section 17.

“Organizational Documents” means, with respect to any Person, such Person’s articles or other charter documents, by-laws, unanimous shareholder agreement, partnership agreement or trust

agreement, as applicable, and any and all other similar agreements, documents and instruments relative to such Person.

“**Person**” includes any natural person, corporation, company, limited liability company, unlimited liability company, trust, joint venture, association, incorporated organization, partnership, Governmental Authority or other entity.

“**Security**” means any present or future Lien, or any present or future guarantee or other financial assistance, granted by any Person with respect to any or all of the Debtor Liabilities or Guarantor Liabilities.

2. Guarantee. The Guarantor hereby unconditionally and irrevocably guarantees the prompt payment and performance to the Creditor, of all Debtor Liabilities when due in accordance with their terms. All amounts payable by the Guarantor under this Agreement shall be paid to the Creditor as directed in writing by the Creditor. All Guarantor Liabilities shall be payable or performable forthwith upon demand by the Creditor, and any which are not so paid shall bear interest from the date of such demand at the rate or rates applicable to the corresponding Debtor Liabilities.

3. Guarantor Liabilities. The Guarantor Liabilities are continuing, absolute, unconditional and irrevocable. The Guarantor Liabilities shall remain effective despite, and shall not be released, exonerated, discharged, diminished, subjected to defence, limited or in any way affected by, anything done, omitted to be done, suffered or permitted by the Creditor, the Debtor or any other Person, or by any other matter, act, omission, circumstance, development or other thing of any nature, kind or description, other than the due payment and performance in full of all of the Debtor Liabilities and all of the Guarantor Liabilities.

4. Guarantee Absolute. Without limiting the generality of Section 3, the Guarantor Liabilities shall remain fully effective and enforceable against the Guarantor and shall not be released, exonerated, discharged, diminished, subjected to defence, limited or in any way affected by, and the rights and remedies of the Creditor under this Agreement shall not in any way be diminished or prejudiced by, and the Guarantor hereby consents or waives, as applicable, to the fullest extent permitted by applicable Law:

- (a) any lack of genuineness, legality, validity or enforceability of any of the Debtor Liabilities or of any agreement or arrangement between the Debtor and the Creditor, or any failure by the Debtor to carry out any of its obligations under any such agreement or arrangement;
- (b) any change in the existence, name, objects, business, powers, organization, share capital, Organizational Documents, ownership, control, directors or management of the Debtor or the Guarantor, the reorganization of the Debtor or the Guarantor, any amalgamation or merger by the Debtor or the Guarantor with any other Person or Persons, or any continuation of the Debtor or the Guarantor under the laws of any jurisdiction;
- (c) any lack or limitation of power, incapacity or disability of the Debtor or the Guarantor or of the directors, officers, managers, employees or agents of the Debtor

or the Guarantor or any other irregularity, defect or informality, or any fraud, by the Debtor or the Guarantor or any of their respective directors, officers, managers, employees or agents, with respect to any or all of the Debtor Liabilities or any or all of the Guarantor Liabilities;

- (d) any non-compliance with or contravention by the Guarantor of any provision of any corporate statute applicable to the Guarantor relative to guarantees or other financial assistance given by the Guarantor;
- (e) any impossibility, impracticability, frustration of purpose, force majeure or act of Governmental Authority with respect to the performance of any of the Debtor Liabilities or Guarantor Liabilities;
- (f) any Insolvency Proceeding affecting, or the financial condition of, the Debtor, the Guarantor or the Creditor at any time;
- (g) any law, regulation, limitation or prescription period or other circumstance that might otherwise be a defence available to, or a discharge of, the Debtor or the Guarantor in respect of any or all of the Debtor Liabilities or any or all of the Guarantor Liabilities;
- (h) any loss of, or in respect of, any Security by or on behalf of the Creditor from the Debtor or the Guarantor, whether occasioned through the fault of the Creditor or otherwise;
- (i) any loss or impairment of any right of the Guarantor for subrogation, reimbursement or contribution, whether or not as a result of any action taken or omitted to be taken by the Creditor; or
- (j) any other matter, act, omission, circumstance, development or thing of any and every nature, kind and description whatsoever, whether similar or dissimilar to the foregoing (other than the due payment and performance in full of the Debtor Liabilities and the Guarantor Liabilities) that might in any manner (but for the operation of this Section) operate (whether by statute, at law, in equity or otherwise) to release, discharge, diminish, limit, restrict or in any way affect the liability of, or otherwise provide a defence to, a guarantor, a surety, or a principal debtor, even if known by the Creditor.

5. Dealing with Debtor Liabilities. Without limiting the generality of Section 3, the Guarantor Liabilities shall remain fully effective and enforceable against the Guarantor and shall not be released, exonerated, discharged, diminished, subjected to defence, limited or in any way affected by, and the rights and remedies of the Creditor under this Agreement shall not in any way be diminished or prejudiced by, and the Guarantor hereby consents to or waives, as applicable, to the fullest extent permitted by applicable Law:

- (a) any amendment, alteration, novation or variation in any manner and to any extent (and irrespective of the effect of the same on the Guarantor) of any of the Debtor

Liabilities, any Security or the Creditor's arrangements or agreements with the Debtor;

- (b) any limitation, compromise, subordination, postponement or abandonment of any of the Debtor Liabilities, any of the Guarantor Liabilities, any Security or the Creditor's arrangements or agreements with the Debtor;
- (c) any grant of time, renewal, extension, indulgence, release, discharge or other course of conduct by the Creditor to the Debtor;
- (d) the creation of any new or additional Debtor Liabilities, the increase or reduction of the rate of interest on any or all of the Debtor Liabilities or any other rates or fees payable under or in respect of any or all of the Debtor Liabilities;
- (e) any alteration, settlement, compromise, acceleration, extension or change in the time or manner for payment or performance by the Debtor made or permitted by the Creditor of any or all of the Debtor Liabilities;
- (f) the Creditor taking or abstaining from taking Security from the Debtor or abstaining from completing, perfecting or maintaining the perfection of any Security;
- (g) the Creditor releasing, substituting or adding one or more sureties or endorsers, accepting additional or substituted Security, or releasing, subordinating or postponing any Security;
- (h) the Creditor accepting compromises from the Debtor;
- (i) the creation or addition of any new Transaction Documents;
- (j) the Creditor doing, or omitting to do, anything to enforce the payment or performance of any or all of the Debtor Liabilities or any Security;
- (k) the Creditor giving or refusing to give or continuing to give any credit or any financial accommodation to the Debtor;
- (l) the Creditor proving any claim in any Insolvency Proceeding affecting the Debtor, as it sees fit or refraining from proving any claim or permitting or suffering the impairment of any of the Debtor Liabilities in any such Insolvency Proceeding; making any election in any such Insolvency Proceeding; permitting or suffering the creation of secured or unsecured credit or debt in any such Insolvency Proceeding; or permitting or suffering the disallowance, avoidance, or subordination of any of the Debtor Liabilities or the obligations of any other debtor with respect to the Debtor Liabilities in any such Insolvency Proceeding;
- (m) the Creditor applying any money received from the Debtor or any Security upon such part of the Debtor Liabilities as the Creditor may see fit or changing any such application in whole or in part from time to time as the Creditor may see fit; or

- (n) the Creditor otherwise dealing with the Debtor, the Debtor Liabilities, and all Security as the Creditor may see fit.

6. Settlement of Accounts. Any account settled or stated between the Creditor and the Debtor shall be accepted by the Guarantor as *prima facie* evidence that the amount thereby appearing due by the Debtor to the Creditor is so due.

7. Indemnity. If any or all of the Debtor Liabilities are not duly paid or performed by the Debtor and are not paid or performed by the Guarantor under Section 2 for any reason whatsoever, the Guarantor shall, as a separate and distinct obligation, indemnify and save the Creditor harmless from and against all losses, costs, damages, expenses, claims and liabilities that the Creditor may suffer or incur in connection with or in respect of any failure by the Debtor for any reason to pay or perform any of the Debtor Liabilities, and shall pay all such amounts to the Creditor after demand as herein provided.

8. Guarantor Liable as Principal Debtor. If, and to the extent that, any amount in respect of the Debtor Liabilities is not recoverable from the Guarantor under this Agreement on the basis of a guarantee or the Creditor is not indemnified under Section 7, in each case, for any reason whatsoever, then, notwithstanding any other provision of this Agreement, the Guarantor shall be liable under this Agreement as principal obligor in respect of the due payment of such amount and shall pay such amount to the Creditor after demand as herein provided.

9. Continuing Guarantee. This Agreement is a continuing guarantee and is binding as a continuing obligation of the Guarantor and the Debtor Liabilities shall be conclusively presumed to have been created in reliance on this Agreement. The Guarantor may not in any manner terminate this Agreement or the Guarantor Liabilities other than by the due and punctual payment in full of the Guarantor Liabilities.

10. Stay of Acceleration. If acceleration of the time for payment, or the liability of the Debtor to make payment, of any amount specified to be payable by the Debtor in respect of the Debtor Liabilities is stayed, prohibited or otherwise affected upon any Insolvency Proceeding or other event affecting the Debtor or payment of any of the Debtor Liabilities by the Debtor, all such amounts otherwise subject to acceleration or payment shall nonetheless be deemed for all purposes of this Agreement to be and to have become due and payable by the Debtor and shall be payable by the Guarantor under this Agreement immediately forthwith on demand by the Creditor.

11. Debtor Information. The Guarantor acknowledges and agrees that the Guarantor has not executed this Agreement as a result of, by reason of, or in reliance upon, any promise, representation, statement or information of any kind or nature whatsoever given, or offered to the Guarantor, by or on behalf of the Creditor or any other Person whether in answer to any enquiry by or on behalf of the Guarantor or not and the Creditor was not prior to the execution by the Guarantor of this Agreement, and is not thereafter, under any duty to disclose to the Guarantor or any other Person any information, matter or thing (material or otherwise) relating to the Debtor, its affairs or its transactions with the Creditor, including any information, matter or thing which puts or may put the Debtor in a position which the Guarantor would not naturally expect or any unexpected facts or unusual features which, whether known or unknown to the Guarantor, are present in any transaction between the Debtor and the Creditor, and the Creditor was not and is

not under any duty to do or execute any matter, thing or document relating to the Debtor, its affairs or its transactions with the Creditor. The Guarantor acknowledges and confirms that it has established its own adequate means of obtaining from the Debtor on a continuing basis all information desired by the Guarantor concerning the financial condition of the Debtor and that the Guarantor will look to the Debtor, and not to the Creditor, in order for the Guarantor to keep adequately informed of changes in the Debtor's financial condition.

12. Reinstatement. If, at any time, all or any part of any payment previously applied by the Creditor to any of the Debtor Liabilities is or must be rescinded or returned by the Creditor for any reason whatsoever (including any Insolvency Proceeding affecting the Debtor or any other Person), such Debtor Liabilities shall, for the purpose of this Agreement, to the extent that such payment is or must be rescinded or returned, be deemed to have continued in existence, notwithstanding such application by the Creditor, and this Agreement shall continue to be effective or be reinstated, as the case may be, as to such Debtor Liabilities, all as though such application by the Creditor had not been made.

13. Subrogation. Notwithstanding any payment made by the Guarantor under this Agreement or any setoff or application of funds of the Guarantor by the Creditor, the Guarantor shall have no right of subrogation to, and waives, any right to enforce any remedy which the Creditor now has or may hereafter have against the Debtor, until all of the Debtor Liabilities have been indefeasibly paid in full; and until that time, the Guarantor waives any benefit of, and any right to participate in, any Security now or hereafter held by the Creditor for the Debtor Liabilities.

14. Insolvency Proceedings. In any Insolvency Proceeding affecting the Debtor, the Creditor shall have the right, in priority to the Guarantor, to receive its full claim in respect of such Insolvency Proceeding for all of the Debtor Liabilities. The Creditor shall have the right to include in its claim in any Insolvency Proceeding affecting the Debtor all or any part of the payments made by the Guarantor under this Agreement and, to prove and rank for, and receive dividends in respect of, all such claims, all of which rights and privileges as they relate and apply to the Guarantor are hereby assigned by the Guarantor to the Creditor. The provisions of this Section shall be sufficient authority for any Person making payment of any such dividends to pay the same directly to the Creditor for the benefit of the Creditor. The Creditor shall be entitled to receive for its benefit all dividends or other payments in respect of all of the above referenced claims until all of the Debtor Liabilities are paid and satisfied in full and the Guarantor shall continue to be liable under this Agreement for any unpaid balance of the Debtor Liabilities. If any amount is paid to the Guarantor under any Insolvency Proceeding affecting the Debtor when any of the Debtor Liabilities remain outstanding, such amount shall be received and held in trust by the Guarantor for the benefit of the Creditor and shall be immediately paid to the Creditor to be credited and applied against the Guarantor Liabilities. In any Insolvency Proceeding affecting the Debtor the Creditor may in its discretion value as it sees fit, acting reasonably, or may refrain from valuing, any Security held by or for the benefit of it.

15. Marshalling. The Guarantor waives to the fullest extent permitted by applicable Law, any right or claim of right to cause a marshalling of the Debtor's assets, or to cause the Creditor to proceed against the Debtor or any other Person, or any Security, in any particular order. The Creditor shall not have any obligation to marshal any assets in favour of the Debtor or any other

Person or against or in payment of any of the Debtor Liabilities or any of the obligations of the Guarantor, the Debtor or any other Person owed to the Creditor.

16. Enforcing Rights Against Guarantor. This is a guarantee of payment and performance and not of collection. The Creditor shall not be required to take any action or to exhaust its recourse against the Debtor or any other Person, or to enforce or value any Security, before being entitled to payment from, and to enforce its rights and remedies against, the Guarantor under this Agreement. The Guarantor hereby renounces to the benefits of division and discussion.

17. Foreign Currency Guarantor Liabilities. The Guarantor shall make payment relative to any Debtor Liabilities in the currency (the "**Original Currency**") in which the Debtor is required to pay such Debtor Liabilities. If the Guarantor makes payment relative to any Debtor Liabilities in a currency (the "**Other Currency**") other than the Original Currency (whether voluntarily or pursuant to an order or judgment of a court or tribunal of any jurisdiction), such payment shall constitute a discharge of the Guarantor Liabilities only to the extent of the amount of the Original Currency which the Creditor is able to purchase at Toronto, Ontario with the amount it receives on the date of receipt. If the amount of the Original Currency which the Creditor is able to purchase is less than the amount of such currency originally due to it in respect to the relevant Debtor Liabilities, the Guarantor shall indemnify and save the Creditor harmless from and against any loss or damage arising as a result of such deficiency. This indemnity constitutes an obligation separate and independent from the other obligations contained in this Agreement, gives rise to a separate and independent cause of action, applies irrespective of any indulgence granted by the Creditor and continues in full force and effect notwithstanding any judgment or order in respect of any amount due hereunder or under any judgment or order.

18. Taxes and Set-Off. All payments to be made by the Guarantor hereunder shall be made without set-off, compensation, deduction or counterclaim and without deduction for any taxes, levies, duties, fees, deductions, withholdings, restrictions or conditions of any nature whatsoever. If at any time any applicable Law requires the Guarantor to make any such deduction or withholding from any such payment, the sum due from the Guarantor with respect to such payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Creditor receives a net sum equal to the sum which it would have received had no deduction or withholding been required.

19. Representations and Warranties. The Guarantor represents and warrants, upon each of which representations and warranties the Creditor relies, that each of the representations and warranties relative to the Guarantor in each of the other Transaction Documents is true and correct when made or deemed made.

20. Covenants. The Guarantor shall comply, and shall cause each of its subsidiaries to comply, with all of the provisions, covenants and agreements contained in each of the Transaction Documents to the extent that such provisions, covenants and agreements apply to the Guarantor or its subsidiaries and shall, and shall cause each of its subsidiaries to, take, or refrain from taking, as the case may be, all actions that are necessary to be taken or not taken so that no violation of any provision, covenant or agreement contained in any of the Transaction Documents, and so that no Default or Event of Default under any of the Transaction Documents, is caused by the actions or inactions of the Guarantor or any of its subsidiaries.

21. Communication. Any notice or other communication required or permitted to be given under this Agreement shall be made in accordance with the terms of the NPA.

22. Expenses; Indemnity; Waiver.

- (a) The Guarantor shall pay to the Creditor (i) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and all applicable taxes, in connection with the preparation and administration of this Agreement, (ii) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and applicable taxes, in connection with any amendments, modifications or waivers of the provisions hereof, and (iii) all out-of-pocket expenses incurred by the Creditor, including the fees, charges and disbursements of any counsel for the Creditor and all applicable taxes, in connection with the assessment, enforcement or protection of their rights in connection with this Agreement, including their rights under this Section, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of the Guarantor Liabilities.
- (b) The Guarantor shall indemnify the Creditor against, and hold the Creditor harmless from, any and all losses, claims, cost recovery actions, damages, expenses and liabilities of whatsoever nature or kind and all reasonable out-of-pocket expenses and all applicable taxes to which the Creditor may become subject arising out of or in connection with (i) the execution or delivery of this Agreement and the performance by the Guarantor of its obligations hereunder, (ii) any actual claim, litigation, investigation or proceeding relating to this Agreement or the Guarantor Liabilities, whether based on contract, tort, delict or any other theory and regardless of whether the Creditor is a party thereto, (iii) any other aspect of this Agreement, or (iv) the enforcement of the Creditor's rights hereunder and any related investigation, defence, preparation of defence, litigation and enquiries; provided that such indemnity shall not, as to the Creditor, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence (it being acknowledged that ordinary negligence does not necessarily constitute gross negligence) or wilful misconduct of or material breach of this Agreement by the Creditor.
- (c) The Guarantor shall not assert, and hereby waives, any claim against the Creditor (or any director, officer or employee thereof), on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement. The Guarantor irrevocably renounces any rights it may have to be released from this Agreement under Article 2362 of the *Civil Code of Québec* and agrees to renew its guarantee hereunder at the request of the Creditor by executing such documents as the Creditor may request from time to time.

- (d) All amounts due under this Section shall be payable to the Creditor for the benefit of the Creditor not later than three Business Days after written demand therefor.
- (e) The indemnifications set out in this Agreement shall survive the payout of the Debtor Liabilities and the Guarantor Liabilities.

23. Additional Security. This Agreement is in addition to, and not in substitution of, any and all other Security previously or concurrently delivered by the Guarantor or any other Person to the Creditor, all of which other Security shall remain in full force and effect.

24. Alteration. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Creditor.

25. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

26. Set-off. If an Event of Default shall have occurred and be continuing, the Creditor is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Law, to set-off, compensate against or combine and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by the Creditor or any of its Affiliates and other obligations at any time owing by the Creditor or any of its Affiliates to or for the credit or the account of the Guarantor against or with any or all of the Guarantor Liabilities, irrespective of whether or not the Creditor shall have made any demand under any Transaction Document and although such obligations may be unmatured. The rights of the Creditor under this Section are in addition to other rights and remedies (including other rights of set-off or combination) which the Creditor may have.

27. Governing Law; Attornment. This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario. Without prejudice to the ability of the Creditor to enforce this Agreement in any other proper jurisdiction, the Guarantor irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of Ontario. To the extent permitted by applicable Law, the Guarantor irrevocably waives any objection (including any claim of inconvenient forum) that it may now or hereafter have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of Ontario. The Guarantor hereby irrevocably consents to the service of any and all process in any such action or proceeding by the delivery of copies of such process to the Guarantor at the address as provided for pursuant to Section 21. Nothing in this Section affects the right of the Creditor to serve process in any manner permitted by applicable Law. In any legal proceeding relating to this Agreement, the Guarantor agrees not to assert that the Commodity Exchange Act applies to this Agreement or any Swap Obligation.

28. Time. Time is of the essence with respect to this Agreement and the time for performance of the obligations of the Guarantor under this Agreement may be strictly enforced by the Creditor. The limitation period applicable to any proceeding relating to a claim under, in connection with,

or with respect to this Agreement shall be solely as prescribed in sections 15-17 of the *Limitations Act, 2002 (Ontario)*, and any other limitation period in respect of such claim (including that provided for in section 4 of the *Limitations Act, 2002 (Ontario)*) is extended accordingly.

29. Interpretation. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “or” is disjunctive; the word “and” is conjunctive. The word “shall” is mandatory; the word “may” is permissive. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented, restated or otherwise modified (subject to any restrictions on such amendments, supplements, restatements or modifications set out herein), (b) any reference herein to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, replaced or re-enacted from time to time, (c) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (e) all references herein to Sections and Schedules shall be construed to refer to Sections and Schedules to, this Agreement. Section headings are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement. In accordance with the *Property Law Act (British Columbia)*, the doctrine of consolidation applies to this Agreement.

30. Successors and Assigns. This Agreement shall enure to the benefit of, and be binding on, the Guarantor and its successors and assigns, and shall enure to the benefit of, and be binding on, the Creditor and its successors and assigns. The Guarantor may not assign this Agreement, or any of its rights or obligations under this Agreement. The Creditor may assign this Agreement and any of their rights and obligations hereunder to any Person that replaces it in its capacity as such. If the Guarantor or the Creditor is an individual, then the term “Guarantor” or “Creditor”, as applicable, shall also include his or her heirs, administrators and executors.

31. Acknowledgment of Receipt. The Guarantor acknowledges receipt of an executed copy of this Agreement.

32. Paramountcy. In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the NPA then, notwithstanding anything contained in this Agreement, the provisions contained in the NPA shall prevail to the extent of such conflict or inconsistency and the provisions of this Agreement shall be deemed to be amended to the extent necessary to eliminate such conflict or inconsistency, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to the Creditor under the NPA. If any act or omission of the Guarantor is expressly permitted under the NPA but is expressly prohibited under this Agreement, such act or omission shall be permitted. If any act or omission is expressly prohibited under this Agreement, but the NPA does not expressly permit such act or omission, or if any act is expressly required to be performed under this Agreement but the NPA does not expressly relieve the Guarantor from such performance, such circumstance shall not

constitute a conflict or inconsistency between the applicable provisions of this Agreement and the provisions of the NPA.

33. Transaction Document. The Guarantor acknowledges and agrees that this Agreement shall constitute a “Transaction Document”.

34. Electronic Signature. Delivery of an executed signature page to this Agreement by the Guarantor by facsimile or other electronic form of transmission shall be as effective as delivery by the Guarantor of a manually executed copy of this Agreement by the Guarantor.

[signatures on the next following page]

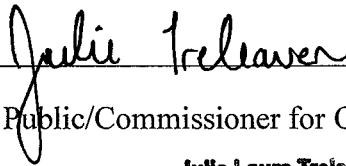
S-1

IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

1263343 ALBERTA INC.

DocuSigned by:
By: Merren McArthur
Name: A6A388A842874BB... Merren McArthur
Title: CEO and President

This is **Exhibit "24"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

Execution Version

GENERAL SECURITY AGREEMENT

This General Security Agreement is made as of February 24, 2023.

TO: Indigo Northern Ventures LP

RECITALS:

A. **Lynx Air Holdings Corporation and 1263343 Alberta Inc. (doing business as Lynx Air)** (each a “**Debtor**” and collectively, the “**Debtors**”) are, or may become, indebted or liable to Indigo Northern Ventures LP (and any Person to whom Indigo Northern Ventures LP has transferred any Notes (as defined in the NPA which, in turn, is defined below) in accordance with the NPA (collectively, the “**Creditor**”) pursuant to the terms of a bridge note purchase agreement dated as of February 24, 2023 (as amended, supplemented, restated or replaced from time to time, the “**NPA**”) or otherwise.

B. To secure the payment and performance of its Secured Liabilities, each Debtor has agreed to grant to the Creditor the Security Interests with respect to its Collateral in accordance with the terms of this Agreement.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by each Debtor, each Debtor severally (and not jointly or jointly and severally) agrees with and in favour of the Creditor as follows:

1. **Definitions.** In this Agreement capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in the NPA, and the following terms have the following meanings:

“**Accessions**”, “**Account**”, “**Certificated Security**”, “**Chattel Paper**”, “**Consumer Goods**”, “**Document of Title**”, “**Equipment**”, “**Futures Account**”, “**Futures Contract**”, “**Futures Intermediary**”, “**Goods**”, “**Instrument**”, “**Intangible**”, “**Inventory**”, “**Investment Property**”, “**Money**”, “**Proceeds**”, “**Securities Account**”, “**Securities Intermediary**”, “**Security**”, “**Security Certificate**”, “**Security Entitlement**”, and “**Uncertificated Security**” have the meanings given to them in the PPSA.

“**Agreement**” means this agreement, including the Exhibits and recitals to this agreement, the Supplements and the Schedules, as it or they may be amended, supplemented, restated or replaced from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement.

“**Books and Records**” means, with respect to any Debtor, all books, records, files, papers, disks, documents and other repositories of data recording in any form or medium, evidencing or relating to the Personal Property of such Debtor which are at any time owned by such Debtor or to which such Debtor (or any Person on such Debtor’s behalf) has access.

“**Collateral**” means, with respect to any Debtor, all of the present and future:

- (a) undertaking;
- (b) Personal Property (including any Personal Property that may be described in any Schedule to this Agreement or any schedules, documents or listings that such Debtor may from time to time provide to the Creditor in connection with this Agreement); and
- (c) real property (including any real property that may be described in any Schedule to this Agreement or any schedules, documents or listings that such Debtor may from time to time provide to the Creditor in connection with this Agreement and including all fixtures, improvements, buildings and other structures placed, installed or erected from time to time on any such real property),

of such Debtor, including Books and Records, Contracts, Intellectual Property Rights and Permits, and including all such property in which such Debtor now or in the future has any right, title or interest whatsoever, whether owned, leased, licensed, possessed or otherwise held by such Debtor, and all Proceeds of any of the foregoing, wherever located.

“**Contracts**” means, with respect to any Debtor, all contracts and agreements to which such Debtor is at any time a party or pursuant to which such Debtor has at any time acquired rights, and includes (i) all rights of such Debtor to receive money due and to become due to it in connection with a contract or agreement, (ii) all rights of such Debtor to damages arising out of, or for breach or default with respect to, a contract or agreement, and (iii) all rights of such Debtor to perform and exercise all remedies in connection with a contract or agreement.

“**Control**” means, with respect to a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlled**” has the corresponding meaning.

“**Control Person**” means a “control person”, as such term is defined under applicable Canadian securities laws.

“**Creditor**” has the meaning set out in the recitals hereto.

“**Debtors**” means the Persons delivering a signature page to this Agreement and any other Person which hereafter delivers a Supplement, and “**Debtor**” means any one of them.

“**Event of Default**” means any “Event of Default” as defined in the NPA.

“**Exhibits**” means the exhibits to this Agreement.

“**Governmental Authority**” means the government of Canada, any other nation or any political subdivision thereof, whether provincial, state, territorial or local, and any agency, authority, instrumentality, regulatory body, court, central bank, fiscal or monetary authority or other authority regulating financial institutions, and any other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government,

including the Bank Committee on Banking Regulation and Supervisory Practices of the Bank of International Settlements.

“Intellectual Property Rights” means, with respect to any Debtor, all industrial and intellectual property rights of such Debtor or in which such Debtor has any right, title or interest, including copyrights, patents, inventions (whether or not patented), trade-marks, get-up and trade dress, industrial designs, integrated circuit topographies, plant breeders’ rights, know how and trade secrets, registrations and applications for registration for any such industrial and intellectual property rights, and all Contracts related to any such industrial and intellectual property rights.

“Issuer” has the meaning given to that term in the STA.

“Laws” means all federal, provincial, municipal, foreign and international statutes, acts, codes, ordinances, decrees, treaties, rules, regulations, municipal by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards or any provisions of the foregoing, including general principles of common and civil law and equity, and all policies, practices and guidelines of any Governmental Authority binding on or affecting the Person referred to in the context in which such word is used (including, in the case of tax matters, any accepted practice or application or official interpretation of any relevant taxation authority); and **“Law”** means any one or more of the foregoing.

“Lien” means, (a) with respect to any asset, any mortgage, deed of trust, lien, pledge, hypothec (whether movable or immovable), hypothecation, encumbrance, charge, security interest, royalty interest, adverse claim, defect to title or right of set off in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, title retention agreement or consignment agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to any asset, (c) any purchase option, call or similar right of a third party with respect to such asset, (d) any netting arrangement, defeasance arrangement or reciprocal fee arrangement, and (e) any other arrangement having the effect of providing security.

“NPA” has the meaning set out in the recitals hereto.

“Organizational Documents” means, with respect to any Person, such Person’s articles or other charter documents, by-laws, unanimous shareholder agreement, partnership agreement or trust agreement, as applicable, and any and all other similar agreements, documents and instruments relative to such Person.

“Permits” means, with respect to any Debtor, all permits, licences, waivers, exemptions, consents, certificates, authorizations, approvals, franchises, rights-of-way, easements and entitlements that such Debtor has, requires or is required to have, to own, possess or operate any of its property or to operate and carry on any part of its business.

“Permitted Liens” means the Security Interests of all Debtors, all liens and other security contemplated by Section 3.3 of Schedule 13 to the NPA, and all other Liens permitted in writing by the Creditor.

“Personal Property” means personal property and includes Accounts, Chattel Paper, Documents of Title, Equipment, Goods, Instruments, Intangibles, Inventory, Investment Property and Money.

“Pledged Certificated Securities” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Certificated Security.

“Pledged Futures Contracts” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Futures Contract.

“Pledged Futures Accounts” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Futures Account.

“Pledged Futures Intermediary” means, at any time, any Person which is at such time a Futures Intermediary at which a Pledged Futures Account is maintained.

“Pledged Futures Intermediary’s Jurisdiction” means, with respect to any Pledged Futures Intermediary, its jurisdiction as determined under section 7.1(4) of the PPSA.

“Pledged Issuer” means, with respect to any Debtor at any time, any Person which is an Issuer of, or with respect to, any Pledged Shares of such Debtor at such time.

“Pledged Issuer’s Jurisdiction” means, with respect to any Pledged Issuer, its jurisdiction as determined under section 44 of the STA.

“Pledged Securities” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Security.

“Pledged Securities Accounts” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Securities Account.

“Pledged Securities Intermediary” means, at any time, any Person which is at such time a Securities Intermediary at which a Pledged Securities Account is maintained.

“Pledged Securities Intermediary’s Jurisdiction” means, with respect to any Securities Pledged Securities Intermediary, its jurisdiction as determined under section 45(2) of the STA.

“Pledged Security Certificates” means, with respect to any Debtor, any and all Security Certificates of such Debtor representing the Pledged Certificated Securities.

“Pledged Security Entitlements” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Security Entitlement.

“Pledged Shares” means, with respect to any Debtor, all Pledged Securities and Pledged Security Entitlements of such Debtor.

“Pledged Uncertificated Securities” means, with respect to any Debtor, any and all Collateral of such Debtor that is an Uncertificated Security.

“**PPSA**” means the *Personal Property Security Act* (Ontario), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

“**Receiver**” means an interim receiver, a receiver, a manager or a receiver and manager.

“**Release Date**” means the date on which all the Secured Liabilities of each Debtor have been indefeasibly paid and discharged in full and the Creditor has no further obligations under the Transaction Documents pursuant to which further Secured Liabilities of any Debtor might arise.

“**Reporting Pledged Issuer**” means a Pledged Issuer that is a “reporting issuer”, as such term is defined under applicable Canadian securities laws.

“**Secured Liabilities**” means, with respect to any Debtor, all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of such Debtor to the Creditor under, in connection with or with respect to the Transaction Documents, and any unpaid balance thereof.

“**Schedules**” means the schedules to this Agreement.

“**Security Interests**” means, with respect to any Debtor, the Liens created by such Debtor in favour of the Creditor under this Agreement.

“**STA**” means the *Securities Transfer Act, 2006* (Ontario), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

“**Subsidiary**” means, with respect to any Person (the “**parent**”) at any date, any other Person (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more Subsidiaries of the parent or by the parent and one or more Subsidiaries of the parent.

“**Supplement**” has the meaning given to that term in Section 35.

“**ULC**” means an Issuer that is an unlimited company, unlimited liability corporation or unlimited liability company.

“**ULC Laws**” means the *Companies Act* (Nova Scotia), the *Business Corporations Act* (Alberta), the *Business Corporations Act* (British Columbia), and any other present or future Laws governing ULCs.

“**ULC Shares**” means shares or other equity interests in the capital stock of a ULC.

“**Voting or Equity Securities**” means (a) any “security” (as defined under applicable Canadian securities laws), other than a bond, debenture, note or similar instrument representing

indebtedness (whether secured or unsecured), of an issuer carrying a voting right either under all circumstances or under some circumstances that have occurred and are continuing or (b) a security of an issuer that carries a residual right to participate in the earnings of the issuer and, on liquidation or winding up of the issuer, in its assets.

2. **Grant of Security Interests.** As general and continuing collateral security for the due payment and performance of its Secured Liabilities, each Debtor pledges, mortgages, charges and assigns (by way of security) to the Creditor, and grants to the Creditor a security interest in, the Collateral of such Debtor.

3. **Limitations on Grant of Security Interests.** If the grant of the Security Interests with respect to any Contract, Intellectual Property Right or Permit under Section 2 would result in the termination or breach of such Contract, Intellectual Property Right or Permit, or is otherwise prohibited or ineffective (whether by the terms thereof or under applicable Law), then such Contract, Intellectual Property Right or Permit shall not be subject to the Security Interests but shall be held in trust by the applicable Debtor for the benefit of the Creditor and, on the exercise by the Creditor of any of its rights or remedies under this Agreement following an Event of Default shall be assigned by such Debtor as directed by the Creditor; provided that: (a) the Security Interests of such Debtor shall attach to such Contract, Intellectual Property Right or Permit, or applicable portion thereof, immediately at such time as the condition causing such termination or breach is remedied, and (b) if a term in a Contract that prohibits or restricts the grant of the Security Interests in the whole of an Account or Chattel Paper forming part of the Collateral is unenforceable against the Creditor under applicable Law, then the exclusion from the Security Interests set out above shall not apply to such Account or Chattel Paper. In addition, the Security Interests do not attach to Consumer Goods or extend to the last day of the term of any lease or agreement for lease of real property. Such last day shall be held by the applicable Debtor in trust for the Creditor and, on the exercise by the Creditor of any of its rights or remedies under this Agreement following an Event of Default, shall be assigned by such Debtor as directed by the Creditor. For greater certainty, no Intellectual Property Right in any trademark, get-up or trade dress is presently assigned to the Creditor by sole virtue of the grant of the Security Interests contained in Section 2.

4. **Attachment; No Obligation to Advance.** Each Debtor confirms that value has been given by the Creditor to such Debtor, that such Debtor has rights in its Collateral existing at the date of this Agreement or the date of any Supplement, as applicable, and that such Debtor and the Creditor have not agreed to postpone the time for attachment of the Security Interests to any of the Collateral of such Debtor. The Security Interests with respect to the Collateral of each Debtor created by this Agreement shall have effect and be deemed to be effective whether or not the Secured Liabilities of such Debtor or any part thereof are owing or in existence before or after or upon the date of this Agreement or the date of any Supplement, as applicable. Neither the execution and delivery of this Agreement or any Supplement nor the provision of any financial accommodation by the Creditor shall oblige the Creditor to make any financial accommodation or further financial accommodation available to any Debtor or any other Person.

5. **Representations and Warranties.** Each Debtor represents and warrants to the Creditor that, as of the date of this Agreement or the date of any Supplement, as applicable:

- (a) Debtor Information. All of the information set out in the Schedules and Supplements, as applicable, with respect to such Debtor is accurate and complete.
- (b) Title; No Other Security Interests. Except for Permitted Liens, such Debtor owns (or, with respect to any leased or licensed property forming part of the Collateral of such Debtor, holds a valid leasehold or licensed interest in) its Collateral free and clear of any Liens. Such Debtor is the record and beneficial owner of the Pledged Shares. No security agreement, financing statement or other notice with respect to any or all of the Collateral of such Debtor is on file or on record in any public office, except for filings with respect to Permitted Liens.
- (c) Amount of Accounts. The amount represented by such Debtor to the Creditor from time to time as owing by each account debtor or by all account debtors with respect to its Accounts of such Debtor will at such time be the correct amount so owing by such account debtor or debtors and, unless disclosed in writing by such Debtor to the Creditor at that time, will be owed free of any dispute, set-off or counterclaim. Except as disclosed in writing by such Debtor to the Creditor, neither such Debtor nor (to the best of such Debtor's knowledge) any other party to any Account of such Debtor or Contract of such Debtor is in default or is likely to become in default in the performance or observance of any of the terms of such Account or Contract where such default is or could reasonably be expected to be materially adverse to such Debtor or the Creditor.
- (d) Authority. Such Debtor has full power and authority to grant to the Creditor the Security Interests granted by such Debtor and to execute, deliver and perform its obligations under this Agreement, and such execution, delivery and performance does not contravene any of such Debtor's Organizational Documents or any agreement, instrument or restriction to which such Debtor is a party or by which such Debtor or any of its Collateral is bound.
- (e) Consents and Transfer Restrictions.
- (i) Except for any consent that has been obtained and is in full force and effect, no consent of any Person (including any counterparty with respect to any Contract, any account debtor with respect to any Account, or any Governmental Authority with respect to any Permit) is required, or is purported to be required, for the execution, delivery, performance and enforcement of this Agreement (this representation being given without reference to the exclusions contained in Section 3). For the purposes of complying with any transfer restrictions contained in the Organizational Documents of any Pledged Issuer, such Debtor hereby irrevocably consents to any transfer of such Debtor's Pledged Securities of such Pledged Issuer.
- (ii) (A) No order ceasing or suspending trading in, or prohibiting the transfer of the Pledged Shares has been issued and no proceedings for this purpose have been instituted, nor does such Debtor have any reason to

believe that any such proceedings are pending, contemplated or threatened and (B) the Pledged Shares are not subject to any escrow or other agreement, arrangement, commitment or understanding, prohibiting the transfer of the Pledged Shares, including pursuant to applicable Canadian securities laws or the rules, regulations or policies of any marketplace on which the Pledged Shares are listed, posted or traded.

- (f) Execution and Delivery. This Agreement has been duly authorized, executed and delivered by such Debtor and is a valid and binding obligation of such Debtor enforceable against such Debtor in accordance with its terms, subject only to bankruptcy, insolvency, liquidation, reorganization, moratorium and other similar Laws generally affecting the enforcement of creditors' rights, and to the fact that equitable remedies (such as specific performance and injunction) are discretionary remedies.
- (g) No Consumer Goods. Such Debtor does not own any Consumer Goods which are material in value or which are material to the business, operations, property, condition or prospects (financial or otherwise) of such Debtor.
- (h) Intellectual Property Rights. All registrations and applications for registration pertaining to any Intellectual Property Rights of such Debtor, all other material Intellectual Property Rights of such Debtor, and the nature of such Debtor's right, title or interest therein, are described in the Schedules and Supplements as applicable, with respect to such Debtor. Each Intellectual Property Right of such Debtor is valid, subsisting, unexpired, enforceable, and has not been abandoned. In the case of copyright works of such Debtor, such Debtor has obtained full and irrevocable waivers of all moral rights or similar rights pertaining to such works. Except as set out in the Schedules and Supplements, as applicable, none of the Intellectual Property Rights of such Debtor have been licensed or franchised by such Debtor to any Person or, to the best of such Debtor's knowledge, infringed or otherwise misused by any Person. Except as set out in the Schedules and Supplements, as applicable, the exercise of any Intellectual Property Right of such Debtor, or any licensee or franchisee thereof, has not infringed or otherwise misused any intellectual property right of any other Person, and such Debtor has not received and is not aware of any claim of such infringement or other misuse.
- (i) Partnerships, Limited Liability Companies. The terms of any interest in a partnership or limited liability company that is Collateral of such Debtor expressly provide that such interest is a "security" for the purposes of the STA.
- (j) Due Authorization. The Pledged Securities of such Debtor have been duly authorized and validly issued and are fully paid and non-assessable.
- (k) Warrants, Options, etc. There are no outstanding warrants, options or other rights to purchase, or other agreements outstanding with respect to, or property that is

now or hereafter convertible into, or that requires the issuance or sale of, any Pledged Shares of such Debtor.

- (1) **No Required Disposition**. There is no existing agreement, option, right or privilege capable of becoming an agreement or option pursuant to which such Debtor would be required to sell, redeem or otherwise dispose of any Pledged Shares of such Debtor or under which any Pledged Issuer has any obligation to issue any Securities of such Pledged Issuer to any Person.

6. **Survival of Representations and Warranties**. All representations and warranties made by each Debtor in this Agreement (a) are material, (b) shall be considered to have been relied on by the Creditor, and (c) shall survive the execution and delivery of this Agreement and any Supplement or any investigation made at any time by or on behalf of the Creditor and any disposition or payment of the Secured Liabilities until the Release Date.

7. **Covenants**. Each Debtor covenants and agrees with the Creditor that:

- (a) **Further Documentation**. Such Debtor shall from time to time, at the expense of such Debtor, promptly and duly authorize, execute and deliver such further instruments and documents, and take such further action, as the Creditor may reasonably request for the purpose of obtaining or preserving the full benefits of, and the rights and powers granted by, this Agreement (including the filing of any financing statements or financing change statements under any applicable legislation with respect to the Security Interests). In addition, upon the acquisition of interest in any airframe or engine, such Debtor shall notify the Creditor of such acquisition and shall, at the expense of such Debtor, promptly and duly authorize, execute and deliver an aircraft security agreement in respect of such interest in the airframe and engine, in favour of the Creditor, in form and substance acceptable to the Creditor, acting reasonably.¹

Such Debtor acknowledges that this Agreement has been prepared based on the existing Laws in the Province referred to in the “Governing Law” section of this Agreement and that a change in such Laws, or the Laws of other jurisdictions, may require the execution and delivery of different forms of security documentation. Accordingly, such Debtor agrees that the Creditor shall have the right to require that this Agreement be amended, supplemented, restated or replaced, and that such Debtor shall immediately on request by the Creditor authorize, execute and deliver any such amendment, supplement, restatement or replacement (i) to reflect any changes in such Laws, whether arising as a result of statutory amendments, court decisions or otherwise, (ii) to facilitate the creation and registration of appropriate security in all appropriate jurisdictions, or (iii) if such Debtor merges or amalgamates with any other Person or enters into any corporate reorganization, in each case in order to confer on the Creditor Liens similar to, and having the same effect as, the Security Interests.

¹ NTD: It is our understanding that neither the Company nor the Guarantor own any aircraft or engines.

- (b) Maintenance of Records. Such Debtor shall keep and maintain accurate and complete records of the Collateral of such Debtor, including a record of all payments received and all credits granted with respect to the Accounts and Contracts of such Debtor. At the written request of the Creditor, such Debtor shall mark any Collateral of such Debtor specified by the Creditor to evidence the existence of the Security Interests.
- (c) Right of Inspection. The Creditor may, at all times during normal business hours, without charge, examine and make copies of all Books and Records, and may discuss the affairs, finances and accounts of such Debtor with its officers and accountants. The Creditor may also, without charge, enter the premises of such Debtor where any of the Collateral of such Debtor is located for the purpose of inspecting such Collateral, observing its use or otherwise protecting its interests in such Collateral. Such Debtor, at its expense, shall provide the Creditor with such clerical and other assistance as may be reasonably requested by the Creditor to exercise any of its rights under this paragraph. Notwithstanding the foregoing, the Creditor shall conduct such examinations, inspections and attendance at the premises of the Debtor in such a manner as to reasonably minimize the interruptions of the ordinary business operation of the Debtor.
- (d) Limitations on Other Liens. Such Debtor shall not create, incur or permit to exist, and shall defend the Collateral of such Debtor against, and shall take such other action as is necessary to remove, any and all Liens in and other claims affecting the Collateral of such Debtor, other than the Permitted Liens, and such Debtor shall defend the right, title and interest of the Creditor in and to the Collateral of such Debtor against the claims and demands of all Persons.
- (e) Limitations on Dispositions of Collateral. Such Debtor shall not, without the Creditor's prior written consent, sell, lease or otherwise dispose of any of its Collateral with a value (or for a price) in excess of US\$5,000,000, except that Inventory of such Debtor may be sold, leased or otherwise disposed of and, subject to the terms of this Agreement, Accounts of such Debtor may be collected, in either case in the ordinary course of such Debtor's business. Following an Event of Default, all Proceeds of the Collateral of such Debtor (including all amounts received with respect to Accounts) received by or on behalf of such Debtor, whether or not arising in the ordinary course of such Debtor's business, shall be received by such Debtor as trustee for the Creditor and shall be immediately paid to the Creditor.
- (f) Limitations on Modifications, Waivers, Extensions. Other than as not prohibited by paragraph (g) below, such Debtor shall not (i) amend, modify, terminate, permit to expire or waive any provision of any of such Debtor's Permits, Contracts or any documents giving rise to an Account in any manner which is or could reasonably be expected to be materially adverse to such Debtor or the Creditor, or (ii) fail to exercise promptly and diligently its rights under each of such Debtor's Contracts and documents giving rise to an Account if such failure

is or could reasonably be expected to be materially adverse to such Debtor or the Creditor.

- (g) Limitations on Discounts, Compromises, Extensions of Accounts. Other than in the ordinary course of business of such Debtor consistent with previous practices, such Debtor shall not (i) grant any extension of the time for payment of any Account of such Debtor, (ii) compromise, compound or settle any Account of such Debtor for less than its full amount, (iii) release, wholly or partially, any Person liable for the payment of any Account of such Debtor, or (iv) allow any credit or discount of any Account of such Debtor.
- (h) Maintenance of Collateral. Such Debtor shall maintain all tangible Collateral of such Debtor in good operating condition, ordinary wear and tear excepted, and such Debtor shall provide all maintenance, service and repairs necessary for such purpose. Such Debtor shall maintain in good standing all registrations and applications with respect to the Intellectual Property Rights of such Debtor except to the extent that any failure to do so could not reasonably be expected to be materially adverse to such Debtor or the Creditor.
- (i) Insurance. Such Debtor shall keep the Collateral of such Debtor insured with financially sound and reputable companies to its full insurable value against loss or damage by fire, explosion, theft and such other risks as are customarily insured against by Persons carrying on similar businesses or owning similar property within the vicinity in which such Debtor's applicable business or property is located. The applicable insurance policies shall be in form and substance satisfactory to the Creditor, and shall (i) provide that no cancellation, material reduction in amount or material change in coverage will be effective until at least 30 days after receipt of written notice thereof by the Creditor, and (ii) name the Creditor as loss payee as its interest may appear. Such Debtor shall, from time to time at the Creditor's request, deliver the applicable insurance policies (or satisfactory evidence of such policies) to the Creditor. If such Debtor does not obtain or maintain such insurance, the Creditor may, but need not, do so, in which event such Debtor shall immediately on demand reimburse the Creditor for all payments made by the Creditor in connection with obtaining and maintaining such insurance, and until reimbursed any such payment shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests. Neither the Creditor nor its correspondents or its agents shall be responsible for the character, adequacy, validity or genuineness of any insurance, the solvency of any insurer, or any other risk connected with insurance.
- (j) Further Identification of Collateral. Such Debtor shall promptly furnish to the Creditor such statements and schedules further identifying and describing the Collateral of such Debtor, and such other reports in connection with the Collateral of such Debtor, as the Creditor may from time to time reasonably request, including an updated list of any motor vehicles or other "serial number" goods owned by such Debtor and classified as Equipment, including vehicle identification numbers.

- (k) Amalgamation, Merger or Consolidation. Such Debtor shall not permit any Pledged Issuer of such Debtor to amalgamate, merge or consolidate unless all of the outstanding capital stock of the surviving or resulting corporation is, upon such amalgamation, merger or consolidation, pledged under this Agreement, and no cash, securities or other property is distributed with respect to the outstanding shares of any other constituent corporation.
- (l) Agreements re Intellectual Property Rights. Promptly upon request from time to time by the Creditor, such Debtor shall authorize, execute and deliver any and all agreements, instruments, documents and papers that the Creditor may reasonably request to evidence the Security Interests in any Intellectual Property Rights of such Debtor and, where applicable, the goodwill of the business of such Debtor connected with the use of, and symbolized by, any such Intellectual Property Rights.
- (m) Instruments; Documents of Title; Chattel Paper. Where an Event of Default has occurred and is continuing, promptly upon request from time to time by the Creditor, such Debtor shall deliver to the Creditor, endorsed and/or accompanied by such instruments of assignment and transfer in such form and substance as the Creditor may reasonably request, any and all Instruments, Documents of Title and Chattel Paper of such Debtor included in or relating to the Collateral of such Debtor as the Creditor may specify in its request.
- (n) Pledged Certificated Securities. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all Pledged Security Certificates of such Debtor and other materials as may be required from time to time to provide the Creditor with control over all Pledged Certificated Securities of such Debtor in the manner provided under section 23 of the STA. Where an Event of Default has occurred and is continuing, promptly, at the request of the Creditor, such Debtor shall cause all Pledged Security Certificates of such Debtor to be registered in the name of the Creditor or its nominee.
- (o) Pledged Uncertificated Securities. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all such documents, agreements and other materials as may be required from time to time to provide the Creditor with control over all Pledged Uncertificated Securities of such Debtor in the manner provided under section 24 of the STA.
- (p) Pledged Security Entitlements. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all such documents, agreements and other materials as may be required from time to time to provide the Creditor with control over all Pledged Security Entitlements of such Debtor in the manner provided under section 25 or 26 of the STA.
- (q) Pledged Futures Contracts. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all such documents, agreements and other materials as may be required from time to time to provide

the Creditor with control over all Pledged Futures Contracts of such Debtor in the manner provided under subsection 1(2) of the PPSA.

- (r) Partnerships, Limited Liability Companies. Such Debtor shall ensure that the terms of any interest in a partnership or limited liability company that is Collateral of such Debtor shall expressly provide that such interest is a “security” for the purposes of the STA.
- (s) Transfer Restrictions. If the constating documents of any Pledged Issuer (other than a ULC) restrict the transfer of the Securities of such Pledged Issuer, then such Debtor shall deliver to the Creditor a certified copy of a resolution of the directors, shareholders, unitholders or partners of such Pledged Issuer, as applicable, consenting to the transfer(s) contemplated by this Agreement, including any prospective transfer of the Collateral of such Debtor by the Creditor upon a realization on the Security Interests.
- (t) Notices. Such Debtor shall advise the Creditor promptly, in reasonable detail, of:
 - (i) any change to a Pledged Securities Intermediary’s Jurisdiction, Pledged Issuer’s Jurisdiction, or Pledged Future Intermediary’s Jurisdiction;
 - (ii) any change in the location of the jurisdiction of incorporation or amalgamation, chief executive office or domicile of such Debtor;
 - (iii) any change in the name of such Debtor;
 - (iv) any merger, consolidation or amalgamation of such Debtor with any other Person;
 - (v) any additional jurisdiction in which such Debtor has tangible Personal Property with a net book value, in the aggregate, of at least \$100,000;
 - (vi) any additional jurisdiction in which material account debtors of such Debtor are located;
 - (vii) any acquisition of any right, title or interest in real property by such Debtor;
 - (viii) any acquisition of any Intellectual Property Rights which are the subject of a registration or application with any governmental intellectual property or other governing body or registry, or which are material to such Debtor’s business;
 - (ix) any acquisition of any Instrument, Document of Title or Chattel Paper;
 - (x) any creation or acquisition of any Subsidiary of such Debtor;

- (xi) any Lien (other than Permitted Liens) on, or claim asserted against, any of the Collateral of such Debtor;
- (xii) the Debtor becoming (or if the Debtor could reasonably be determined to have become) a Control Person with respect to any Reporting Pledged Issuer;
- (xiii) the issuance of any order ceasing or suspending trading in, or prohibiting the transfer of any Pledged Shares or the institution of proceedings for such purpose, or if such Debtor has any reason to believe that any such proceedings are pending, contemplated or threatened;
- (xiv) any occurrence of any event, claim or occurrence that could reasonably be expected to have a material adverse effect on the value of the Collateral of such Debtor or on the Security Interests; or
- (xv) any additional jurisdiction in which such Debtor carries on business.

Such Debtor shall not effect or permit any of the changes referred to in clauses (ii) through (viii) above unless all filings have been made and all other actions taken that are required in order for the Creditor to continue at all times following such change to have a valid and perfected first priority Security Interest, subject to Permitted Liens, with respect to all of the Collateral of such Debtor.

8. **Voting Rights.** Unless an Event of Default has occurred and is continuing, each Debtor shall be entitled to exercise all voting power from time to time exercisable with respect to the Pledged Shares of such Debtor and give consents, waivers and ratifications with respect thereto; provided, however, that no vote shall be cast or consent, waiver or ratification given or action taken which would be, or would have a reasonable likelihood of being, prejudicial to the interests of the Creditor or which would have the effect of reducing the value of the Collateral of such Debtor as security for the Secured Liabilities of such Debtor or imposing any restriction on the transferability of any of the Collateral of such Debtor. Immediately upon the occurrence and during the continuance of any Event of Default, but at all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, all such rights of the applicable Debtor to vote and give consents, waivers and ratifications shall cease and the Creditor or its nominee shall be entitled to exercise all such voting rights and to give all such consents, waivers and ratifications.

9. **Dividends; Interest.** Unless an Event of Default has occurred and is continuing, each Debtor shall be entitled to receive any and all cash dividends, interest, principal payments and other forms of cash distribution on the Pledged Shares of such Debtor which it is otherwise entitled to receive, but any and all stock and/or liquidating dividends, distributions of property, returns of capital or other distributions made on or with respect to the Pledged Shares of such Debtor, whether resulting from a subdivision, combination or reclassification of the outstanding capital stock of any Pledged Issuer of such Debtor or received in exchange for such Pledged Shares or any part thereof or as a result of any amalgamation, merger, consolidation, acquisition or other exchange of property to which any Pledged Issuer of such Debtor may be a party or

otherwise, and any and all cash and other property received in exchange for any Pledged Shares of such Debtor shall be and become part of the Collateral of such Debtor subject to the Security Interests; and if any of the Pledged Security Certificates have been registered in the name of the Creditor or its nominee, the Creditor shall execute and deliver (or cause to be executed and delivered) to such Debtor all such dividend orders and other instruments as such Debtor may reasonably request for the purpose of enabling such Debtor to receive the dividends, distributions or other payments which such Debtor is authorized to receive and retain pursuant to this Section. If an Event of Default has occurred and is continuing, all rights of such Debtor pursuant to this Section shall cease and the Creditor shall have the sole and exclusive right and authority to receive and retain the cash dividends, interest, principal payments and other forms of cash distribution which such Debtor would otherwise be authorized to retain pursuant to this Section. Any money and other property paid over to or received by the Creditor pursuant to the provisions of this Section shall be retained by the Creditor as additional Collateral hereunder and be applied in accordance with the provisions of this Agreement.

10. **Rights on Event of Default.** If an Event of Default has occurred and is continuing, then and in every such case all of the Secured Liabilities of each Debtor shall, at the option of the Creditor, become immediately due and payable and the Security Interests of each Debtor shall become enforceable and the Creditor, in addition to any rights now or hereafter existing under applicable Law may, personally or by agent, at such time or times as the Creditor in its discretion may determine, do any one or more of the following:

- (a) **Rights under PPSA, etc.** Exercise against any or all Debtors all of the rights and remedies granted to secured parties under the PPSA and any other applicable statute, or otherwise available to the Creditor by contract, at law or in equity.
- (b) **Demand Possession.** Demand possession of any or all of the Collateral of any or all Debtors, in which event each such Debtor shall, at the expense of such Debtor, immediately cause the Collateral of such Debtor designated by the Creditor to be assembled and made available to the Creditor.
- (c) **Take Possession.** Enter on any premises where any Collateral of any or all Debtors is located and take possession of, disable or remove such Collateral.
- (d) **Deal with Collateral.** Hold, store and keep idle, or operate, lease or otherwise use or permit the use of, any or all of the Collateral of any or all Debtors for such time and on such terms as the Creditor may determine, and demand, collect and retain all earnings and other sums due or to become due from any Person with respect to any of the Collateral of any or all Debtors.
- (e) **Carry on Business.** At all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, carry on, or concur in the carrying on of, any or all of the business or undertaking of any or all Debtors and enter on, occupy and use (without charge by such Debtor) any of the premises, buildings, plant and undertaking of, or occupied or used by, any or all Debtors.

- (f) Enforce Collateral. Seize, collect, receive, enforce or otherwise deal with any Collateral of any or all Debtors in such manner, on such terms and conditions and at such times as the Creditor deems advisable. Notwithstanding the foregoing, the Creditor may only take such aforementioned action in respect of Collateral comprised of Pledged Securities if such Pledged Securities are promptly transferred to an entity permitted by the Ownership and Control Requirements.
- (g) Dispose of Collateral. Realize on any or all of the Collateral of any or all Debtors and sell, lease, assign, give options to purchase, or otherwise dispose of and deliver any or all of the Collateral of any or all Debtors (or contract to do any of the above), in one or more parcels at any public or private sale, at any exchange, broker's board or office of the Creditor or elsewhere, with or without advertising or other formality, except as required by applicable Law, on such terms and conditions as the Creditor may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery.
- (h) Court-Approved Disposition of Collateral. Obtain from any court of competent jurisdiction an order for the sale or foreclosure of any or all of the Collateral of any or all Debtors.
- (i) Purchase by Creditor. At any public sale, and to the extent permitted by Law on any private sale, bid for and purchase any or all of the Collateral of any or all Debtors offered for sale and, upon compliance with the terms of such sale, hold, retain, sell or otherwise dispose of such Collateral without any further accountability to any Debtor or any other Person with respect to such holding, retention, sale or other disposition, except as required by Law. In any such sale to the Creditor, the Creditor may, for the purpose of making payment for all or any part of the Collateral of any Debtor so purchased, use any claim for any or all of the Secured Liabilities of such Debtor then due and payable to it as a credit against the purchase price.
- (j) Collect Accounts. Notify (whether in its own name or in the name of any Debtor) the account debtors under any Accounts of any or all Debtors of the assignment of such Accounts to the Creditor and direct such account debtors to make payment of all amounts due or to become due to any or all Debtors with respect to such Accounts directly to the Creditor and, upon such notification and at the expense of any such Debtor, enforce collection of any such Accounts, and adjust, settle or compromise the amount or payment of such Accounts, in such manner and to such extent as the Creditor deems appropriate in the circumstances.
- (k) Transfer of Collateral. At all times subject to the Ownership and Control Requirements or as otherwise permitted by the CTA, transfer any Collateral of any or all Debtors that is Pledged Shares into the name of the Creditor or its nominee.
- (l) Voting. At all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, vote any or all of the Pledged Shares of any or

all Debtors (whether or not transferred to the Creditor or its nominee) and give or withhold all consents, waivers and ratifications with respect thereto and otherwise act with respect thereto as though it were the outright owner thereof.

- (m) Exercise Other Rights. At all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, exercise any and all rights, privileges, entitlements and options pertaining to any Collateral of any or all Debtors that is Pledged Shares as if the Creditor were the absolute owner of such Pledged Shares.
- (n) Dealing with Contracts and Permits. Deal with any and all Contracts and Permits of any or all Debtors to the same extent as any such Debtor might (including the enforcement, realization, sale, assignment, transfer, and requirement for continued performance), all on such terms and conditions and at such time or times as may seem advisable to the Creditor.
- (o) Payment of Liabilities. Pay any liability secured by any Lien against any Collateral of any or all Debtors. Each such Debtor shall immediately on demand reimburse the Creditor for all such payments and, until paid, any such reimbursement obligation shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.
- (p) Borrow and Grant Liens. Borrow money for the maintenance, preservation or protection of any Collateral of any or all Debtors or for carrying on any of the business or undertaking of any or all Debtors and grant Liens on any Collateral of any or all Debtors (in priority to the Security Interests of any or all Debtors or otherwise) as security for the money so borrowed. Each such Debtor shall immediately on demand reimburse the Creditor for all such borrowings and, until paid, any such reimbursement obligations shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.
- (q) Appoint Receiver. Appoint by instrument in writing one or more Receivers of any or all Debtors or any or all of the Collateral of any or all Debtors with such rights, powers and authority (including any or all of the rights, powers and authority of the Creditor under this Agreement) as may be provided for in the instrument of appointment or any supplemental instrument, and remove and replace any such Receiver from time to time. To the extent permitted by applicable Law, any Receiver appointed by the Creditor shall (for purposes relating to responsibility for the Receiver's acts or omissions) be considered to be the agent of any such Debtor and not of the Creditor.
- (r) Court-Appointed Receiver. Obtain from any court of competent jurisdiction an order for the appointment of a Receiver of any or all Debtors or of any or all of the Collateral of any or all Debtors.

The Creditor may exercise any or all of the foregoing rights and remedies without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except as required by applicable Law) to or on any Debtor or any other Person, and each Debtor hereby waives each such demand, presentment, protest, advertisement and notice to the extent permitted by applicable Law. None of the above rights or remedies shall be exclusive of or dependent on or merge in any other right or remedy, and one or more of such rights and remedies may be exercised independently or in combination from time to time. Each Debtor acknowledges and agrees that any action taken by the Creditor hereunder following the occurrence and during the continuance of an Event of Default shall not be rendered invalid or ineffective as a result of the curing of the Event of Default on which such action was based.

11. **Realization Standards.** To the extent that applicable Law imposes duties on the Creditor to exercise remedies in a commercially reasonable manner and without prejudice to the ability of the Creditor to dispose of the Collateral in any such manner, each Debtor acknowledges and agrees that it is not commercially unreasonable for the Creditor to (or not to) (a) incur expenses reasonably deemed significant by the Creditor to prepare the Collateral of such Debtor for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (b) fail to obtain third party consents for access to the Collateral of such Debtor to be disposed of, (c) fail to exercise collection remedies against account debtors or other Persons obligated on the Collateral of such Debtor or to remove Liens against the Collateral of such Debtor, (d) exercise collection remedies against account debtors and other Persons obligated on the Collateral of such Debtor directly or through the use of collection agencies and other collection specialists, (e) dispose of Collateral of such Debtor by way of public auction, public tender or private contract, with or without advertising and without any other formality, (f) contact other Persons, whether or not in the same business of such Debtor, for expressions of interest in acquiring all or any portion of the Collateral of such Debtor, (g) hire one or more professional auctioneers to assist in the disposition of the Collateral of such Debtor, whether or not such Collateral is of a specialized nature or an upset or reserve bid or price is established, (h) dispose of the Collateral of such Debtor by utilizing internet sites that provide for the auction of assets of the types included in such Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets, (i) dispose of assets in wholesale rather than retail markets, (j) disclaim disposition warranties, such as title, possession or quiet enjoyment, (k) purchase insurance or credit enhancements to insure the Creditor against risks of loss, collection or disposition of the Collateral of such Debtor or to provide to the Creditor a guaranteed return from the collection or disposition of such Collateral, (l) to the extent deemed appropriate by the Creditor, obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Creditor in the collection or disposition of any of the Collateral of such Debtor, (m) dispose of Collateral of such Debtor in whole or in part, (n) dispose of Collateral of such Debtor to a customer of the Creditor, and (o) establish an upset or reserve bid price with respect to Collateral of such Debtor.

12. **Grant of Licence.** For the purpose of enabling the Creditor to exercise its rights and remedies under this Agreement when the Creditor is entitled to exercise such rights and remedies, and for no other purpose, each Debtor grants to the Creditor an irrevocable, non-exclusive licence (exercisable without payment of royalty or other compensation to such Debtor) to use, assign or sublicense any or all of the Intellectual Property Rights of such Debtor, including in such licence reasonable access to all media in which any of the licensed items may

be recorded or stored and to all computer programs used for the compilation or printout of the same. For any trade-marks, get-up and trade dress and other business indicia, such licence includes an obligation on the part of the Creditor to maintain the standards of quality maintained by such Debtor or, in the case of trade-marks, get-up and trade dress or other business indicia licensed to such Debtor, the standards of quality imposed upon such Debtor by the relevant licence. For copyright works, such licence shall include the benefit of any waivers of moral rights and similar rights.

13. **Securities Laws.** The Creditor is authorized, in connection with any offer or sale of any Pledged Shares of any Debtor, to comply with any limitation or restriction as it may be advised by counsel is necessary to comply with applicable Law, including compliance with procedures that may restrict the number of prospective bidders and purchasers, requiring that prospective bidders and purchasers have certain qualifications, and restricting prospective bidders and purchasers to Persons who will represent and agree that they are purchasing for their own account or investment and not with a view to the distribution or resale of such Securities. In addition to and without limiting Section 11, each Debtor further agrees that compliance with any such limitation or restriction shall not result in a sale being considered or deemed not to have been made in a commercially reasonable manner, and the Creditor shall not be liable or accountable to such Debtor for any discount allowed by reason of the fact that such Pledged Shares are sold in compliance with any such limitation or restriction. If the Creditor chooses to exercise its right to sell any or all Pledged Shares of any Debtor, upon written request, such Debtor shall cause each applicable Pledged Issuer to furnish to the Creditor all such information as the Creditor may reasonably request in order to determine the number of shares and other instruments included in the Collateral of such Debtor which may be sold by the Creditor in exempt transactions under any Laws governing securities, and the rules and regulations of any applicable securities regulatory body thereunder, as the same are from time to time in effect.

14. **ULC Shares.** Each Debtor acknowledges that certain of the Collateral of such Debtor may now or in the future consist of ULC Shares, and that it is the intention of the Creditor and each Debtor that the Creditor should not under any circumstances prior to realization thereon be held to be a “member” or a “shareholder”, as applicable, of a ULC for the purposes of any ULC Laws. Therefore, notwithstanding any provisions to the contrary contained in this Agreement, the NPA or any other Transaction Document, where a Debtor is the registered owner of ULC Shares which are Collateral of such Debtor, such Debtor shall remain the sole registered owner of such ULC Shares until such time as such ULC Shares are effectively transferred into the name of the Creditor or any other Person on the books and records of the applicable ULC. Accordingly, each Debtor shall be entitled to receive and retain for its own account any dividend on or other distribution, if any, with respect to such ULC Shares (except for any dividend or distribution comprised of Pledged Security Certificates of such Debtor, which shall be delivered to the Creditor to hold hereunder) and shall have the right to vote such ULC Shares and to control the direction, management and policies of the applicable ULC to the same extent as such Debtor would if such ULC Shares were not pledged to the Creditor pursuant hereto. Nothing in this Agreement, the NPA or any other Transaction Document is intended to, and nothing in this Agreement, the NPA or any other Transaction Document shall, constitute the Creditor or any Person other than the applicable Debtor, a member or shareholder of a ULC for the purposes of any ULC Laws (whether listed or unlisted, registered or beneficial), until such time as notice is given to such Debtor and further steps are taken pursuant hereto or thereto so as to register the

Creditor or such other Person, as specified in such notice, as the holder of the ULC Shares. To the extent any provision hereof would have the effect of constituting the Creditor as a member or a shareholder, as applicable, of any ULC prior to such time, such provision shall be severed herefrom and shall be ineffective with respect to ULC Shares which are Collateral of any Debtor without otherwise invalidating or rendering unenforceable this Agreement or invalidating or rendering unenforceable such provision insofar as it relates to Collateral of any Debtor which is not ULC Shares. Except upon the exercise of rights of the Creditor to sell, transfer or otherwise dispose of ULC Shares in accordance with this Agreement, each Debtor shall not cause or permit, or enable a Pledged Issuer that is a ULC to cause or permit, the Creditor to: (a) be registered as a shareholder or member of such Pledged Issuer; (b) have any notation entered in their favour in the share register of such Pledged Issuer; (c) be held out as shareholders or members of such Pledged Issuer; (d) receive, directly or indirectly, any dividends, property or other distributions from such Pledged Issuer by reason of the Creditor holding the Security Interests over the ULC Shares; or (e) act as a shareholder of such Pledged Issuer, or exercise any rights of a shareholder including the right to attend a meeting of shareholders of such Pledged Issuer or to vote its ULC Shares.

15. **Application of Proceeds.** All Proceeds of Collateral of any Debtor received by the Creditor or a Receiver may be applied to discharge or satisfy any expenses (including the Receiver's remuneration and other expenses of enforcing the Creditor's rights against such Debtor under this Agreement), Liens on the Collateral of such Debtor in favour of Persons other than the Creditor, borrowings, taxes and other outgoings affecting the Collateral of such Debtor or which are considered advisable by the Creditor or the Receiver to protect, preserve, repair, process, maintain or enhance the Collateral of such Debtor or prepare it for sale, lease or other disposition, or to keep in good standing any Liens on the Collateral of such Debtor ranking in priority to any of the Security Interests, or to sell, lease or otherwise dispose of the Collateral of such Debtor. The balance of such Proceeds may, at the sole discretion of the Creditor, be held as collateral security for the Secured Liabilities of the applicable Debtor or be applied to such of the Secured Liabilities of the applicable Debtor (whether or not the same are due and payable) in such manner and at such times as the Creditor considers appropriate and thereafter shall be accounted for as required by Law.

16. **Continuing Liability of Debtor.** Each Debtor shall remain liable for any Secured Liabilities of such Debtor that are outstanding following realization of all or any part of the Collateral of such Debtor and the application of the Proceeds thereof.

17. **Creditor's Appointment as Attorney-in-Fact.** Effective upon the occurrence and during the continuance of an Event of Default, each Debtor constitutes and appoints the Creditor and any officer or agent of the Creditor, with full power of substitution, as such Debtor's true and lawful attorney-in-fact with full power and authority in the place of such Debtor and in the name of such Debtor or in its own name, from time to time in the Creditor's discretion, to take any and all appropriate action and to execute any and all documents and instruments as, in the opinion of such attorney, may be necessary or desirable to accomplish the purposes of this Agreement. Without limiting the effect of this Section, each Debtor grants the Creditor an irrevocable proxy to vote the Pledged Shares of such Debtor and to exercise all other rights, powers, privileges and remedies to which a holder thereof would be entitled (including giving or withholding written consents of shareholders, calling special meetings of shareholders and voting

at such meetings), which proxy shall be effective, automatically and without the necessity of any action (including any transfer of any Pledged Shares of such Debtor on the books and records of a Pledged Issuer or Pledged Securities Intermediary, as applicable), upon the occurrence of an Event of Default. These powers are coupled with an interest and are irrevocable until the Release Date. Nothing in this Section affects the right of the Creditor as secured party or any other Person on the Creditor's behalf, to sign and file or deliver (as applicable) all such financing statements, financing change statements, notices, verification statements and other documents relating to the Collateral and this Agreement as the Creditor or such other Person considers appropriate. Each Debtor hereby ratifies and confirms, and agrees to ratify and confirm, whatever lawful acts the Creditor or any of the Creditor's sub-agents, nominees or attorneys do or purport to do in exercise of the power of attorney granted to the Creditor pursuant to this Section.

18. **Performance by Creditor of Debtor's Obligations.** If any Debtor fails to perform or comply with any of the obligations of such Debtor under this Agreement, the Creditor may, but need not, perform or otherwise cause the performance or compliance of such obligation, provided that such performance or compliance shall not constitute a waiver, remedy or satisfaction of such failure. The expenses of the Creditor incurred in connection with any such performance or compliance shall be payable by such Debtor to the Creditor immediately on demand, and until paid, any such expenses shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.

19. **Interest.** If any amount payable by any Debtor to the Creditor under this Agreement is not paid when due, such Debtor shall pay to the Creditor, immediately on demand, interest on such amount from the date due until paid, at the Default Rate. All amounts payable by such Debtor to the Creditor under this Agreement, and all interest on all such amounts, compounded monthly on the last Business Day of each month, shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.

20. **Severability.** Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

21. **Rights of Creditor; Limitations on Creditor's Obligations.**

- (a) **Limitations on Creditor's Liability.** The Creditor shall not be liable to any Debtor or any other Person for any failure or delay in exercising any of the rights of such Debtor under this Agreement (including any failure to take possession of, collect, sell, lease or otherwise dispose of any Collateral of such Debtor, or to preserve rights against prior parties). Neither the Creditor, a Receiver, nor any agent of the Creditor (including, in Alberta or British Columbia, any sheriff) is required to take, or shall have any liability for any failure to take or delay in taking, any steps necessary or advisable to preserve rights against other Persons under any Collateral of any Debtor in its possession. Neither the Creditor, any Receiver, nor any agent of the Creditor shall be liable for any, and each Debtor shall bear the

full risk of all, loss or damage to any and all of the Collateral of such Debtor (including any Collateral of such Debtor in the possession of the Creditor, any Receiver, or any agent of the Creditor) caused for any reason other than the gross negligence or wilful misconduct of the Creditor, such Receiver or such agent of the Creditor.

- (b) Debtors Remain Liable under Accounts and Contracts. Notwithstanding any provision of this Agreement, each Debtor shall remain liable under each of the documents giving rise to the Accounts of such Debtor and under each of the Contracts of such Debtor to observe and perform all the conditions and obligations to be observed and performed by such Debtor thereunder, all in accordance with the terms of each such document and Contract. The Creditor shall have no obligation or liability under any Account of any Debtor (or any document giving rise thereto) or Contract of any Debtor by reason of or arising out of this Agreement or the receipt by the Creditor of any payment relating to such Account or Contract pursuant hereto, and in particular (but without limitation), the Creditor shall not be obligated in any manner to perform any of the obligations of any Debtor under or pursuant to any Account of such Debtor (or any document giving rise thereto) or under or pursuant to any Contract of such Debtor, to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party under any Account of such Debtor (or any document giving rise thereto) or under any Contract of such Debtor, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time.
- (c) Collections on Accounts and Contracts. Each Debtor shall be authorized to, at any time that an Event of Default is not continuing, collect the Accounts of such Debtor and payments under the Contracts of such Debtor in the normal course of the business of such Debtor and for the purpose of carrying on the same. If required by the Creditor at any time an Event of Default has occurred and is continuing, any payments of Accounts of such Debtor or under Contracts of such Debtor, when collected by such Debtor, shall be forthwith (and, in any event, within two Business Days) deposited by such Debtor in the exact form received, duly endorsed by such Debtor to the Creditor if required, in a special collateral account maintained by the Creditor, and until so deposited, shall be held by such Debtor in trust for the Creditor, segregated from the other funds of such Debtor. All such amounts while held by the Creditor (or by such Debtor in trust for the Creditor) and all income with respect thereto shall continue to be collateral security for the Secured Liabilities and shall not constitute payment thereof until applied as hereinafter provided. If an Event of Default has occurred and is continuing, the Creditor may apply all or any part of the amounts on deposit with respect to such Debtor in said special collateral account on account of the Secured Liabilities of such Debtor in such order as the Creditor may elect. At the Creditor's request, such Debtor shall deliver to the Creditor any documents evidencing and relating to the agreements and transactions which gave rise to the

Accounts and the Contracts of such Debtor, including all original orders, invoices and shipping receipts.

- (d) **Analysis of Accounts.** At any time and from time to time, the Creditor shall have the right to analyze and verify the Accounts of any Debtor in any manner and through any medium that it reasonably considers advisable, and each Debtor shall furnish all such assistance and information as the Creditor may reasonably require in connection therewith. If an Event of Default has occurred and is continuing, at any time and from time to time, the Creditor may in its own name or in the name of others (including any Debtor) communicate with account debtors on the Accounts of any Debtor and parties to the Contracts of any Debtor to verify with them to its satisfaction the existence, status, amount and terms of any Account or any Contract of any Debtor. At any time and from time to time, but not more than once per calendar year provided that there is not an Event of Default that is continuing, upon the Creditor's reasonable request and at the expense of the applicable Debtor, such Debtor shall furnish to the Creditor reports showing reconciliations, aging and test verifications of, and trial balances for, the Accounts of such Debtor.
- (e) **Use of Agents.** The Creditor may perform any of its rights or duties under this Agreement by or through agents and is entitled to retain counsel and to act in reliance on the advice of such counsel concerning all matters pertaining to its rights and duties under this Agreement.

22. **Dealings by Creditor.** The Creditor shall not be obliged to exhaust its recourse against any Debtor or any other Person or against any other security it may hold with respect to the Secured Liabilities of such Debtor or any part thereof before realizing upon or otherwise dealing with the Collateral of such Debtor in such manner as the Creditor may consider desirable. The Creditor may grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with any Debtor and any other Person, and with any or all of the Collateral of any Debtor, and with other security and sureties, as the Creditor may see fit, all without prejudice to the Secured Liabilities of any Debtor or to the rights and remedies of the Creditor under this Agreement. The powers conferred on the Creditor under this Agreement are solely to protect the interests of the Creditor in the Collateral of each Debtor and shall not impose any duty upon the Creditor to exercise any such powers.

23. **Communication.** Any notice or other communication required or permitted to be given under this Agreement will be made in accordance with the terms of the NPA.

24. **Release of Information.** Each Debtor authorizes the Creditor to provide a copy of this Agreement and such other information as may be reasonably requested of the Creditor (i) to the extent necessary to enforce the Creditor's rights, remedies and entitlements under this Agreement, (ii) to any assignee or prospective assignee of all or any part of its Secured Liabilities, and (iii) as required by applicable Law.

25. **Expenses; Indemnity; Waiver.**

- (a) Each Debtor shall pay (i) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and all applicable taxes, in connection with the preparation and administration of this Agreement, (ii) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and applicable taxes, in connection with any amendments, modifications or waivers of the provisions hereof, and (iii) all reasonable out-of-pocket expenses incurred by the Creditor, including the fees, charges and disbursements of any counsel for the Creditor and all applicable taxes, in connection with the assessment, enforcement or protection of their rights in connection with this Agreement, including its rights under this Section, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations with respect to the Secured Liabilities of such Debtor.
- (b) Each Debtor shall indemnify the Creditor against, and hold the Creditor harmless from, any and all losses, claims, cost recovery actions, damages, expenses and liabilities of whatsoever nature or kind and all reasonable out-of-pocket expenses and all applicable taxes to which the Creditor may become subject arising out of or in connection with (i) the execution or delivery of this Agreement and the performance by such Debtor of its obligations hereunder, (ii) any actual claim, litigation, investigation or proceeding relating to this Agreement or the Secured Liabilities of such Debtor, whether based on contract, tort or any other theory and regardless of whether the Creditor is a party thereto, (iii) any other aspect of this Agreement, or (iv) the enforcement of the Creditor's rights hereunder and any related investigation, defence, preparation of defence, litigation and enquiries; provided that such indemnity shall not, as to the Creditor, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence (it being acknowledged that ordinary negligence does not necessarily constitute gross negligence) or wilful misconduct of or material breach of this Agreement by the Creditor.
- (c) No Debtor shall assert, and each Debtor hereby waives (to the fullest extent permitted by applicable Law), (i) any claim against the Creditor (or any director, officer or employee thereof), on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, and (ii) all of the rights, benefits and protections given by any present or future statute that imposes limitations on the rights, powers or remedies of a secured party or on the methods of, or procedures for, realization of security, including any "seize or sue" or "anti-deficiency" statute or any similar provision of any other statute.
- (d) All amounts due under this Section shall be payable not later than three Business Days after written demand therefor.

- (e) The indemnifications set out in this Section shall survive the Release Date and the release or extinguishment of the Security Interests.

26. **Release of Debtor.** Upon the written request of any Debtor given at any time on or after the Release Date, the Creditor shall at the expense of such Debtor (i) release such Debtor and the Collateral of such Debtor from the Security Interests and such release shall serve to terminate any licence granted in this Agreement and (ii) return, endorsed and/or accompanied by such instruments of assignment and transfer in such form and substance as the Debtor may reasonably request, any and all Collateral pledged by the Debtor to the Creditor pursuant to this Agreement. Upon such release, and at the request and expense of such Debtor, the Creditor shall execute and deliver to such Debtor such releases and discharges as such Debtor may reasonably request.

27. **Additional Security.** This Agreement is in addition to, and not in substitution of, any and all other security previously or concurrently delivered by any Debtor or any other Person to the Creditor, all of which other security shall remain in full force and effect.

28. **Alteration or Waiver.** None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Creditor. The Creditor shall not, by any act or delay, be deemed to have waived any right or remedy hereunder or to have acquiesced in any Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Creditor, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise 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. A waiver by the Creditor of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Creditor would otherwise have on any future occasion. Neither the taking of any judgment nor the exercise of any power of seizure or sale shall extinguish the liability of any Debtor to pay the Secured Liabilities of such Debtor, nor shall the same operate as a merger of any covenant contained in this Agreement or of any other liability, nor shall the acceptance of any payment or other security constitute or create any novation.

29. **Environmental Licence and Indemnity.** Each Debtor hereby grants to the Creditor and its employees and agents an irrevocable and non-exclusive licence, subject to the rights of tenants, upon not less than 48 hours prior written notice but not more than once per calendar year provided that there is not an Event of Default that is continuing or a known or reasonably suspected release of a hazardous substance in contravention of applicable environmental laws, to enter any of the premises of such Debtor to conduct audits, testing and monitoring with respect to hazardous substances and to remove and analyze any hazardous substance at the cost and expense of such Debtor (which cost and expense shall form part of the Secured Liabilities of such Debtor and shall be payable immediately on demand and secured by the Security Interests created by this Agreement). Each Debtor shall indemnify the Creditor and hold the Creditor harmless against and from all losses, costs, damages and expenses which the Creditor may sustain, incur or be or become liable at any time whatsoever for by reason of or arising from the past, present or future existence, clean-up, removal or disposal of any hazardous substance on or about any property owned or occupied by the Creditor or compliance with environmental Laws or environmental orders relating thereto, including any clean-up, decommissioning, restoration or remediation of any premises owned or occupied by such Debtor or other affected lands or

property. This indemnification shall survive the Release Date. Notwithstanding the foregoing, the Creditor shall conduct such audits, testing and monitoring at the premises of the Debtor in such a manner as to reasonably minimize the interruptions of the ordinary business operation of the Debtor.

30. **Amalgamation.** If any Debtor is a corporation, such Debtor acknowledges that if it amalgamates or merges with any other corporation or corporations, then (i) the Collateral and the Security Interests of such Debtor shall extend to and include all the property and assets of the amalgamated corporation and to any property or assets of the amalgamated corporation thereafter owned or acquired, (ii) the term “Debtor”, where used in this Agreement, shall extend to and include the amalgamated corporation, and (iii) the term “Secured Liabilities”, where used in this Agreement, shall extend to and include the Secured Liabilities of the amalgamated corporation.

31. **Governing Law; Attornment.** This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario. Without prejudice to the ability of the Creditor to enforce this Agreement in any other proper jurisdiction, each Debtor irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of Ontario. To the extent permitted by applicable Law, each Debtor irrevocably waives any objection (including any claim of inconvenient forum) that it may now or hereafter have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of Ontario.

32. **Interpretation.** The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “or” is disjunctive; the word “and” is conjunctive. The word “shall” is mandatory; the word “may” is permissive. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set out herein), (b) any reference herein to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time, (c) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (e) all references herein to Sections and Schedules shall be construed to refer to Sections and Schedules to, this Agreement, Section headings are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement. Any reference in this Agreement to a Permitted Lien is not intended to subordinate or postpone, and shall not be interpreted as subordinating or postponing, or as any agreement to subordinate or postpone, any Security Interest to any Permitted Lien.

33. **Paramountcy.** In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the NPA then, notwithstanding anything contained in this Agreement, the provisions contained in the NPA shall prevail to the extent of such conflict or inconsistency and the provisions of this Agreement shall be deemed to be amended to the extent

necessary to eliminate such conflict or inconsistency, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to the Creditor under the NPA. If any act or omission of any or all Debtors is expressly permitted under the NPA but is expressly prohibited under this Agreement, such act or omission shall be permitted. If any act or omission is expressly prohibited under this Agreement, but the NPA does not expressly permit such act or omission, or if any act is expressly required to be performed under this Agreement but the NPA does not expressly relieve any or all Debtors from such performance, such circumstance shall not constitute a conflict or inconsistency between the applicable provisions of this Agreement and the provisions of the NPA.

34. **Successors and Assigns**. This Agreement shall enure to the benefit of, and be binding on, each Debtor and its successors and permitted assigns, and shall enure to the benefit of, and be binding on, the Creditor and its successors and assigns. No Debtor may assign this Agreement, or any of its rights or obligations under this Agreement except to successors and assigns as permitted by the NPA. The Creditor may assign this Agreement and any of its rights and obligations hereunder to any Person. If any Debtor or the Creditor is an individual, then the term “Debtor” or “Creditor”, as applicable, shall also include his or her heirs, administrators and executors.

35. **Additional Debtors**. Additional Persons may from time to time after the date of this Agreement become Debtors under this Agreement by executing and delivering to the Creditor a supplemental agreement (together with all schedules thereto, a “**Supplement**”) to this Agreement, in substantially the form attached hereto as Exhibit A. Effective from and after the date of the execution and delivery by any Person to the Creditor of a Supplement:

- (a) such Person shall be, and shall be deemed for all purposes to be, a Debtor under this Agreement with the same force and effect, and subject to the same agreements, representations, indemnities, liabilities, obligations and Security Interests, as if such Person had been an original signatory to this Agreement as a Debtor; and
- (b) all Collateral of such Person shall be subject to the Security Interest from such Person as security for the due payment and performance of the “Liabilities” of such Person in accordance with the provisions of this Agreement.

The execution and delivery of a Supplement by any additional Person shall not require the consent of any Debtor and all of the Secured Liabilities of each Debtor and the Security Interests granted thereby shall remain in full force and effect, notwithstanding the addition of any new Debtor to this Agreement.

36. **Acknowledgment of Receipt/Waiver**. Each Debtor acknowledges receipt of an executed copy of this Agreement and, to the extent permitted by applicable Law, waives the right to receive a copy of any financing statement or financing change statement registered in connection with this Agreement or any verification statement issued with respect to any such financing statement or financing change statement.

37. **Transaction Document.** Each Debtor acknowledges and agrees that this Agreement shall constitute a “Transaction Document”.

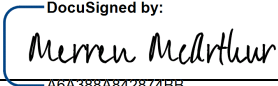
38. **Electronic Signature and Counterparts.** Delivery of an executed signature page to this Agreement by any Debtor by facsimile or other electronic form of transmission shall be as effective as delivery by such Debtor of a manually executed copy of this Agreement by such Debtor. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract.

[signatures on the next following pages]

S-1

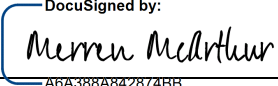
IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

1263343 ALBERTA INC.

By:  _____
Name: Merren McArthur
Title: CEO and President

IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

LYNX AIR HOLDINGS CORPORATION

By:  _____
Name: Merren McArthur
Title: CEO and President

SCHEDULE A-1

DEBTOR INFORMATION

Full legal name: Lynx Air Holdings Corporation

Prior names: Enerjet Holdco Inc.

Predecessor companies: N/A

Jurisdiction of incorporation or organization: Alberta

Address of chief executive office: 3215 12th Street NE, Calgary, Alberta T2E 7S9

Addresses of all places where business is carried on or tangible Personal Property is kept:
3215 12th Street NE, Calgary, Alberta T2E 7S9, and

217 Aero Court NE, Calgary, Alberta T2E 7C6

Jurisdictions in which all material account debtors are located: Alberta

Addresses of all owned real property: N/A

Addresses of all leased real property: N/A

Description of all “serial number” goods (i.e. motor vehicles, trailers, aircraft, boats and outboard motors for boats): N/A

Description of all material Permits: N/A

Subsidiaries of such Debtor: 1263343 Alberta Inc.

Instruments, Documents of Title and Chattel Paper of such Debtor: N/A

Pledged Certificated Securities:

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location
1263343 Alberta Inc.	1 Common Voting Share	100%	CVS - 002	Minute Book [R.O. c/o Lindsey MacCarthy LLP, 1400, 350 7 th Avenue SW, Calgary, Alberta, T2P 3N9]
	985,660 Common Voting Shares		N/A	Minute Book [R.O. c/o Lindsey MacCarthy LLP, 1400, 350 7 th Avenue SW, Calgary, Alberta, T2P 3N9]

Pledged Securities Accounts: Nil

Pledged Securities Intermediary	Securities Account Number	Pledged Securities Intermediary's Jurisdiction	Pledged Security Entitlements

Pledged Uncertificated Securities: Nil

Pledged Issuer	Pledged Issuer's Jurisdiction	Securities Owned	% of issued and outstanding Securities of Pledged Issuer

Pledged Futures Accounts: Nil.

Pledged Futures Intermediary	Futures Account Number	Pledged Futures Intermediary's Jurisdiction	Pledged Futures Contracts

Registered trade-marks and applications for trademark registrations: Nil.

<i>Country</i>	<i>Trade-mark</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Registration Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N] ²

Patents and patent applications: Nil.

<i>Country</i>	<i>Title</i>	<i>Patent No.</i>	<i>Application Date</i>	<i>Date of Grant</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Copyright registrations and applications for copyright registrations: Nil.

<i>Country</i>	<i>Work</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Industrial designs/registered designs and applications for registered designs: Nil.

<i>Country</i>	<i>Design</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Issue Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N]

² If the answer to this or any corresponding column is "yes", describe the particulars of each such licence.

SCHEDULE A-2**DEBTOR INFORMATION****1263343 Alberta Inc.****Full legal name:** 1263343 Alberta Inc.**Prior names:** N/A**Predecessor companies:** N/A**Jurisdiction of incorporation or organization:** Alberta**Address of chief executive office:** 3215 12th Street NE, Calgary, Alberta T2E 7S9**Addresses of all places where business is carried on or tangible Personal Property is kept:**3215 12th Street NE, Calgary, Alberta T2E 7S9, and

217 Aero Court NE, Calgary, Alberta T2E 7C6

Jurisdictions in which all material account debtors are located:

Alberta

Addresses of all owned real property: N/A**Addresses of all leased real property:**3215 12th Street NE, Calgary, Alberta T2E 7S9, and

217 Aero Court NE, Calgary, Alberta T2E 7C6

Description of all “serial number” goods (i.e. motor vehicles, trailers, aircraft, boats and outboard motors for boats):

Nil.

Description of all material Permits:

Issuing Authority	Title	'License' Number	Location of Issuance or Amendment	Date of Issuance or Amendment	Expiry Date	Description
Transport Canada	Air Operator Certificate	11035	Ottawa, Ontario	14 DEC 2022	N/A	Entitles the holder to operate within Canadian Aviation Regulations for Airline Operations for Boeing B38M –

						Boeing 737 8(8) aircraft
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Special Authorities Approved By Way of Air Operator Certificate:

- Types of Operation
 1. Cargo
 2. Passenger
- Types of Service
 1. Domestic
 2. Non-Scheduled International
 3. Scheduled International
- Areas of Operation
 1. Caribbean
 2. Europe
 3. North America
 4. North Atlantic
 5. South America
- Special Authorizations
 1. Dangerous Goods
 2. Category II Instrument Approaches
 3. Category IIIA Instrument Approaches
 4. Take-Off Minima – RVR 1200'
 5. Take-Off Minima – RVR 600'
 6. Standard Restricted Instrument Procedures
 7. Instrument Procedures – GNSS
 8. No Alternate IFR
 9. ILS / PRM / LDA / SOIA
 10. CMNPS
 11. NAT – MNPS
 12. Net Take-Off Flight Path Greater Bank Angle
 13. RNPC
 14. RVSM
 15. RNAV 1 & 2
 16. RNAV 5
 17. RNP 1
 18. RNP 10 Airspace
 19. En Route Fuel Reserve Reduction
 20. Flight Attendant Requirement - 1:50
 21. Increase In Flight Duty Time
 22. Controlled Rest on the Flight Deck

Issuing Authority	Title	'License' Number	Location of Issuance or Amendment	Date of Issuance or Amendment	Expiry Date	Description
Canadian Transportation Agency	Domestic License	080111	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate between points in Canada.
Canadian Transportation Agency	Non-Scheduled International License	080112	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate non-scheduled international service with large aircraft
Canadian Transportation Agency	Scheduled International License	090108	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate scheduled service to the United

						States with large aircraft
Canadian Transportation Agency	Scheduled International License	100127	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate scheduled service to the Republic of Guyana with large aircraft

Issuing Authority	Title	'License' Number	Location of Issuance or Amendment	Date of Issuance or Amendment	Expiry Date	Description
Federal Aviation Administration	Foreign Operations Specifications	As Per Canadian AOC - 11035	El Segundo, California	18 JAN 2023	N/A	Authorization granted as an extension of approved Canadian Air Operator Certificate
US Department of Transportation	Registration of trade name "Lynx Air"		Washington DC	17 FEB 2022	N/A	Acceptance of trade name "Lynx Air"

Special Authorities Approved By Way of Foreign Operations Specifications:

- Types of Operation
 1. Cargo
 2. Passenger
- Areas of Operation
 1. The 48 contiguous United States and District of Columbia
 2. The State of Alaska
- Special Authorizations
 1. Day
 2. Night
 3. RVSM
 4. Ground Deicing
 5. Class I navigation in the US airspace using area or long-range navigation systems
 6. Terminal flight operations under instrument flight rules
 7. Basic instrument approach procedures
 8. Specific IFR take-off minimums, and alternate airports for departure
 9. Category II Instrument Approaches
 10. Category III Instrument Approaches
 11. Circle to land approach maneuvers or contact approach procedures
 12. Terminal area operations with large and turbojet airplanes

Subsidiaries of such Debtor: N/A

Instruments, Documents of Title and Chattel Paper of such Debtor: N/A

Pledged Certificated Securities: Nil.

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location

Pledged Securities Accounts: Nil.

Pledged Securities Intermediary	Securities Account Number	Pledged Securities Intermediary's Jurisdiction	Pledged Security Entitlements

Pledged Uncertificated Securities: Nil.

Pledged Issuer	Pledged Issuer's Jurisdiction	Securities Owned	% of issued and outstanding Securities of Pledged Issuer

Pledged Futures Accounts: Nil.

Pledged Futures Intermediary	Futures Account Number	Pledged Futures Intermediary's Jurisdiction	Pledged Futures Contracts

Registered trade-marks and applications for trademark registrations:

<i>Country</i>	<i>Trade-mark</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Formalized Date</i>	<i>Licensed to or by Debtor</i>
Canada	ALTISAIR	1987955	2019-10-01	Pending	2019-10-16	N ³
United States	ALTISAIR	88651312	2019-10-11	Pending		N ²
Canada	LYNX	2122427	2021-07-21	Pending	2021-07-21	N ²
United States	LYNX	90887511	2021-08-17	Pending		N ²
Canada	SKYLINE AIR	1954540	2019-03-29	Pending	2019-04-03	N ²
Canada	FLYTOO	2004841	2020-01-07	Pending	2020-01-28	N ²
United States	FLYTOO	88753242	2020-01-09	Pending		N ²
Canada	LYNX AIR	2127063	2021-08-12	Pending	2021-08-12	N ²
United States	LYNX AIR	90887531	2021-08-17	Pending		N ²
Canada	LYNX AIRLINE	2127066	2021-08-12	Pending	2021-08-12	N ²
United States	LYNX AIRLINE	90887540	2021-08-17	Pending		N ²

Patents and patent applications: Nil.

<i>Country</i>	<i>Title</i>	<i>Patent No.</i>	<i>Application Date</i>	<i>Date of Grant</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Copyright registrations and applications for copyright registrations: Nil.

<i>Country</i>	<i>Work</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

³ If the answer to this or any corresponding column is "yes", describe the particulars of each such licence.

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Industrial designs/registered designs and applications for registered designs: Nil.

<i>Country</i>	<i>Design</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Issue Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N]

EXHIBIT A
FORM OF SUPPLEMENT
TO
GENERAL SECURITY AGREEMENT

TO: Indigo Northern Ventures LP

RECITALS:

- A. Reference is made to the General Security Agreement (the “**Security Agreement**”) dated as of February [24], 2023 entered into by Lynx Air Holdings Corporation and 1263343 Alberta Inc. (doing business as Lynx Air) and certain of their affiliates which thereafter signs a Supplement, in favour of the Creditor.
- B. Capitalized terms used but not otherwise defined in this Supplement have the respective meanings given to such terms in the Security Agreement, including the definitions of terms incorporated in the Security Agreement by reference to other agreements.
- C. Section 35 of the Security Agreement provides that additional Persons may from time to time after the date of the Security Agreement become Debtors under the Security Agreement by executing and delivering to the Creditor a supplemental agreement to the Security Agreement in the form of this Supplement.
- D. The undersigned (the “**New Debtor**”) has agreed to become a Debtor under the Security Agreement by executing and delivering this Supplement to the Creditor.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by the New Debtor, the New Debtor agrees with and in favour of the Creditor as follows:

1. The New Debtor has received a copy of, and has reviewed, the Security Agreement and is executing and delivering this Supplement to the Creditor pursuant to Section 35 of the Security Agreement.
2. Effective from and after the date this Supplement is executed and delivered to the Creditor by the New Debtor:
 - (a) the New Debtor shall be, and shall be deemed for all purposes to be, a Debtor under the Security Agreement with the same force and effect, and subject to the same agreements, representations, indemnities, liabilities, obligations and Security Interests, as if the New Debtor had been, as of the date of this Supplement, an original signatory to the Security Agreement as a Debtor; and
 - (b) all Collateral of the New Debtor shall be subject to the Security Interests granted by the New Debtor as security for the due payment and performance of the Liabilities of the New Debtor in accordance with the provisions of the Security Agreement.

In furtherance of the foregoing, the New Debtor, as general and continuing collateral security for the due payment and performance of its Secured Liabilities, pledges, mortgages, charges and assigns (by way of security) to the Creditor, and grants to the Creditor a security interest in, the Collateral of the New Debtor. The terms and provisions of the Security Agreement are incorporated by reference in this Supplement.

3. The New Debtor represents and warrants to the Creditor that each of the representations and warranties made or deemed to have been made by it under the Security Agreement as a Debtor are true and correct on the date of this Supplement.

4. All of the information set out in Schedule A to this Supplement with respect to the New Debtor is accurate and complete as of the date of this Supplement.

5. Upon this Supplement bearing the signature of any Person claiming to have authority to bind the New Debtor coming into the possession of the Creditor, this Supplement and the Security Agreement shall be deemed to be finally and irrevocably executed and delivered by, and be effective and binding on, and enforceable against, the New Debtor free from any promise or condition affecting or limiting the liabilities of the New Debtor. No statement, representation, agreement or promise by any officer, employee or agent of the Creditor, unless expressly set forth in this Supplement, forms any part of this Supplement or has induced the New Debtor to enter into this Supplement and the Security Agreement or in any way affects any of the agreements, obligations or liabilities of the New Debtor under this Supplement and the Security Agreement.

6. Delivery of an executed signature page to this Supplement by the New Debtor by facsimile or other electronic transmission shall be as effective as delivery by the New Debtor of a manually executed copy of this Supplement by the New Debtor.

7. This Supplement shall be governed by and construed in accordance with the laws of the Province of Ontario, and the laws of Canada applicable therein.

8. This Supplement and the Security Agreement shall be binding upon the New Debtor and its successors. The New Debtor shall not assign its rights and obligations under this Supplement or the Security Agreement, or any of its rights or obligations in this Supplement or the Security Agreement.

Dated: [MONTH] [DAY], [YEAR]

[NEW DEBTOR]

By: _____
Name:
Title:

SCHEDULE A

DEBTOR INFORMATION

Full legal name:

Prior names:

Predecessor companies:

Jurisdiction of incorporation or organization:

Address of chief executive office:

Addresses of all places where business is carried on or tangible Personal Property is kept:

Jurisdictions in which all material account debtors are located:

Addresses of all owned real property:

Addresses of all leased real property:

Description of all “serial number” goods (i.e. motor vehicles, trailers, aircraft, boats and outboard motors for boats):

Description of all material Permits:

Subsidiaries of the New Debtor:

Instruments, Documents of Title and Chattel Paper of the New Debtor:

Pledged Certificated Securities:

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location
[SUBCO]	[100 common shares]	[100%]	[C-1]	[Toronto]

Pledged Securities Accounts:

Pledged Securities Intermediary	Securities Account Number	Pledged Securities Intermediary's Jurisdiction	Pledged Security Entitlements
[BROKERAGE HOUSE]	[NUMBER]	[Ontario]	[100 common shares of [COMPANY]]

Pledged Uncertificated Securities:

Pledged Issuer	Pledged Issuer's Jurisdiction	Securities Owned	% of issued and outstanding Securities of Pledged Issuer
[LIMITED PARTNERSHIP]	[Ontario]	[100 limited partnership units]	[50% of all limited partnership interests]

Pledged Futures Accounts:

Pledged Futures Intermediary	Futures Account Number	Pledged Futures Intermediary's Jurisdiction	Pledged Futures Contracts
[BROKERAGE HOUSE]	[NUMBER]	[Ontario]	[Brief description of Contract]

Registered trade-marks and applications for trademark registrations:

<i>Country</i>	<i>Trade-mark</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Registration Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N] ⁴

Patents and patent applications:

<i>Country</i>	<i>Title</i>	<i>Patent No.</i>	<i>Application Date</i>	<i>Date of Grant</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Copyright registrations and applications for copyright registrations:

<i>Country</i>	<i>Work</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Industrial designs/registered designs and applications for registered designs:

<i>Country</i>	<i>Design</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Issue Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N]

⁴ If the answer to this or any corresponding column is "yes", describe the particulars of each such licence.

This is **Exhibit “25”** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.

A handwritten signature in cursive script, reading "Julie Treleaven", is written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

LYNX AIR HOLDINGS CORPORATION
(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

<u>Certificate No.</u>	<u>Principal Amount</u>
SBN-1	CAD\$10,000,000

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 2023

THIS IS TO CERTIFY THAT INDIGO NORTHERN VENTURES LP

Of 2525 E. Camelback Road, Suite 900, Phoenix, Arizona, USA

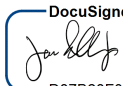
is the registered holder of \$10,000,000 Canadian Dollars (U.S.\$7,255,840.95) in nominal amount of the secured convertible loan notes which are constituted by a second bridge note purchase agreement dated October 26, 2023 made between Lynx Air Holdings Corporation (the "**Company**"), 1263343 Alberta Inc. (the "**Guarantor**") and Indigo Northern Ventures LP (as amended, supplemented or restated from time to time, the "**Agreement**") and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.

Interest is payable on the Notes represented by this certificate semi-annually in arrears (each such date, an "**Interest Payment Date**") in each year.

The Notes shall be redeemed in accordance with Condition 3 of Schedule 11 on April 26, 2024, subject to such other redemption date or conversion in accordance with the Conditions.

Dated: October 26, 2023

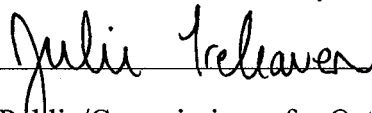
LYNX AIR HOLDINGS CORPORATION

DocuSigned by:

By _____
Name: Jim Sullivan
Title: Interim Chief Executive Officer

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.
- (B) No transfer of the whole or any part of the Notes represented by this certificate will be registered without the production of this certificate at the registered office of the Company or at such other place as the Company may from time to time designate.
- (C) Each transfer in point of time of the whole or any part of the Notes represented by this certificate will be registered free of charge.
- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.

This is **Exhibit "26"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.

A handwritten signature in cursive script, reading "Julie Treleaven", is written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barister & Solicitor

GUARANTEE

This Agreement is made as of October 26, 2023.

TO: Indigo Northern Ventures LP

RECITALS:

A. **Lynx Air Holdings Corporation** (the “**Debtor**”), **1263343 Alberta Inc. (doing business as Lynx Air)** (the “**Guarantor**”) and Indigo Northern Ventures LP (and any Person to whom Indigo Northern Ventures LP has transferred any Notes (as defined in the NPA which, in turn, is defined below) in accordance with the NPA (collectively, the “**Creditor**”), are parties to a second bridge note purchase agreement dated as of October 26, 2023 (as amended, supplemented, restated or replaced from time to time, the “**NPA**”).

B. It is in the interests of the Guarantor that the Creditor purchase Notes from the Debtor under the NPA, and the Guarantor is therefore prepared to issue this Agreement to the Creditor in order to induce the Creditor to do so.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by the Guarantor, the Guarantor agrees with and in favour of the Creditor as follows:

1. **Definitions.** In this Agreement capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in the NPA, and the following terms have the following meanings:

“**Agreement**” means this agreement, including the recitals to this agreement, as it or they may be amended, supplemented, restated or replaced from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement.

“**Control**” means, in respect of a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlled**” has a meaning correlative thereto.

“**Creditor**” has the meaning set out in the recitals hereto.

“**Debtor**” has the meaning set out in the recitals hereto.

“**Debtor Liabilities**” means all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of the Debtor to the Creditor (or any of them) under, in connection with or with respect to the Transaction Documents.

“**Event of Default**” means any “Event of Default” as defined in the NPA.

“Governmental Authority” means the government of Canada, any other nation or any political subdivision thereof, whether provincial, state, territorial or local, and any agency, authority, instrumentality, regulatory body, court, central bank, fiscal or monetary authority or other authority regulating financial institutions, and any other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Guarantor” has the meaning set out in the recitals hereto.

“Guarantor Liabilities” means all present and future indebtedness, liabilities and obligations of the Guarantor to the Creditor under this Agreement.

“Insolvency Proceeding” means any proceeding seeking to adjudicate a Person an insolvent, seeking a receiving order against such Person under the *Bankruptcy and Insolvency Act* (Canada), or seeking liquidation, dissolution, winding-up, reorganization, compromise, arrangement, adjustment, protection, moratorium, relief or composition of such Person or its debts or a stay of proceedings of such Person’s creditors generally (or any class of creditors) or any other relief, under any federal, provincial, territorial or foreign law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, reorganization, receivership, plans of arrangement or relief or protection of debtors (including the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada) and any similar legislation in any jurisdiction) or at common law or in equity.

“Laws” means all federal, provincial, municipal, foreign and international statutes, acts, codes, ordinances, decrees, treaties, rules, regulations, municipal by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards or any provisions of the foregoing, including general principles of common and civil law and equity, and all policies, practices and guidelines of any Governmental Authority binding on or affecting the Person referred to in the context in which such word is used (including, in the case of tax matters, any accepted practice or application or official interpretation of any relevant taxation authority); and **“Law”** means any one or more of the foregoing.

“Lien” means, (a) with respect to any asset, any mortgage, deed of trust, lien, pledge, hypothec (whether movable or immovable), hypothecation, encumbrance, charge, security interest, royalty interest, adverse claim, defect to title or right of set off in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, title retention agreement or consignment agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to any asset, (c) any purchase option, call or similar right of a third party with respect to such asset, (d) any netting arrangement, defeasance arrangement or reciprocal fee arrangement, and (e) any other arrangement having the effect of providing security.

“NPA” has the meaning set out in the recitals hereto.

“Original Currency” has the meaning set out in Section 17.

“Other Currency” has the meaning set out in Section 17.

“Organizational Documents” means, with respect to any Person, such Person’s articles or other charter documents, by-laws, unanimous shareholder agreement, partnership agreement or trust

agreement, as applicable, and any and all other similar agreements, documents and instruments relative to such Person.

“**Person**” includes any natural person, corporation, company, limited liability company, unlimited liability company, trust, joint venture, association, incorporated organization, partnership, Governmental Authority or other entity.

“**Security**” means any present or future Lien, or any present or future guarantee or other financial assistance, granted by any Person with respect to any or all of the Debtor Liabilities or Guarantor Liabilities.

2. Guarantee. The Guarantor hereby unconditionally and irrevocably guarantees the prompt payment and performance to the Creditor, of all Debtor Liabilities when due in accordance with their terms. All amounts payable by the Guarantor under this Agreement shall be paid to the Creditor as directed in writing by the Creditor. All Guarantor Liabilities shall be payable or performable forthwith upon demand by the Creditor, and any which are not so paid shall bear interest from the date of such demand at the rate or rates applicable to the corresponding Debtor Liabilities.

3. Guarantor Liabilities. The Guarantor Liabilities are continuing, absolute, unconditional and irrevocable. The Guarantor Liabilities shall remain effective despite, and shall not be released, exonerated, discharged, diminished, subjected to defence, limited or in any way affected by, anything done, omitted to be done, suffered or permitted by the Creditor, the Debtor or any other Person, or by any other matter, act, omission, circumstance, development or other thing of any nature, kind or description, other than the due payment and performance in full of all of the Debtor Liabilities and all of the Guarantor Liabilities.

4. Guarantee Absolute. Without limiting the generality of Section 3, the Guarantor Liabilities shall remain fully effective and enforceable against the Guarantor and shall not be released, exonerated, discharged, diminished, subjected to defence, limited or in any way affected by, and the rights and remedies of the Creditor under this Agreement shall not in any way be diminished or prejudiced by, and the Guarantor hereby consents or waives, as applicable, to the fullest extent permitted by applicable Law:

- (a) any lack of genuineness, legality, validity or enforceability of any of the Debtor Liabilities or of any agreement or arrangement between the Debtor and the Creditor, or any failure by the Debtor to carry out any of its obligations under any such agreement or arrangement;
- (b) any change in the existence, name, objects, business, powers, organization, share capital, Organizational Documents, ownership, control, directors or management of the Debtor or the Guarantor, the reorganization of the Debtor or the Guarantor, any amalgamation or merger by the Debtor or the Guarantor with any other Person or Persons, or any continuation of the Debtor or the Guarantor under the laws of any jurisdiction;
- (c) any lack or limitation of power, incapacity or disability of the Debtor or the Guarantor or of the directors, officers, managers, employees or agents of the Debtor

or the Guarantor or any other irregularity, defect or informality, or any fraud, by the Debtor or the Guarantor or any of their respective directors, officers, managers, employees or agents, with respect to any or all of the Debtor Liabilities or any or all of the Guarantor Liabilities;

- (d) any non-compliance with or contravention by the Guarantor of any provision of any corporate statute applicable to the Guarantor relative to guarantees or other financial assistance given by the Guarantor;
- (e) any impossibility, impracticability, frustration of purpose, force majeure or act of Governmental Authority with respect to the performance of any of the Debtor Liabilities or Guarantor Liabilities;
- (f) any Insolvency Proceeding affecting, or the financial condition of, the Debtor, the Guarantor or the Creditor at any time;
- (g) any law, regulation, limitation or prescription period or other circumstance that might otherwise be a defence available to, or a discharge of, the Debtor or the Guarantor in respect of any or all of the Debtor Liabilities or any or all of the Guarantor Liabilities;
- (h) any loss of, or in respect of, any Security by or on behalf of the Creditor from the Debtor or the Guarantor, whether occasioned through the fault of the Creditor or otherwise;
- (i) any loss or impairment of any right of the Guarantor for subrogation, reimbursement or contribution, whether or not as a result of any action taken or omitted to be taken by the Creditor; or
- (j) any other matter, act, omission, circumstance, development or thing of any and every nature, kind and description whatsoever, whether similar or dissimilar to the foregoing (other than the due payment and performance in full of the Debtor Liabilities and the Guarantor Liabilities) that might in any manner (but for the operation of this Section) operate (whether by statute, at law, in equity or otherwise) to release, discharge, diminish, limit, restrict or in any way affect the liability of, or otherwise provide a defence to, a guarantor, a surety, or a principal debtor, even if known by the Creditor.

5. Dealing with Debtor Liabilities. Without limiting the generality of Section 3, the Guarantor Liabilities shall remain fully effective and enforceable against the Guarantor and shall not be released, exonerated, discharged, diminished, subjected to defence, limited or in any way affected by, and the rights and remedies of the Creditor under this Agreement shall not in any way be diminished or prejudiced by, and the Guarantor hereby consents to or waives, as applicable, to the fullest extent permitted by applicable Law:

- (a) any amendment, alteration, novation or variation in any manner and to any extent (and irrespective of the effect of the same on the Guarantor) of any of the Debtor

Liabilities, any Security or the Creditor's arrangements or agreements with the Debtor;

- (b) any limitation, compromise, subordination, postponement or abandonment of any of the Debtor Liabilities, any of the Guarantor Liabilities, any Security or the Creditor's arrangements or agreements with the Debtor;
- (c) any grant of time, renewal, extension, indulgence, release, discharge or other course of conduct by the Creditor to the Debtor;
- (d) the creation of any new or additional Debtor Liabilities, the increase or reduction of the rate of interest on any or all of the Debtor Liabilities or any other rates or fees payable under or in respect of any or all of the Debtor Liabilities;
- (e) any alteration, settlement, compromise, acceleration, extension or change in the time or manner for payment or performance by the Debtor made or permitted by the Creditor of any or all of the Debtor Liabilities;
- (f) the Creditor taking or abstaining from taking Security from the Debtor or abstaining from completing, perfecting or maintaining the perfection of any Security;
- (g) the Creditor releasing, substituting or adding one or more sureties or endorsers, accepting additional or substituted Security, or releasing, subordinating or postponing any Security;
- (h) the Creditor accepting compromises from the Debtor;
- (i) the creation or addition of any new Transaction Documents;
- (j) the Creditor doing, or omitting to do, anything to enforce the payment or performance of any or all of the Debtor Liabilities or any Security;
- (k) the Creditor giving or refusing to give or continuing to give any credit or any financial accommodation to the Debtor;
- (l) the Creditor proving any claim in any Insolvency Proceeding affecting the Debtor, as it sees fit or refraining from proving any claim or permitting or suffering the impairment of any of the Debtor Liabilities in any such Insolvency Proceeding; making any election in any such Insolvency Proceeding; permitting or suffering the creation of secured or unsecured credit or debt in any such Insolvency Proceeding; or permitting or suffering the disallowance, avoidance, or subordination of any of the Debtor Liabilities or the obligations of any other debtor with respect to the Debtor Liabilities in any such Insolvency Proceeding;
- (m) the Creditor applying any money received from the Debtor or any Security upon such part of the Debtor Liabilities as the Creditor may see fit or changing any such application in whole or in part from time to time as the Creditor may see fit; or

- (n) the Creditor otherwise dealing with the Debtor, the Debtor Liabilities, and all Security as the Creditor may see fit.

6. Settlement of Accounts. Any account settled or stated between the Creditor and the Debtor shall be accepted by the Guarantor as *prima facie* evidence that the amount thereby appearing due by the Debtor to the Creditor is so due.

7. Indemnity. If any or all of the Debtor Liabilities are not duly paid or performed by the Debtor and are not paid or performed by the Guarantor under Section 2 for any reason whatsoever, the Guarantor shall, as a separate and distinct obligation, indemnify and save the Creditor harmless from and against all losses, costs, damages, expenses, claims and liabilities that the Creditor may suffer or incur in connection with or in respect of any failure by the Debtor for any reason to pay or perform any of the Debtor Liabilities, and shall pay all such amounts to the Creditor after demand as herein provided.

8. Guarantor Liable as Principal Debtor. If, and to the extent that, any amount in respect of the Debtor Liabilities is not recoverable from the Guarantor under this Agreement on the basis of a guarantee or the Creditor is not indemnified under Section 7, in each case, for any reason whatsoever, then, notwithstanding any other provision of this Agreement, the Guarantor shall be liable under this Agreement as principal obligor in respect of the due payment of such amount and shall pay such amount to the Creditor after demand as herein provided.

9. Continuing Guarantee. This Agreement is a continuing guarantee and is binding as a continuing obligation of the Guarantor and the Debtor Liabilities shall be conclusively presumed to have been created in reliance on this Agreement. The Guarantor may not in any manner terminate this Agreement or the Guarantor Liabilities other than by the due and punctual payment in full of the Guarantor Liabilities.

10. Stay of Acceleration. If acceleration of the time for payment, or the liability of the Debtor to make payment, of any amount specified to be payable by the Debtor in respect of the Debtor Liabilities is stayed, prohibited or otherwise affected upon any Insolvency Proceeding or other event affecting the Debtor or payment of any of the Debtor Liabilities by the Debtor, all such amounts otherwise subject to acceleration or payment shall nonetheless be deemed for all purposes of this Agreement to be and to have become due and payable by the Debtor and shall be payable by the Guarantor under this Agreement immediately forthwith on demand by the Creditor.

11. Debtor Information. The Guarantor acknowledges and agrees that the Guarantor has not executed this Agreement as a result of, by reason of, or in reliance upon, any promise, representation, statement or information of any kind or nature whatsoever given, or offered to the Guarantor, by or on behalf of the Creditor or any other Person whether in answer to any enquiry by or on behalf of the Guarantor or not and the Creditor was not prior to the execution by the Guarantor of this Agreement, and is not thereafter, under any duty to disclose to the Guarantor or any other Person any information, matter or thing (material or otherwise) relating to the Debtor, its affairs or its transactions with the Creditor, including any information, matter or thing which puts or may put the Debtor in a position which the Guarantor would not naturally expect or any unexpected facts or unusual features which, whether known or unknown to the Guarantor, are present in any transaction between the Debtor and the Creditor, and the Creditor was not and is

not under any duty to do or execute any matter, thing or document relating to the Debtor, its affairs or its transactions with the Creditor. The Guarantor acknowledges and confirms that it has established its own adequate means of obtaining from the Debtor on a continuing basis all information desired by the Guarantor concerning the financial condition of the Debtor and that the Guarantor will look to the Debtor, and not to the Creditor, in order for the Guarantor to keep adequately informed of changes in the Debtor's financial condition.

12. Reinstatement. If, at any time, all or any part of any payment previously applied by the Creditor to any of the Debtor Liabilities is or must be rescinded or returned by the Creditor for any reason whatsoever (including any Insolvency Proceeding affecting the Debtor or any other Person), such Debtor Liabilities shall, for the purpose of this Agreement, to the extent that such payment is or must be rescinded or returned, be deemed to have continued in existence, notwithstanding such application by the Creditor, and this Agreement shall continue to be effective or be reinstated, as the case may be, as to such Debtor Liabilities, all as though such application by the Creditor had not been made.

13. Subrogation. Notwithstanding any payment made by the Guarantor under this Agreement or any setoff or application of funds of the Guarantor by the Creditor, the Guarantor shall have no right of subrogation to, and waives, any right to enforce any remedy which the Creditor now has or may hereafter have against the Debtor, until all of the Debtor Liabilities have been indefeasibly paid in full; and until that time, the Guarantor waives any benefit of, and any right to participate in, any Security now or hereafter held by the Creditor for the Debtor Liabilities.

14. Insolvency Proceedings. In any Insolvency Proceeding affecting the Debtor, the Creditor shall have the right, in priority to the Guarantor, to receive its full claim in respect of such Insolvency Proceeding for all of the Debtor Liabilities. The Creditor shall have the right to include in its claim in any Insolvency Proceeding affecting the Debtor all or any part of the payments made by the Guarantor under this Agreement and, to prove and rank for, and receive dividends in respect of, all such claims, all of which rights and privileges as they relate and apply to the Guarantor are hereby assigned by the Guarantor to the Creditor. The provisions of this Section shall be sufficient authority for any Person making payment of any such dividends to pay the same directly to the Creditor for the benefit of the Creditor. The Creditor shall be entitled to receive for its benefit all dividends or other payments in respect of all of the above referenced claims until all of the Debtor Liabilities are paid and satisfied in full and the Guarantor shall continue to be liable under this Agreement for any unpaid balance of the Debtor Liabilities. If any amount is paid to the Guarantor under any Insolvency Proceeding affecting the Debtor when any of the Debtor Liabilities remain outstanding, such amount shall be received and held in trust by the Guarantor for the benefit of the Creditor and shall be immediately paid to the Creditor to be credited and applied against the Guarantor Liabilities. In any Insolvency Proceeding affecting the Debtor the Creditor may in its discretion value as it sees fit, acting reasonably, or may refrain from valuing, any Security held by or for the benefit of it.

15. Marshalling. The Guarantor waives to the fullest extent permitted by applicable Law, any right or claim of right to cause a marshalling of the Debtor's assets, or to cause the Creditor to proceed against the Debtor or any other Person, or any Security, in any particular order. The Creditor shall not have any obligation to marshal any assets in favour of the Debtor or any other

Person or against or in payment of any of the Debtor Liabilities or any of the obligations of the Guarantor, the Debtor or any other Person owed to the Creditor.

16. Enforcing Rights Against Guarantor. This is a guarantee of payment and performance and not of collection. The Creditor shall not be required to take any action or to exhaust its recourse against the Debtor or any other Person, or to enforce or value any Security, before being entitled to payment from, and to enforce its rights and remedies against, the Guarantor under this Agreement. The Guarantor hereby renounces to the benefits of division and discussion.

17. Foreign Currency Guarantor Liabilities. The Guarantor shall make payment relative to any Debtor Liabilities in the currency (the "**Original Currency**") in which the Debtor is required to pay such Debtor Liabilities. If the Guarantor makes payment relative to any Debtor Liabilities in a currency (the "**Other Currency**") other than the Original Currency (whether voluntarily or pursuant to an order or judgment of a court or tribunal of any jurisdiction), such payment shall constitute a discharge of the Guarantor Liabilities only to the extent of the amount of the Original Currency which the Creditor is able to purchase at Toronto, Ontario with the amount it receives on the date of receipt. If the amount of the Original Currency which the Creditor is able to purchase is less than the amount of such currency originally due to it in respect to the relevant Debtor Liabilities, the Guarantor shall indemnify and save the Creditor harmless from and against any loss or damage arising as a result of such deficiency. This indemnity constitutes an obligation separate and independent from the other obligations contained in this Agreement, gives rise to a separate and independent cause of action, applies irrespective of any indulgence granted by the Creditor and continues in full force and effect notwithstanding any judgment or order in respect of any amount due hereunder or under any judgment or order.

18. Taxes and Set-Off. All payments to be made by the Guarantor hereunder shall be made without set-off, compensation, deduction or counterclaim and without deduction for any taxes, levies, duties, fees, deductions, withholdings, restrictions or conditions of any nature whatsoever. If at any time any applicable Law requires the Guarantor to make any such deduction or withholding from any such payment, the sum due from the Guarantor with respect to such payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Creditor receives a net sum equal to the sum which it would have received had no deduction or withholding been required.

19. Representations and Warranties. The Guarantor represents and warrants, upon each of which representations and warranties the Creditor relies, that each of the representations and warranties relative to the Guarantor in each of the other Transaction Documents is true and correct when made or deemed made.

20. Covenants. The Guarantor shall comply, and shall cause each of its subsidiaries to comply, with all of the provisions, covenants and agreements contained in each of the Transaction Documents to the extent that such provisions, covenants and agreements apply to the Guarantor or its subsidiaries and shall, and shall cause each of its subsidiaries to, take, or refrain from taking, as the case may be, all actions that are necessary to be taken or not taken so that no violation of any provision, covenant or agreement contained in any of the Transaction Documents, and so that no Default or Event of Default under any of the Transaction Documents, is caused by the actions or inactions of the Guarantor or any of its subsidiaries.

21. Communication. Any notice or other communication required or permitted to be given under this Agreement shall be made in accordance with the terms of the NPA.

22. Expenses; Indemnity; Waiver.

- (a) The Guarantor shall pay to the Creditor (i) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and all applicable taxes, in connection with the preparation and administration of this Agreement, (ii) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and applicable taxes, in connection with any amendments, modifications or waivers of the provisions hereof, and (iii) all out-of-pocket expenses incurred by the Creditor, including the fees, charges and disbursements of any counsel for the Creditor and all applicable taxes, in connection with the assessment, enforcement or protection of their rights in connection with this Agreement, including their rights under this Section, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of the Guarantor Liabilities.
- (b) The Guarantor shall indemnify the Creditor against, and hold the Creditor harmless from, any and all losses, claims, cost recovery actions, damages, expenses and liabilities of whatsoever nature or kind and all reasonable out-of-pocket expenses and all applicable taxes to which the Creditor may become subject arising out of or in connection with (i) the execution or delivery of this Agreement and the performance by the Guarantor of its obligations hereunder, (ii) any actual claim, litigation, investigation or proceeding relating to this Agreement or the Guarantor Liabilities, whether based on contract, tort, delict or any other theory and regardless of whether the Creditor is a party thereto, (iii) any other aspect of this Agreement, or (iv) the enforcement of the Creditor's rights hereunder and any related investigation, defence, preparation of defence, litigation and enquiries; provided that such indemnity shall not, as to the Creditor, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence (it being acknowledged that ordinary negligence does not necessarily constitute gross negligence) or wilful misconduct of or material breach of this Agreement by the Creditor.
- (c) The Guarantor shall not assert, and hereby waives, any claim against the Creditor (or any director, officer or employee thereof), on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement. The Guarantor irrevocably renounces any rights it may have to be released from this Agreement under Article 2362 of the *Civil Code of Québec* and agrees to renew its guarantee hereunder at the request of the Creditor by executing such documents as the Creditor may request from time to time.

- (d) All amounts due under this Section shall be payable to the Creditor for the benefit of the Creditor not later than three Business Days after written demand therefor.
- (e) The indemnifications set out in this Agreement shall survive the payout of the Debtor Liabilities and the Guarantor Liabilities.

23. Additional Security. This Agreement is in addition to, and not in substitution of, any and all other Security previously or concurrently delivered by the Guarantor or any other Person to the Creditor, all of which other Security shall remain in full force and effect.

24. Alteration. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Creditor.

25. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

26. Set-off. If an Event of Default shall have occurred and be continuing, the Creditor is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Law, to set-off, compensate against or combine and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by the Creditor or any of its Affiliates and other obligations at any time owing by the Creditor or any of its Affiliates to or for the credit or the account of the Guarantor against or with any or all of the Guarantor Liabilities, irrespective of whether or not the Creditor shall have made any demand under any Transaction Document and although such obligations may be unmatured. The rights of the Creditor under this Section are in addition to other rights and remedies (including other rights of set-off or combination) which the Creditor may have.

27. Governing Law; Attornment. This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario. Without prejudice to the ability of the Creditor to enforce this Agreement in any other proper jurisdiction, the Guarantor irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of Ontario. To the extent permitted by applicable Law, the Guarantor irrevocably waives any objection (including any claim of inconvenient forum) that it may now or hereafter have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of Ontario. The Guarantor hereby irrevocably consents to the service of any and all process in any such action or proceeding by the delivery of copies of such process to the Guarantor at the address as provided for pursuant to Section 21. Nothing in this Section affects the right of the Creditor to serve process in any manner permitted by applicable Law. In any legal proceeding relating to this Agreement, the Guarantor agrees not to assert that the Commodity Exchange Act applies to this Agreement or any Swap Obligation.

28. Time. Time is of the essence with respect to this Agreement and the time for performance of the obligations of the Guarantor under this Agreement may be strictly enforced by the Creditor. The limitation period applicable to any proceeding relating to a claim under, in connection with,

or with respect to this Agreement shall be solely as prescribed in sections 15-17 of the *Limitations Act, 2002 (Ontario)*, and any other limitation period in respect of such claim (including that provided for in section 4 of the *Limitations Act, 2002 (Ontario)*) is extended accordingly.

29. Interpretation. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “or” is disjunctive; the word “and” is conjunctive. The word “shall” is mandatory; the word “may” is permissive. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented, restated or otherwise modified (subject to any restrictions on such amendments, supplements, restatements or modifications set out herein), (b) any reference herein to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, replaced or re-enacted from time to time, (c) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (e) all references herein to Sections and Schedules shall be construed to refer to Sections and Schedules to, this Agreement. Section headings are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement. In accordance with the *Property Law Act (British Columbia)*, the doctrine of consolidation applies to this Agreement.

30. Successors and Assigns. This Agreement shall enure to the benefit of, and be binding on, the Guarantor and its successors and assigns, and shall enure to the benefit of, and be binding on, the Creditor and its successors and assigns. The Guarantor may not assign this Agreement, or any of its rights or obligations under this Agreement. The Creditor may assign this Agreement and any of their rights and obligations hereunder to any Person that replaces it in its capacity as such. If the Guarantor or the Creditor is an individual, then the term “Guarantor” or “Creditor”, as applicable, shall also include his or her heirs, administrators and executors.

31. Acknowledgment of Receipt. The Guarantor acknowledges receipt of an executed copy of this Agreement.

32. Paramountcy. In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the NPA then, notwithstanding anything contained in this Agreement, the provisions contained in the NPA shall prevail to the extent of such conflict or inconsistency and the provisions of this Agreement shall be deemed to be amended to the extent necessary to eliminate such conflict or inconsistency, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to the Creditor under the NPA. If any act or omission of the Guarantor is expressly permitted under the NPA but is expressly prohibited under this Agreement, such act or omission shall be permitted. If any act or omission is expressly prohibited under this Agreement, but the NPA does not expressly permit such act or omission, or if any act is expressly required to be performed under this Agreement but the NPA does not expressly relieve the Guarantor from such performance, such circumstance shall not

constitute a conflict or inconsistency between the applicable provisions of this Agreement and the provisions of the NPA.

33. Transaction Document. The Guarantor acknowledges and agrees that this Agreement shall constitute a “Transaction Document”.

34. Electronic Signature. Delivery of an executed signature page to this Agreement by the Guarantor by facsimile or other electronic form of transmission shall be as effective as delivery by the Guarantor of a manually executed copy of this Agreement by the Guarantor.

[signatures on the next following page]

This is **Exhibit "27"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

GENERAL SECURITY AGREEMENT

This General Security Agreement is made as of October 26, 2023.

TO: Indigo Northern Ventures LP

RECITALS:

A. **Lynx Air Holdings Corporation and 1263343 Alberta Inc. (doing business as Lynx Air)** (each a “**Debtor**” and collectively, the “**Debtors**”) are, or may become, indebted or liable to Indigo Northern Ventures LP (and any Person to whom Indigo Northern Ventures LP has transferred any Notes (as defined in the NPA which, in turn, is defined below) in accordance with the NPA (collectively, the “**Creditor**”) pursuant to the terms of a second bridge note purchase agreement dated as of October 26, 2023 (as amended, supplemented, restated or replaced from time to time, the “**NPA**”) or otherwise.

B. To secure the payment and performance of its Secured Liabilities, each Debtor has agreed to grant to the Creditor the Security Interests with respect to its Collateral in accordance with the terms of this Agreement.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by each Debtor, each Debtor severally (and not jointly or jointly and severally) agrees with and in favour of the Creditor as follows:

1. **Definitions.** In this Agreement capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in the NPA, and the following terms have the following meanings:

“**Accessions**”, “**Account**”, “**Certificated Security**”, “**Chattel Paper**”, “**Consumer Goods**”, “**Document of Title**”, “**Equipment**”, “**Futures Account**”, “**Futures Contract**”, “**Futures Intermediary**”, “**Goods**”, “**Instrument**”, “**Intangible**”, “**Inventory**”, “**Investment Property**”, “**Money**”, “**Proceeds**”, “**Securities Account**”, “**Securities Intermediary**”, “**Security**”, “**Security Certificate**”, “**Security Entitlement**”, and “**Uncertificated Security**” have the meanings given to them in the PPSA.

“**Agreement**” means this agreement, including the Exhibits and recitals to this agreement, the Supplements and the Schedules, as it or they may be amended, supplemented, restated or replaced from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement.

“**Books and Records**” means, with respect to any Debtor, all books, records, files, papers, disks, documents and other repositories of data recording in any form or medium, evidencing or relating to the Personal Property of such Debtor which are at any time owned by such Debtor or to which such Debtor (or any Person on such Debtor’s behalf) has access.

“Collateral” means, with respect to any Debtor, all of the present and future:

- (a) undertaking;
- (b) Personal Property (including the Boeing Order and any other Personal Property that may be described in any Schedule to this Agreement or any schedules, documents or listings that such Debtor may from time to time provide to the Creditor in connection with this Agreement); and
- (c) real property (including any real property that may be described in any Schedule to this Agreement or any schedules, documents or listings that such Debtor may from time to time provide to the Creditor in connection with this Agreement and including all fixtures, improvements, buildings and other structures placed, installed or erected from time to time on any such real property),

of such Debtor, including the Boeing Order, Books and Records, Contracts, Intellectual Property Rights and Permits, and including all such property in which such Debtor now or in the future has any right, title or interest whatsoever, whether owned, leased, licensed, possessed or otherwise held by such Debtor, and all Proceeds of any of the foregoing, wherever located.

“Contracts” means, with respect to any Debtor, all contracts and agreements to which such Debtor is at any time a party or pursuant to which such Debtor has at any time acquired rights, and includes (i) all rights of such Debtor to receive money due and to become due to it in connection with a contract or agreement, (ii) all rights of such Debtor to damages arising out of, or for breach or default with respect to, a contract or agreement, and (iii) all rights of such Debtor to perform and exercise all remedies in connection with a contract or agreement.

“Control” means, with respect to a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. **“Controlled”** has the corresponding meaning.

“Control Person” means a “control person”, as such term is defined under applicable Canadian securities laws.

“Creditor” has the meaning set out in the recitals hereto.

“Debtors” means the Persons delivering a signature page to this Agreement and any other Person which hereafter delivers a Supplement, and **“Debtor”** means any one of them.

“Event of Default” means any “Event of Default” as defined in the NPA.

“Exhibits” means the exhibits to this Agreement.

“Governmental Authority” means the government of Canada, any other nation or any political subdivision thereof, whether provincial, state, territorial or local, and any agency, authority, instrumentality, regulatory body, court, central bank, fiscal or monetary authority or other authority regulating financial institutions, and any other entity exercising executive, legislative,

judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, including the Bank Committee on Banking Regulation and Supervisory Practices of the Bank of International Settlements.

“**Intellectual Property Rights**” means, with respect to any Debtor, all industrial and intellectual property rights of such Debtor or in which such Debtor has any right, title or interest, including copyrights, patents, inventions (whether or not patented), trade-marks, get-up and trade dress, industrial designs, integrated circuit topographies, plant breeders’ rights, know how and trade secrets, registrations and applications for registration for any such industrial and intellectual property rights, and all Contracts related to any such industrial and intellectual property rights.

“**Issuer**” has the meaning given to that term in the STA.

“**Laws**” means all federal, provincial, municipal, foreign and international statutes, acts, codes, ordinances, decrees, treaties, rules, regulations, municipal by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards or any provisions of the foregoing, including general principles of common and civil law and equity, and all policies, practices and guidelines of any Governmental Authority binding on or affecting the Person referred to in the context in which such word is used (including, in the case of tax matters, any accepted practice or application or official interpretation of any relevant taxation authority); and “**Law**” means any one or more of the foregoing.

“**Lien**” means, (a) with respect to any asset, any mortgage, deed of trust, lien, pledge, hypothec (whether movable or immovable), hypothecation, encumbrance, charge, security interest, royalty interest, adverse claim, defect to title or right of set off in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, title retention agreement or consignment agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to any asset, (c) any purchase option, call or similar right of a third party with respect to such asset, (d) any netting arrangement, defeasance arrangement or reciprocal fee arrangement, and (e) any other arrangement having the effect of providing security.

“**NPA**” has the meaning set out in the recitals hereto.

“**Organizational Documents**” means, with respect to any Person, such Person’s articles or other charter documents, by-laws, unanimous shareholder agreement, partnership agreement or trust agreement, as applicable, and any and all other similar agreements, documents and instruments relative to such Person.

“**Permits**” means, with respect to any Debtor, all permits, licences, waivers, exemptions, consents, certificates, authorizations, approvals, franchises, rights-of-way, easements and entitlements that such Debtor has, requires or is required to have, to own, possess or operate any of its property or to operate and carry on any part of its business.

“**Permitted Liens**” means the Security Interests of all Debtors, all liens and other security contemplated by Section 3.3 of Schedule 13 to the NPA, and all other Liens permitted in writing by the Creditor.

“Personal Property” means personal property and includes Accounts, Chattel Paper, Documents of Title, Equipment, Goods, Instruments, Intangibles, Inventory, Investment Property and Money.

“Pledged Certificated Securities” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Certificated Security.

“Pledged Futures Contracts” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Futures Contract.

“Pledged Futures Accounts” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Futures Account.

“Pledged Futures Intermediary” means, at any time, any Person which is at such time a Futures Intermediary at which a Pledged Futures Account is maintained.

“Pledged Futures Intermediary’s Jurisdiction” means, with respect to any Pledged Futures Intermediary, its jurisdiction as determined under section 7.1(4) of the PPSA.

“Pledged Issuer” means, with respect to any Debtor at any time, any Person which is an Issuer of, or with respect to, any Pledged Shares of such Debtor at such time.

“Pledged Issuer’s Jurisdiction” means, with respect to any Pledged Issuer, its jurisdiction as determined under section 44 of the STA.

“Pledged Securities” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Security.

“Pledged Securities Accounts” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Securities Account.

“Pledged Securities Intermediary” means, at any time, any Person which is at such time a Securities Intermediary at which a Pledged Securities Account is maintained.

“Pledged Securities Intermediary’s Jurisdiction” means, with respect to any Securities Pledged Securities Intermediary, its jurisdiction as determined under section 45(2) of the STA.

“Pledged Security Certificates” means, with respect to any Debtor, any and all Security Certificates of such Debtor representing the Pledged Certificated Securities.

“Pledged Security Entitlements” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Security Entitlement.

“Pledged Shares” means, with respect to any Debtor, all Pledged Securities and Pledged Security Entitlements of such Debtor.

“Pledged Uncertificated Securities” means, with respect to any Debtor, any and all Collateral of such Debtor that is an Uncertificated Security.

“**PPSA**” means the *Personal Property Security Act* (Ontario), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

“**Receiver**” means an interim receiver, a receiver, a manager or a receiver and manager.

“**Release Date**” means the date on which all the Secured Liabilities of each Debtor have been indefeasibly paid and discharged in full and the Creditor has no further obligations under the Transaction Documents pursuant to which further Secured Liabilities of any Debtor might arise.

“**Reporting Pledged Issuer**” means a Pledged Issuer that is a “reporting issuer”, as such term is defined under applicable Canadian securities laws.

“**Secured Liabilities**” means, with respect to any Debtor, all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of such Debtor to the Creditor under, in connection with or with respect to the Transaction Documents, and any unpaid balance thereof.

“**Schedules**” means the schedules to this Agreement.

“**Security Interests**” means, with respect to any Debtor, the Liens created by such Debtor in favour of the Creditor under this Agreement.

“**STA**” means the *Securities Transfer Act, 2006* (Ontario), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

“**Subsidiary**” means, with respect to any Person (the “**parent**”) at any date, any other Person (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more Subsidiaries of the parent or by the parent and one or more Subsidiaries of the parent.

“**Supplement**” has the meaning given to that term in Section 35.

“**ULC**” means an Issuer that is an unlimited company, unlimited liability corporation or unlimited liability company.

“**ULC Laws**” means the *Companies Act* (Nova Scotia), the *Business Corporations Act* (Alberta), the *Business Corporations Act* (British Columbia), and any other present or future Laws governing ULCs.

“**ULC Shares**” means shares or other equity interests in the capital stock of a ULC.

“**Voting or Equity Securities**” means (a) any “security” (as defined under applicable Canadian securities laws), other than a bond, debenture, note or similar instrument representing

indebtedness (whether secured or unsecured), of an issuer carrying a voting right either under all circumstances or under some circumstances that have occurred and are continuing or (b) a security of an issuer that carries a residual right to participate in the earnings of the issuer and, on liquidation or winding up of the issuer, in its assets.

2. **Grant of Security Interests.** As general and continuing collateral security for the due payment and performance of its Secured Liabilities, each Debtor pledges, mortgages, charges and assigns (by way of security) to the Creditor, and grants to the Creditor a security interest in, the Collateral of such Debtor.

3. **Limitations on Grant of Security Interests.** If the grant of the Security Interests with respect to any Contract, Intellectual Property Right or Permit under Section 2, other than the Boeing Order, would result in the termination or breach of such Contract, Intellectual Property Right or Permit, or is otherwise prohibited or ineffective (whether by the terms thereof or under applicable Law), then such Contract, Intellectual Property Right or Permit shall not be subject to the Security Interests but shall be held in trust by the applicable Debtor for the benefit of the Creditor and, on the exercise by the Creditor of any of its rights or remedies under this Agreement following an Event of Default shall be assigned by such Debtor as directed by the Creditor; provided that: (a) the Security Interests of such Debtor shall attach to such Contract, Intellectual Property Right or Permit, or applicable portion thereof, immediately at such time as the condition causing such termination or breach is remedied, and (b) if a term in a Contract that prohibits or restricts the grant of the Security Interests in the whole of an Account or Chattel Paper forming part of the Collateral is unenforceable against the Creditor under applicable Law, then the exclusion from the Security Interests set out above shall not apply to such Account or Chattel Paper. In addition, the Security Interests do not attach to Consumer Goods or extend to the last day of the term of any lease or agreement for lease of real property. Such last day shall be held by the applicable Debtor in trust for the Creditor and, on the exercise by the Creditor of any of its rights or remedies under this Agreement following an Event of Default, shall be assigned by such Debtor as directed by the Creditor. For greater certainty, no Intellectual Property Right in any trade-mark, get-up or trade dress is presently assigned to the Creditor by sole virtue of the grant of the Security Interests contained in Section 2.

4. **Attachment; No Obligation to Advance.** Each Debtor confirms that value has been given by the Creditor to such Debtor, that such Debtor has rights in its Collateral existing at the date of this Agreement or the date of any Supplement, as applicable, and that such Debtor and the Creditor have not agreed to postpone the time for attachment of the Security Interests to any of the Collateral of such Debtor. The Security Interests with respect to the Collateral of each Debtor created by this Agreement shall have effect and be deemed to be effective whether or not the Secured Liabilities of such Debtor or any part thereof are owing or in existence before or after or upon the date of this Agreement or the date of any Supplement, as applicable. Neither the execution and delivery of this Agreement or any Supplement nor the provision of any financial accommodation by the Creditor shall oblige the Creditor to make any financial accommodation or further financial accommodation available to any Debtor or any other Person.

5. **Representations and Warranties.** Each Debtor represents and warrants to the Creditor that, as of the date of this Agreement or the date of any Supplement, as applicable:

- (a) Debtor Information. All of the information set out in the Schedules and Supplements, as applicable, with respect to such Debtor is accurate and complete.
- (b) Title; No Other Security Interests. Except for Permitted Liens, such Debtor owns (or, with respect to any leased or licensed property forming part of the Collateral of such Debtor, holds a valid leasehold or licensed interest in) its Collateral free and clear of any Liens. Such Debtor is the record and beneficial owner of the Pledged Shares. No security agreement, financing statement or other notice with respect to any or all of the Collateral of such Debtor is on file or on record in any public office, except for filings with respect to Permitted Liens.
- (c) Amount of Accounts. The amount represented by such Debtor to the Creditor from time to time as owing by each account debtor or by all account debtors with respect to its Accounts of such Debtor will at such time be the correct amount so owing by such account debtor or debtors and, unless disclosed in writing by such Debtor to the Creditor at that time, will be owed free of any dispute, set-off or counterclaim. Except as disclosed in writing by such Debtor to the Creditor, neither such Debtor nor (to the best of such Debtor's knowledge) any other party to any Account of such Debtor or Contract of such Debtor is in default or is likely to become in default in the performance or observance of any of the terms of such Account or Contract where such default is or could reasonably be expected to be materially adverse to such Debtor or the Creditor.
- (d) Authority. Such Debtor has full power and authority to grant to the Creditor the Security Interests granted by such Debtor and to execute, deliver and perform its obligations under this Agreement, and such execution, delivery and performance does not contravene any of such Debtor's Organizational Documents or any agreement, instrument or restriction to which such Debtor is a party or by which such Debtor or any of its Collateral is bound.
- (e) Consents and Transfer Restrictions.
- (i) Except for any consent that has been obtained and is in full force and effect, no consent of any Person (including any counterparty with respect to any Contract, any account debtor with respect to any Account, or any Governmental Authority with respect to any Permit) is required, or is purported to be required, for the execution, delivery, performance and enforcement of this Agreement (this representation being given without reference to the exclusions contained in Section 3). For the purposes of complying with any transfer restrictions contained in the Organizational Documents of any Pledged Issuer, such Debtor hereby irrevocably consents to any transfer of such Debtor's Pledged Securities of such Pledged Issuer.
- (ii) (A) No order ceasing or suspending trading in, or prohibiting the transfer of the Pledged Shares has been issued and no proceedings for this purpose have been instituted, nor does such Debtor have any reason to

believe that any such proceedings are pending, contemplated or threatened and (B) the Pledged Shares are not subject to any escrow or other agreement, arrangement, commitment or understanding, prohibiting the transfer of the Pledged Shares, including pursuant to applicable Canadian securities laws or the rules, regulations or policies of any marketplace on which the Pledged Shares are listed, posted or traded.

- (f) Execution and Delivery. This Agreement has been duly authorized, executed and delivered by such Debtor and is a valid and binding obligation of such Debtor enforceable against such Debtor in accordance with its terms, subject only to bankruptcy, insolvency, liquidation, reorganization, moratorium and other similar Laws generally affecting the enforcement of creditors' rights, and to the fact that equitable remedies (such as specific performance and injunction) are discretionary remedies.
- (g) No Consumer Goods. Such Debtor does not own any Consumer Goods which are material in value or which are material to the business, operations, property, condition or prospects (financial or otherwise) of such Debtor.
- (h) Intellectual Property Rights. All registrations and applications for registration pertaining to any Intellectual Property Rights of such Debtor, all other material Intellectual Property Rights of such Debtor, and the nature of such Debtor's right, title or interest therein, are described in the Schedules and Supplements as applicable, with respect to such Debtor. Each Intellectual Property Right of such Debtor is valid, subsisting, unexpired, enforceable, and has not been abandoned. In the case of copyright works of such Debtor, such Debtor has obtained full and irrevocable waivers of all moral rights or similar rights pertaining to such works. Except as set out in the Schedules and Supplements, as applicable, none of the Intellectual Property Rights of such Debtor have been licensed or franchised by such Debtor to any Person or, to the best of such Debtor's knowledge, infringed or otherwise misused by any Person. Except as set out in the Schedules and Supplements, as applicable, the exercise of any Intellectual Property Right of such Debtor, or any licensee or franchisee thereof, has not infringed or otherwise misused any intellectual property right of any other Person, and such Debtor has not received and is not aware of any claim of such infringement or other misuse.
- (i) Partnerships, Limited Liability Companies. The terms of any interest in a partnership or limited liability company that is Collateral of such Debtor expressly provide that such interest is a "security" for the purposes of the STA.
- (j) Due Authorization. The Pledged Securities of such Debtor have been duly authorized and validly issued and are fully paid and non-assessable.
- (k) Warrants, Options, etc. There are no outstanding warrants, options or other rights to purchase, or other agreements outstanding with respect to, or property that is

now or hereafter convertible into, or that requires the issuance or sale of, any Pledged Shares of such Debtor.

- (l) **No Required Disposition.** There is no existing agreement, option, right or privilege capable of becoming an agreement or option pursuant to which such Debtor would be required to sell, redeem or otherwise dispose of any Pledged Shares of such Debtor or under which any Pledged Issuer has any obligation to issue any Securities of such Pledged Issuer to any Person.

6. **Survival of Representations and Warranties.** All representations and warranties made by each Debtor in this Agreement (a) are material, (b) shall be considered to have been relied on by the Creditor, and (c) shall survive the execution and delivery of this Agreement and any Supplement or any investigation made at any time by or on behalf of the Creditor and any disposition or payment of the Secured Liabilities until the Release Date.

7. **Covenants.** Each Debtor covenants and agrees with the Creditor that:

- (a) **Further Documentation.** Such Debtor shall from time to time, at the expense of such Debtor, promptly and duly authorize, execute and deliver such further instruments and documents, and take such further action, as the Creditor may reasonably request for the purpose of obtaining or preserving the full benefits of, and the rights and powers granted by, this Agreement (including the filing of any financing statements or financing change statements under any applicable legislation with respect to the Security Interests). In addition, upon the acquisition of interest in any airframe or engine, such Debtor shall notify the Creditor of such acquisition and shall, at the expense of such Debtor, promptly and duly authorize, execute and deliver an aircraft security agreement in respect of such interest in the airframe and engine, in favour of the Creditor, in form and substance acceptable to the Creditor, acting reasonably.¹

Such Debtor acknowledges that this Agreement has been prepared based on the existing Laws in the Province referred to in the “Governing Law” section of this Agreement and that a change in such Laws, or the Laws of other jurisdictions, may require the execution and delivery of different forms of security documentation. Accordingly, such Debtor agrees that the Creditor shall have the right to require that this Agreement be amended, supplemented, restated or replaced, and that such Debtor shall immediately on request by the Creditor authorize, execute and deliver any such amendment, supplement, restatement or replacement (i) to reflect any changes in such Laws, whether arising as a result of statutory amendments, court decisions or otherwise, (ii) to facilitate the creation and registration of appropriate security in all appropriate jurisdictions, or (iii) if such Debtor merges or amalgamates with any other Person or enters into any corporate reorganization, in each case in order to confer on the Creditor Liens similar to, and having the same effect as, the Security Interests.

¹ NTD: It is our understanding that neither the Company nor the Guarantor own any aircraft or engines.

- (b) Maintenance of Records. Such Debtor shall keep and maintain accurate and complete records of the Collateral of such Debtor, including a record of all payments received and all credits granted with respect to the Accounts and Contracts of such Debtor. At the written request of the Creditor, such Debtor shall mark any Collateral of such Debtor specified by the Creditor to evidence the existence of the Security Interests.
- (c) Right of Inspection. The Creditor may, at all times during normal business hours, without charge, examine and make copies of all Books and Records, and may discuss the affairs, finances and accounts of such Debtor with its officers and accountants. The Creditor may also, without charge, enter the premises of such Debtor where any of the Collateral of such Debtor is located for the purpose of inspecting such Collateral, observing its use or otherwise protecting its interests in such Collateral. Such Debtor, at its expense, shall provide the Creditor with such clerical and other assistance as may be reasonably requested by the Creditor to exercise any of its rights under this paragraph. Notwithstanding the foregoing, the Creditor shall conduct such examinations, inspections and attendance at the premises of the Debtor in such a manner as to reasonably minimize the interruptions of the ordinary business operation of the Debtor.
- (d) Limitations on Other Liens. Such Debtor shall not create, incur or permit to exist, and shall defend the Collateral of such Debtor against, and shall take such other action as is necessary to remove, any and all Liens in and other claims affecting the Collateral of such Debtor, other than the Permitted Liens, and such Debtor shall defend the right, title and interest of the Creditor in and to the Collateral of such Debtor against the claims and demands of all Persons.
- (e) Limitations on Dispositions of Collateral. Such Debtor shall not, without the Creditor's prior written consent, sell, lease or otherwise dispose of any of its Collateral with a value (or for a price) in excess of US\$5,000,000, except that Inventory of such Debtor may be sold, leased or otherwise disposed of and, subject to the terms of this Agreement, Accounts of such Debtor may be collected, in either case in the ordinary course of such Debtor's business. Following an Event of Default, all Proceeds of the Collateral of such Debtor (including all amounts received with respect to Accounts) received by or on behalf of such Debtor, whether or not arising in the ordinary course of such Debtor's business, shall be received by such Debtor as trustee for the Creditor and shall be immediately paid to the Creditor.
- (f) Limitations on Modifications, Waivers, Extensions. Other than as not prohibited by paragraph (g) below, such Debtor shall not (i) amend, modify, terminate, permit to expire or waive any provision of any of such Debtor's Permits, Contracts or any documents giving rise to an Account in any manner which is or could reasonably be expected to be materially adverse to such Debtor or the Creditor, or (ii) fail to exercise promptly and diligently its rights under each of such Debtor's Contracts and documents giving rise to an Account if such failure

is or could reasonably be expected to be materially adverse to such Debtor or the Creditor.

- (g) Limitations on Discounts, Compromises, Extensions of Accounts. Other than in the ordinary course of business of such Debtor consistent with previous practices, such Debtor shall not (i) grant any extension of the time for payment of any Account of such Debtor, (ii) compromise, compound or settle any Account of such Debtor for less than its full amount, (iii) release, wholly or partially, any Person liable for the payment of any Account of such Debtor, or (iv) allow any credit or discount of any Account of such Debtor.
- (h) Maintenance of Collateral. Such Debtor shall maintain all tangible Collateral of such Debtor in good operating condition, ordinary wear and tear excepted, and such Debtor shall provide all maintenance, service and repairs necessary for such purpose. Such Debtor shall maintain in good standing all registrations and applications with respect to the Intellectual Property Rights of such Debtor except to the extent that any failure to do so could not reasonably be expected to be materially adverse to such Debtor or the Creditor.
- (i) Insurance. Such Debtor shall keep the Collateral of such Debtor insured with financially sound and reputable companies to its full insurable value against loss or damage by fire, explosion, theft and such other risks as are customarily insured against by Persons carrying on similar businesses or owning similar property within the vicinity in which such Debtor's applicable business or property is located. The applicable insurance policies shall be in form and substance satisfactory to the Creditor, and shall (i) provide that no cancellation, material reduction in amount or material change in coverage will be effective until at least 30 days after receipt of written notice thereof by the Creditor, and (ii) name the Creditor as loss payee as its interest may appear. Such Debtor shall, from time to time at the Creditor's request, deliver the applicable insurance policies (or satisfactory evidence of such policies) to the Creditor. If such Debtor does not obtain or maintain such insurance, the Creditor may, but need not, do so, in which event such Debtor shall immediately on demand reimburse the Creditor for all payments made by the Creditor in connection with obtaining and maintaining such insurance, and until reimbursed any such payment shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests. Neither the Creditor nor its correspondents or its agents shall be responsible for the character, adequacy, validity or genuineness of any insurance, the solvency of any insurer, or any other risk connected with insurance.
- (j) Further Identification of Collateral. Such Debtor shall promptly furnish to the Creditor such statements and schedules further identifying and describing the Collateral of such Debtor, and such other reports in connection with the Collateral of such Debtor, as the Creditor may from time to time reasonably request, including an updated list of any motor vehicles or other "serial number" goods owned by such Debtor and classified as Equipment, including vehicle identification numbers.

- (k) Amalgamation, Merger or Consolidation. Such Debtor shall not permit any Pledged Issuer of such Debtor to amalgamate, merge or consolidate unless all of the outstanding capital stock of the surviving or resulting corporation is, upon such amalgamation, merger or consolidation, pledged under this Agreement, and no cash, securities or other property is distributed with respect to the outstanding shares of any other constituent corporation.
- (l) Agreements re Intellectual Property Rights. Promptly upon request from time to time by the Creditor, such Debtor shall authorize, execute and deliver any and all agreements, instruments, documents and papers that the Creditor may reasonably request to evidence the Security Interests in any Intellectual Property Rights of such Debtor and, where applicable, the goodwill of the business of such Debtor connected with the use of, and symbolized by, any such Intellectual Property Rights.
- (m) Instruments; Documents of Title; Chattel Paper. Where an Event of Default has occurred and is continuing, promptly upon request from time to time by the Creditor, such Debtor shall deliver to the Creditor, endorsed and/or accompanied by such instruments of assignment and transfer in such form and substance as the Creditor may reasonably request, any and all Instruments, Documents of Title and Chattel Paper of such Debtor included in or relating to the Collateral of such Debtor as the Creditor may specify in its request.
- (n) Pledged Certificated Securities. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all Pledged Security Certificates of such Debtor and other materials as may be required from time to time to provide the Creditor with control over all Pledged Certificated Securities of such Debtor in the manner provided under section 23 of the STA. Where an Event of Default has occurred and is continuing, promptly, at the request of the Creditor, such Debtor shall cause all Pledged Security Certificates of such Debtor to be registered in the name of the Creditor or its nominee.
- (o) Pledged Uncertificated Securities. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all such documents, agreements and other materials as may be required from time to time to provide the Creditor with control over all Pledged Uncertificated Securities of such Debtor in the manner provided under section 24 of the STA.
- (p) Pledged Security Entitlements. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all such documents, agreements and other materials as may be required from time to time to provide the Creditor with control over all Pledged Security Entitlements of such Debtor in the manner provided under section 25 or 26 of the STA.
- (q) Pledged Futures Contracts. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all such documents, agreements and other materials as may be required from time to time to provide

the Creditor with control over all Pledged Futures Contracts of such Debtor in the manner provided under subsection 1(2) of the PPSA.

- (r) Partnerships, Limited Liability Companies. Such Debtor shall ensure that the terms of any interest in a partnership or limited liability company that is Collateral of such Debtor shall expressly provide that such interest is a “security” for the purposes of the STA.
- (s) Transfer Restrictions. If the constating documents of any Pledged Issuer (other than a ULC) restrict the transfer of the Securities of such Pledged Issuer, then such Debtor shall deliver to the Creditor a certified copy of a resolution of the directors, shareholders, unitholders or partners of such Pledged Issuer, as applicable, consenting to the transfer(s) contemplated by this Agreement, including any prospective transfer of the Collateral of such Debtor by the Creditor upon a realization on the Security Interests.
- (t) Notices. Such Debtor shall advise the Creditor promptly, in reasonable detail, of:
 - (i) any change to a Pledged Securities Intermediary’s Jurisdiction, Pledged Issuer’s Jurisdiction, or Pledged Future Intermediary’s Jurisdiction;
 - (ii) any change in the location of the jurisdiction of incorporation or amalgamation, chief executive office or domicile of such Debtor;
 - (iii) any change in the name of such Debtor;
 - (iv) any merger, consolidation or amalgamation of such Debtor with any other Person;
 - (v) any additional jurisdiction in which such Debtor has tangible Personal Property with a net book value, in the aggregate, of at least \$100,000;
 - (vi) any additional jurisdiction in which material account debtors of such Debtor are located;
 - (vii) any acquisition of any right, title or interest in real property by such Debtor;
 - (viii) any acquisition of any Intellectual Property Rights which are the subject of a registration or application with any governmental intellectual property or other governing body or registry, or which are material to such Debtor’s business;
 - (ix) any acquisition of any Instrument, Document of Title or Chattel Paper;
 - (x) any creation or acquisition of any Subsidiary of such Debtor;

- (xi) any Lien (other than Permitted Liens) on, or claim asserted against, any of the Collateral of such Debtor;
- (xii) the Debtor becoming (or if the Debtor could reasonably be determined to have become) a Control Person with respect to any Reporting Pledged Issuer;
- (xiii) the issuance of any order ceasing or suspending trading in, or prohibiting the transfer of any Pledged Shares or the institution of proceedings for such purpose, or if such Debtor has any reason to believe that any such proceedings are pending, contemplated or threatened;
- (xiv) any occurrence of any event, claim or occurrence that could reasonably be expected to have a material adverse effect on the value of the Collateral of such Debtor or on the Security Interests; or
- (xv) any additional jurisdiction in which such Debtor carries on business.

Such Debtor shall not effect or permit any of the changes referred to in clauses (ii) through (viii) above unless all filings have been made and all other actions taken that are required in order for the Creditor to continue at all times following such change to have a valid and perfected first priority Security Interest, subject to Permitted Liens, with respect to all of the Collateral of such Debtor.

8. **Voting Rights.** Unless an Event of Default has occurred and is continuing, each Debtor shall be entitled to exercise all voting power from time to time exercisable with respect to the Pledged Shares of such Debtor and give consents, waivers and ratifications with respect thereto; provided, however, that no vote shall be cast or consent, waiver or ratification given or action taken which would be, or would have a reasonable likelihood of being, prejudicial to the interests of the Creditor or which would have the effect of reducing the value of the Collateral of such Debtor as security for the Secured Liabilities of such Debtor or imposing any restriction on the transferability of any of the Collateral of such Debtor. Immediately upon the occurrence and during the continuance of any Event of Default, but at all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, all such rights of the applicable Debtor to vote and give consents, waivers and ratifications shall cease and the Creditor or its nominee shall be entitled to exercise all such voting rights and to give all such consents, waivers and ratifications.

9. **Dividends; Interest.** Unless an Event of Default has occurred and is continuing, each Debtor shall be entitled to receive any and all cash dividends, interest, principal payments and other forms of cash distribution on the Pledged Shares of such Debtor which it is otherwise entitled to receive, but any and all stock and/or liquidating dividends, distributions of property, returns of capital or other distributions made on or with respect to the Pledged Shares of such Debtor, whether resulting from a subdivision, combination or reclassification of the outstanding capital stock of any Pledged Issuer of such Debtor or received in exchange for such Pledged Shares or any part thereof or as a result of any amalgamation, merger, consolidation, acquisition or other exchange of property to which any Pledged Issuer of such Debtor may be a party or

otherwise, and any and all cash and other property received in exchange for any Pledged Shares of such Debtor shall be and become part of the Collateral of such Debtor subject to the Security Interests; and if any of the Pledged Security Certificates have been registered in the name of the Creditor or its nominee, the Creditor shall execute and deliver (or cause to be executed and delivered) to such Debtor all such dividend orders and other instruments as such Debtor may reasonably request for the purpose of enabling such Debtor to receive the dividends, distributions or other payments which such Debtor is authorized to receive and retain pursuant to this Section. If an Event of Default has occurred and is continuing, all rights of such Debtor pursuant to this Section shall cease and the Creditor shall have the sole and exclusive right and authority to receive and retain the cash dividends, interest, principal payments and other forms of cash distribution which such Debtor would otherwise be authorized to retain pursuant to this Section. Any money and other property paid over to or received by the Creditor pursuant to the provisions of this Section shall be retained by the Creditor as additional Collateral hereunder and be applied in accordance with the provisions of this Agreement.

10. **Rights on Event of Default.** If an Event of Default has occurred and is continuing, then and in every such case all of the Secured Liabilities of each Debtor shall, at the option of the Creditor, become immediately due and payable and the Security Interests of each Debtor shall become enforceable and the Creditor, in addition to any rights now or hereafter existing under applicable Law may, personally or by agent, at such time or times as the Creditor in its discretion may determine, do any one or more of the following:

- (a) **Rights under PPSA, etc.** Exercise against any or all Debtors all of the rights and remedies granted to secured parties under the PPSA and any other applicable statute, or otherwise available to the Creditor by contract, at law or in equity.
- (b) **Demand Possession.** Demand possession of any or all of the Collateral of any or all Debtors, in which event each such Debtor shall, at the expense of such Debtor, immediately cause the Collateral of such Debtor designated by the Creditor to be assembled and made available to the Creditor.
- (c) **Take Possession.** Enter on any premises where any Collateral of any or all Debtors is located and take possession of, disable or remove such Collateral.
- (d) **Deal with Collateral.** Hold, store and keep idle, or operate, lease or otherwise use or permit the use of, any or all of the Collateral of any or all Debtors for such time and on such terms as the Creditor may determine, and demand, collect and retain all earnings and other sums due or to become due from any Person with respect to any of the Collateral of any or all Debtors.
- (e) **Carry on Business.** At all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, carry on, or concur in the carrying on of, any or all of the business or undertaking of any or all Debtors and enter on, occupy and use (without charge by such Debtor) any of the premises, buildings, plant and undertaking of, or occupied or used by, any or all Debtors.

- (f) Enforce Collateral. Seize, collect, receive, enforce or otherwise deal with any Collateral of any or all Debtors in such manner, on such terms and conditions and at such times as the Creditor deems advisable. Notwithstanding the foregoing, the Creditor may only take such aforementioned action in respect of Collateral comprised of Pledged Securities if such Pledged Securities are promptly transferred to an entity permitted by the Ownership and Control Requirements.
- (g) Dispose of Collateral. Realize on any or all of the Collateral of any or all Debtors and sell, lease, assign, give options to purchase, or otherwise dispose of and deliver any or all of the Collateral of any or all Debtors (or contract to do any of the above), in one or more parcels at any public or private sale, at any exchange, broker's board or office of the Creditor or elsewhere, with or without advertising or other formality, except as required by applicable Law, on such terms and conditions as the Creditor may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery.
- (h) Court-Approved Disposition of Collateral. Obtain from any court of competent jurisdiction an order for the sale or foreclosure of any or all of the Collateral of any or all Debtors.
- (i) Purchase by Creditor. At any public sale, and to the extent permitted by Law on any private sale, bid for and purchase any or all of the Collateral of any or all Debtors offered for sale and, upon compliance with the terms of such sale, hold, retain, sell or otherwise dispose of such Collateral without any further accountability to any Debtor or any other Person with respect to such holding, retention, sale or other disposition, except as required by Law. In any such sale to the Creditor, the Creditor may, for the purpose of making payment for all or any part of the Collateral of any Debtor so purchased, use any claim for any or all of the Secured Liabilities of such Debtor then due and payable to it as a credit against the purchase price.
- (j) Collect Accounts. Notify (whether in its own name or in the name of any Debtor) the account debtors under any Accounts of any or all Debtors of the assignment of such Accounts to the Creditor and direct such account debtors to make payment of all amounts due or to become due to any or all Debtors with respect to such Accounts directly to the Creditor and, upon such notification and at the expense of any such Debtor, enforce collection of any such Accounts, and adjust, settle or compromise the amount or payment of such Accounts, in such manner and to such extent as the Creditor deems appropriate in the circumstances.
- (k) Transfer of Collateral. At all times subject to the Ownership and Control Requirements or as otherwise permitted by the CTA, transfer any Collateral of any or all Debtors that is Pledged Shares into the name of the Creditor or its nominee.
- (l) Voting. At all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, vote any or all of the Pledged Shares of any or

all Debtors (whether or not transferred to the Creditor or its nominee) and give or withhold all consents, waivers and ratifications with respect thereto and otherwise act with respect thereto as though it were the outright owner thereof.

- (m) Exercise Other Rights. At all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, exercise any and all rights, privileges, entitlements and options pertaining to any Collateral of any or all Debtors that is Pledged Shares as if the Creditor were the absolute owner of such Pledged Shares.
- (n) Dealing with Contracts and Permits. Deal with any and all Contracts and Permits of any or all Debtors to the same extent as any such Debtor might (including the enforcement, realization, sale, assignment, transfer, and requirement for continued performance), all on such terms and conditions and at such time or times as may seem advisable to the Creditor.
- (o) Payment of Liabilities. Pay any liability secured by any Lien against any Collateral of any or all Debtors. Each such Debtor shall immediately on demand reimburse the Creditor for all such payments and, until paid, any such reimbursement obligation shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.
- (p) Borrow and Grant Liens. Borrow money for the maintenance, preservation or protection of any Collateral of any or all Debtors or for carrying on any of the business or undertaking of any or all Debtors and grant Liens on any Collateral of any or all Debtors (in priority to the Security Interests of any or all Debtors or otherwise) as security for the money so borrowed. Each such Debtor shall immediately on demand reimburse the Creditor for all such borrowings and, until paid, any such reimbursement obligations shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.
- (q) Appoint Receiver. Appoint by instrument in writing one or more Receivers of any or all Debtors or any or all of the Collateral of any or all Debtors with such rights, powers and authority (including any or all of the rights, powers and authority of the Creditor under this Agreement) as may be provided for in the instrument of appointment or any supplemental instrument, and remove and replace any such Receiver from time to time. To the extent permitted by applicable Law, any Receiver appointed by the Creditor shall (for purposes relating to responsibility for the Receiver's acts or omissions) be considered to be the agent of any such Debtor and not of the Creditor.
- (r) Court-Appointed Receiver. Obtain from any court of competent jurisdiction an order for the appointment of a Receiver of any or all Debtors or of any or all of the Collateral of any or all Debtors.

The Creditor may exercise any or all of the foregoing rights and remedies without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except as required by applicable Law) to or on any Debtor or any other Person, and each Debtor hereby waives each such demand, presentment, protest, advertisement and notice to the extent permitted by applicable Law. None of the above rights or remedies shall be exclusive of or dependent on or merge in any other right or remedy, and one or more of such rights and remedies may be exercised independently or in combination from time to time. Each Debtor acknowledges and agrees that any action taken by the Creditor hereunder following the occurrence and during the continuance of an Event of Default shall not be rendered invalid or ineffective as a result of the curing of the Event of Default on which such action was based.

11. **Realization Standards.** To the extent that applicable Law imposes duties on the Creditor to exercise remedies in a commercially reasonable manner and without prejudice to the ability of the Creditor to dispose of the Collateral in any such manner, each Debtor acknowledges and agrees that it is not commercially unreasonable for the Creditor to (or not to) (a) incur expenses reasonably deemed significant by the Creditor to prepare the Collateral of such Debtor for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (b) fail to obtain third party consents for access to the Collateral of such Debtor to be disposed of, (c) fail to exercise collection remedies against account debtors or other Persons obligated on the Collateral of such Debtor or to remove Liens against the Collateral of such Debtor, (d) exercise collection remedies against account debtors and other Persons obligated on the Collateral of such Debtor directly or through the use of collection agencies and other collection specialists, (e) dispose of Collateral of such Debtor by way of public auction, public tender or private contract, with or without advertising and without any other formality, (f) contact other Persons, whether or not in the same business of such Debtor, for expressions of interest in acquiring all or any portion of the Collateral of such Debtor, (g) hire one or more professional auctioneers to assist in the disposition of the Collateral of such Debtor, whether or not such Collateral is of a specialized nature or an upset or reserve bid or price is established, (h) dispose of the Collateral of such Debtor by utilizing internet sites that provide for the auction of assets of the types included in such Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets, (i) dispose of assets in wholesale rather than retail markets, (j) disclaim disposition warranties, such as title, possession or quiet enjoyment, (k) purchase insurance or credit enhancements to insure the Creditor against risks of loss, collection or disposition of the Collateral of such Debtor or to provide to the Creditor a guaranteed return from the collection or disposition of such Collateral, (l) to the extent deemed appropriate by the Creditor, obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Creditor in the collection or disposition of any of the Collateral of such Debtor, (m) dispose of Collateral of such Debtor in whole or in part, (n) dispose of Collateral of such Debtor to a customer of the Creditor, and (o) establish an upset or reserve bid price with respect to Collateral of such Debtor.

12. **Grant of Licence.** For the purpose of enabling the Creditor to exercise its rights and remedies under this Agreement when the Creditor is entitled to exercise such rights and remedies, and for no other purpose, each Debtor grants to the Creditor an irrevocable, non-exclusive licence (exercisable without payment of royalty or other compensation to such Debtor) to use, assign or sublicense any or all of the Intellectual Property Rights of such Debtor, including in such licence reasonable access to all media in which any of the licensed items may

be recorded or stored and to all computer programs used for the compilation or printout of the same. For any trade-marks, get-up and trade dress and other business indicia, such licence includes an obligation on the part of the Creditor to maintain the standards of quality maintained by such Debtor or, in the case of trade-marks, get-up and trade dress or other business indicia licensed to such Debtor, the standards of quality imposed upon such Debtor by the relevant licence. For copyright works, such licence shall include the benefit of any waivers of moral rights and similar rights.

13. **Securities Laws.** The Creditor is authorized, in connection with any offer or sale of any Pledged Shares of any Debtor, to comply with any limitation or restriction as it may be advised by counsel is necessary to comply with applicable Law, including compliance with procedures that may restrict the number of prospective bidders and purchasers, requiring that prospective bidders and purchasers have certain qualifications, and restricting prospective bidders and purchasers to Persons who will represent and agree that they are purchasing for their own account or investment and not with a view to the distribution or resale of such Securities. In addition to and without limiting Section 11, each Debtor further agrees that compliance with any such limitation or restriction shall not result in a sale being considered or deemed not to have been made in a commercially reasonable manner, and the Creditor shall not be liable or accountable to such Debtor for any discount allowed by reason of the fact that such Pledged Shares are sold in compliance with any such limitation or restriction. If the Creditor chooses to exercise its right to sell any or all Pledged Shares of any Debtor, upon written request, such Debtor shall cause each applicable Pledged Issuer to furnish to the Creditor all such information as the Creditor may reasonably request in order to determine the number of shares and other instruments included in the Collateral of such Debtor which may be sold by the Creditor in exempt transactions under any Laws governing securities, and the rules and regulations of any applicable securities regulatory body thereunder, as the same are from time to time in effect.

14. **ULC Shares.** Each Debtor acknowledges that certain of the Collateral of such Debtor may now or in the future consist of ULC Shares, and that it is the intention of the Creditor and each Debtor that the Creditor should not under any circumstances prior to realization thereon be held to be a “member” or a “shareholder”, as applicable, of a ULC for the purposes of any ULC Laws. Therefore, notwithstanding any provisions to the contrary contained in this Agreement, the NPA or any other Transaction Document, where a Debtor is the registered owner of ULC Shares which are Collateral of such Debtor, such Debtor shall remain the sole registered owner of such ULC Shares until such time as such ULC Shares are effectively transferred into the name of the Creditor or any other Person on the books and records of the applicable ULC. Accordingly, each Debtor shall be entitled to receive and retain for its own account any dividend on or other distribution, if any, with respect to such ULC Shares (except for any dividend or distribution comprised of Pledged Security Certificates of such Debtor, which shall be delivered to the Creditor to hold hereunder) and shall have the right to vote such ULC Shares and to control the direction, management and policies of the applicable ULC to the same extent as such Debtor would if such ULC Shares were not pledged to the Creditor pursuant hereto. Nothing in this Agreement, the NPA or any other Transaction Document is intended to, and nothing in this Agreement, the NPA or any other Transaction Document shall, constitute the Creditor or any Person other than the applicable Debtor, a member or shareholder of a ULC for the purposes of any ULC Laws (whether listed or unlisted, registered or beneficial), until such time as notice is given to such Debtor and further steps are taken pursuant hereto or thereto so as to register the

Creditor or such other Person, as specified in such notice, as the holder of the ULC Shares. To the extent any provision hereof would have the effect of constituting the Creditor as a member or a shareholder, as applicable, of any ULC prior to such time, such provision shall be severed herefrom and shall be ineffective with respect to ULC Shares which are Collateral of any Debtor without otherwise invalidating or rendering unenforceable this Agreement or invalidating or rendering unenforceable such provision insofar as it relates to Collateral of any Debtor which is not ULC Shares. Except upon the exercise of rights of the Creditor to sell, transfer or otherwise dispose of ULC Shares in accordance with this Agreement, each Debtor shall not cause or permit, or enable a Pledged Issuer that is a ULC to cause or permit, the Creditor to: (a) be registered as a shareholder or member of such Pledged Issuer; (b) have any notation entered in their favour in the share register of such Pledged Issuer; (c) be held out as shareholders or members of such Pledged Issuer; (d) receive, directly or indirectly, any dividends, property or other distributions from such Pledged Issuer by reason of the Creditor holding the Security Interests over the ULC Shares; or (e) act as a shareholder of such Pledged Issuer, or exercise any rights of a shareholder including the right to attend a meeting of shareholders of such Pledged Issuer or to vote its ULC Shares.

15. **Application of Proceeds.** All Proceeds of Collateral of any Debtor received by the Creditor or a Receiver may be applied to discharge or satisfy any expenses (including the Receiver's remuneration and other expenses of enforcing the Creditor's rights against such Debtor under this Agreement), Liens on the Collateral of such Debtor in favour of Persons other than the Creditor, borrowings, taxes and other outgoings affecting the Collateral of such Debtor or which are considered advisable by the Creditor or the Receiver to protect, preserve, repair, process, maintain or enhance the Collateral of such Debtor or prepare it for sale, lease or other disposition, or to keep in good standing any Liens on the Collateral of such Debtor ranking in priority to any of the Security Interests, or to sell, lease or otherwise dispose of the Collateral of such Debtor. The balance of such Proceeds may, at the sole discretion of the Creditor, be held as collateral security for the Secured Liabilities of the applicable Debtor or be applied to such of the Secured Liabilities of the applicable Debtor (whether or not the same are due and payable) in such manner and at such times as the Creditor considers appropriate and thereafter shall be accounted for as required by Law.

16. **Continuing Liability of Debtor.** Each Debtor shall remain liable for any Secured Liabilities of such Debtor that are outstanding following realization of all or any part of the Collateral of such Debtor and the application of the Proceeds thereof.

17. **Creditor's Appointment as Attorney-in-Fact.** Effective upon the occurrence and during the continuance of an Event of Default, each Debtor constitutes and appoints the Creditor and any officer or agent of the Creditor, with full power of substitution, as such Debtor's true and lawful attorney-in-fact with full power and authority in the place of such Debtor and in the name of such Debtor or in its own name, from time to time in the Creditor's discretion, to take any and all appropriate action and to execute any and all documents and instruments as, in the opinion of such attorney, may be necessary or desirable to accomplish the purposes of this Agreement. Without limiting the effect of this Section, each Debtor grants the Creditor an irrevocable proxy to vote the Pledged Shares of such Debtor and to exercise all other rights, powers, privileges and remedies to which a holder thereof would be entitled (including giving or withholding written consents of shareholders, calling special meetings of shareholders and voting

at such meetings), which proxy shall be effective, automatically and without the necessity of any action (including any transfer of any Pledged Shares of such Debtor on the books and records of a Pledged Issuer or Pledged Securities Intermediary, as applicable), upon the occurrence of an Event of Default. These powers are coupled with an interest and are irrevocable until the Release Date. Nothing in this Section affects the right of the Creditor as secured party or any other Person on the Creditor's behalf, to sign and file or deliver (as applicable) all such financing statements, financing change statements, notices, verification statements and other documents relating to the Collateral and this Agreement as the Creditor or such other Person considers appropriate. Each Debtor hereby ratifies and confirms, and agrees to ratify and confirm, whatever lawful acts the Creditor or any of the Creditor's sub-agents, nominees or attorneys do or purport to do in exercise of the power of attorney granted to the Creditor pursuant to this Section.

18. **Performance by Creditor of Debtor's Obligations.** If any Debtor fails to perform or comply with any of the obligations of such Debtor under this Agreement, the Creditor may, but need not, perform or otherwise cause the performance or compliance of such obligation, provided that such performance or compliance shall not constitute a waiver, remedy or satisfaction of such failure. The expenses of the Creditor incurred in connection with any such performance or compliance shall be payable by such Debtor to the Creditor immediately on demand, and until paid, any such expenses shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.

19. **Interest.** If any amount payable by any Debtor to the Creditor under this Agreement is not paid when due, such Debtor shall pay to the Creditor, immediately on demand, interest on such amount from the date due until paid, at the Default Rate. All amounts payable by such Debtor to the Creditor under this Agreement, and all interest on all such amounts, compounded monthly on the last Business Day of each month, shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.

20. **Severability.** Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

21. **Rights of Creditor; Limitations on Creditor's Obligations.**

- (a) **Limitations on Creditor's Liability.** The Creditor shall not be liable to any Debtor or any other Person for any failure or delay in exercising any of the rights of such Debtor under this Agreement (including any failure to take possession of, collect, sell, lease or otherwise dispose of any Collateral of such Debtor, or to preserve rights against prior parties). Neither the Creditor, a Receiver, nor any agent of the Creditor (including, in Alberta or British Columbia, any sheriff) is required to take, or shall have any liability for any failure to take or delay in taking, any steps necessary or advisable to preserve rights against other Persons under any Collateral of any Debtor in its possession. Neither the Creditor, any Receiver, nor any agent of the Creditor shall be liable for any, and each Debtor shall bear the

full risk of all, loss or damage to any and all of the Collateral of such Debtor (including any Collateral of such Debtor in the possession of the Creditor, any Receiver, or any agent of the Creditor) caused for any reason other than the gross negligence or wilful misconduct of the Creditor, such Receiver or such agent of the Creditor.

- (b) Debtors Remain Liable under Accounts and Contracts. Notwithstanding any provision of this Agreement, each Debtor shall remain liable under each of the documents giving rise to the Accounts of such Debtor and under each of the Contracts of such Debtor to observe and perform all the conditions and obligations to be observed and performed by such Debtor thereunder, all in accordance with the terms of each such document and Contract. The Creditor shall have no obligation or liability under any Account of any Debtor (or any document giving rise thereto) or Contract of any Debtor by reason of or arising out of this Agreement or the receipt by the Creditor of any payment relating to such Account or Contract pursuant hereto, and in particular (but without limitation), the Creditor shall not be obligated in any manner to perform any of the obligations of any Debtor under or pursuant to any Account of such Debtor (or any document giving rise thereto) or under or pursuant to any Contract of such Debtor, to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party under any Account of such Debtor (or any document giving rise thereto) or under any Contract of such Debtor, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time.
- (c) Collections on Accounts and Contracts. Each Debtor shall be authorized to, at any time that an Event of Default is not continuing, collect the Accounts of such Debtor and payments under the Contracts of such Debtor in the normal course of the business of such Debtor and for the purpose of carrying on the same. If required by the Creditor at any time an Event of Default has occurred and is continuing, any payments of Accounts of such Debtor or under Contracts of such Debtor, when collected by such Debtor, shall be forthwith (and, in any event, within two Business Days) deposited by such Debtor in the exact form received, duly endorsed by such Debtor to the Creditor if required, in a special collateral account maintained by the Creditor, and until so deposited, shall be held by such Debtor in trust for the Creditor, segregated from the other funds of such Debtor. All such amounts while held by the Creditor (or by such Debtor in trust for the Creditor) and all income with respect thereto shall continue to be collateral security for the Secured Liabilities and shall not constitute payment thereof until applied as hereinafter provided. If an Event of Default has occurred and is continuing, the Creditor may apply all or any part of the amounts on deposit with respect to such Debtor in said special collateral account on account of the Secured Liabilities of such Debtor in such order as the Creditor may elect. At the Creditor's request, such Debtor shall deliver to the Creditor any documents evidencing and relating to the agreements and transactions which gave rise to the

Accounts and the Contracts of such Debtor, including all original orders, invoices and shipping receipts.

- (d) **Analysis of Accounts.** At any time and from time to time, the Creditor shall have the right to analyze and verify the Accounts of any Debtor in any manner and through any medium that it reasonably considers advisable, and each Debtor shall furnish all such assistance and information as the Creditor may reasonably require in connection therewith. If an Event of Default has occurred and is continuing, at any time and from time to time, the Creditor may in its own name or in the name of others (including any Debtor) communicate with account debtors on the Accounts of any Debtor and parties to the Contracts of any Debtor to verify with them to its satisfaction the existence, status, amount and terms of any Account or any Contract of any Debtor. At any time and from time to time, but not more than once per calendar year provided that there is not an Event of Default that is continuing, upon the Creditor's reasonable request and at the expense of the applicable Debtor, such Debtor shall furnish to the Creditor reports showing reconciliations, aging and test verifications of, and trial balances for, the Accounts of such Debtor.
- (e) **Use of Agents.** The Creditor may perform any of its rights or duties under this Agreement by or through agents and is entitled to retain counsel and to act in reliance on the advice of such counsel concerning all matters pertaining to its rights and duties under this Agreement.

22. **Dealings by Creditor.** The Creditor shall not be obliged to exhaust its recourse against any Debtor or any other Person or against any other security it may hold with respect to the Secured Liabilities of such Debtor or any part thereof before realizing upon or otherwise dealing with the Collateral of such Debtor in such manner as the Creditor may consider desirable. The Creditor may grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with any Debtor and any other Person, and with any or all of the Collateral of any Debtor, and with other security and sureties, as the Creditor may see fit, all without prejudice to the Secured Liabilities of any Debtor or to the rights and remedies of the Creditor under this Agreement. The powers conferred on the Creditor under this Agreement are solely to protect the interests of the Creditor in the Collateral of each Debtor and shall not impose any duty upon the Creditor to exercise any such powers.

23. **Communication.** Any notice or other communication required or permitted to be given under this Agreement will be made in accordance with the terms of the NPA.

24. **Release of Information.** Each Debtor authorizes the Creditor to provide a copy of this Agreement and such other information as may be reasonably requested of the Creditor (i) to the extent necessary to enforce the Creditor's rights, remedies and entitlements under this Agreement, (ii) to any assignee or prospective assignee of all or any part of its Secured Liabilities, and (iii) as required by applicable Law.

25. **Expenses; Indemnity; Waiver.**

- (a) Each Debtor shall pay (i) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and all applicable taxes, in connection with the preparation and administration of this Agreement, (ii) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and applicable taxes, in connection with any amendments, modifications or waivers of the provisions hereof, and (iii) all reasonable out-of-pocket expenses incurred by the Creditor, including the fees, charges and disbursements of any counsel for the Creditor and all applicable taxes, in connection with the assessment, enforcement or protection of their rights in connection with this Agreement, including its rights under this Section, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations with respect to the Secured Liabilities of such Debtor.
- (b) Each Debtor shall indemnify the Creditor against, and hold the Creditor harmless from, any and all losses, claims, cost recovery actions, damages, expenses and liabilities of whatsoever nature or kind and all reasonable out-of-pocket expenses and all applicable taxes to which the Creditor may become subject arising out of or in connection with (i) the execution or delivery of this Agreement and the performance by such Debtor of its obligations hereunder, (ii) any actual claim, litigation, investigation or proceeding relating to this Agreement or the Secured Liabilities of such Debtor, whether based on contract, tort or any other theory and regardless of whether the Creditor is a party thereto, (iii) any other aspect of this Agreement, or (iv) the enforcement of the Creditor's rights hereunder and any related investigation, defence, preparation of defence, litigation and enquiries; provided that such indemnity shall not, as to the Creditor, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence (it being acknowledged that ordinary negligence does not necessarily constitute gross negligence) or wilful misconduct of or material breach of this Agreement by the Creditor.
- (c) No Debtor shall assert, and each Debtor hereby waives (to the fullest extent permitted by applicable Law), (i) any claim against the Creditor (or any director, officer or employee thereof), on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, and (ii) all of the rights, benefits and protections given by any present or future statute that imposes limitations on the rights, powers or remedies of a secured party or on the methods of, or procedures for, realization of security, including any "seize or sue" or "anti-deficiency" statute or any similar provision of any other statute.
- (d) All amounts due under this Section shall be payable not later than three Business Days after written demand therefor.

- (e) The indemnifications set out in this Section shall survive the Release Date and the release or extinguishment of the Security Interests.

26. **Release of Debtor.** Upon the written request of any Debtor given at any time on or after the Release Date, the Creditor shall at the expense of such Debtor (i) release such Debtor and the Collateral of such Debtor from the Security Interests and such release shall serve to terminate any licence granted in this Agreement and (ii) return, endorsed and/or accompanied by such instruments of assignment and transfer in such form and substance as the Debtor may reasonably request, any and all Collateral pledged by the Debtor to the Creditor pursuant to this Agreement. Upon such release, and at the request and expense of such Debtor, the Creditor shall execute and deliver to such Debtor such releases and discharges as such Debtor may reasonably request.

27. **Additional Security.** This Agreement is in addition to, and not in substitution of, any and all other security previously or concurrently delivered by any Debtor or any other Person to the Creditor, all of which other security shall remain in full force and effect.

28. **Alteration or Waiver.** None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Creditor. The Creditor shall not, by any act or delay, be deemed to have waived any right or remedy hereunder or to have acquiesced in any Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Creditor, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise 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. A waiver by the Creditor of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Creditor would otherwise have on any future occasion. Neither the taking of any judgment nor the exercise of any power of seizure or sale shall extinguish the liability of any Debtor to pay the Secured Liabilities of such Debtor, nor shall the same operate as a merger of any covenant contained in this Agreement or of any other liability, nor shall the acceptance of any payment or other security constitute or create any novation.

29. **Environmental Licence and Indemnity.** Each Debtor hereby grants to the Creditor and its employees and agents an irrevocable and non-exclusive licence, subject to the rights of tenants, upon not less than 48 hours prior written notice but not more than once per calendar year provided that there is not an Event of Default that is continuing or a known or reasonably suspected release of a hazardous substance in contravention of applicable environmental laws, to enter any of the premises of such Debtor to conduct audits, testing and monitoring with respect to hazardous substances and to remove and analyze any hazardous substance at the cost and expense of such Debtor (which cost and expense shall form part of the Secured Liabilities of such Debtor and shall be payable immediately on demand and secured by the Security Interests created by this Agreement). Each Debtor shall indemnify the Creditor and hold the Creditor harmless against and from all losses, costs, damages and expenses which the Creditor may sustain, incur or be or become liable at any time whatsoever for by reason of or arising from the past, present or future existence, clean-up, removal or disposal of any hazardous substance on or about any property owned or occupied by the Creditor or compliance with environmental Laws or environmental orders relating thereto, including any clean-up, decommissioning, restoration or remediation of any premises owned or occupied by such Debtor or other affected lands or

property. This indemnification shall survive the Release Date. Notwithstanding the foregoing, the Creditor shall conduct such audits, testing and monitoring at the premises of the Debtor in such a manner as to reasonably minimize the interruptions of the ordinary business operation of the Debtor.

30. **Amalgamation.** If any Debtor is a corporation, such Debtor acknowledges that if it amalgamates or merges with any other corporation or corporations, then (i) the Collateral and the Security Interests of such Debtor shall extend to and include all the property and assets of the amalgamated corporation and to any property or assets of the amalgamated corporation thereafter owned or acquired, (ii) the term “Debtor”, where used in this Agreement, shall extend to and include the amalgamated corporation, and (iii) the term “Secured Liabilities”, where used in this Agreement, shall extend to and include the Secured Liabilities of the amalgamated corporation.

31. **Governing Law; Attornment.** This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario. Without prejudice to the ability of the Creditor to enforce this Agreement in any other proper jurisdiction, each Debtor irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of Ontario. To the extent permitted by applicable Law, each Debtor irrevocably waives any objection (including any claim of inconvenient forum) that it may now or hereafter have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of Ontario.

32. **Interpretation.** The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “or” is disjunctive; the word “and” is conjunctive. The word “shall” is mandatory; the word “may” is permissive. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set out herein), (b) any reference herein to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time, (c) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (e) all references herein to Sections and Schedules shall be construed to refer to Sections and Schedules to, this Agreement, Section headings are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement. Any reference in this Agreement to a Permitted Lien is not intended to subordinate or postpone, and shall not be interpreted as subordinating or postponing, or as any agreement to subordinate or postpone, any Security Interest to any Permitted Lien.

33. **Paramountcy.** In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the NPA then, notwithstanding anything contained in this Agreement, the provisions contained in the NPA shall prevail to the extent of such conflict or inconsistency and the provisions of this Agreement shall be deemed to be amended to the extent

necessary to eliminate such conflict or inconsistency, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to the Creditor under the NPA. If any act or omission of any or all Debtors is expressly permitted under the NPA but is expressly prohibited under this Agreement, such act or omission shall be permitted. If any act or omission is expressly prohibited under this Agreement, but the NPA does not expressly permit such act or omission, or if any act is expressly required to be performed under this Agreement but the NPA does not expressly relieve any or all Debtors from such performance, such circumstance shall not constitute a conflict or inconsistency between the applicable provisions of this Agreement and the provisions of the NPA.

34. **Successors and Assigns**. This Agreement shall enure to the benefit of, and be binding on, each Debtor and its successors and permitted assigns, and shall enure to the benefit of, and be binding on, the Creditor and its successors and assigns. No Debtor may assign this Agreement, or any of its rights or obligations under this Agreement except to successors and assigns as permitted by the NPA. The Creditor may assign this Agreement and any of its rights and obligations hereunder to any Person. If any Debtor or the Creditor is an individual, then the term “Debtor” or “Creditor”, as applicable, shall also include his or her heirs, administrators and executors.

35. **Additional Debtors**. Additional Persons may from time to time after the date of this Agreement become Debtors under this Agreement by executing and delivering to the Creditor a supplemental agreement (together with all schedules thereto, a “**Supplement**”) to this Agreement, in substantially the form attached hereto as Exhibit A. Effective from and after the date of the execution and delivery by any Person to the Creditor of a Supplement:

- (a) such Person shall be, and shall be deemed for all purposes to be, a Debtor under this Agreement with the same force and effect, and subject to the same agreements, representations, indemnities, liabilities, obligations and Security Interests, as if such Person had been an original signatory to this Agreement as a Debtor; and
- (b) all Collateral of such Person shall be subject to the Security Interest from such Person as security for the due payment and performance of the “Liabilities” of such Person in accordance with the provisions of this Agreement.

The execution and delivery of a Supplement by any additional Person shall not require the consent of any Debtor and all of the Secured Liabilities of each Debtor and the Security Interests granted thereby shall remain in full force and effect, notwithstanding the addition of any new Debtor to this Agreement.

36. **Acknowledgment of Receipt/Waiver**. Each Debtor acknowledges receipt of an executed copy of this Agreement and, to the extent permitted by applicable Law, waives the right to receive a copy of any financing statement or financing change statement registered in connection with this Agreement or any verification statement issued with respect to any such financing statement or financing change statement.

37. **Transaction Document**. Each Debtor acknowledges and agrees that this Agreement shall constitute a “Transaction Document”.

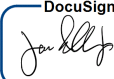
38. **Electronic Signature and Counterparts**. Delivery of an executed signature page to this Agreement by any Debtor by facsimile or other electronic form of transmission shall be as effective as delivery by such Debtor of a manually executed copy of this Agreement by such Debtor. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract.

[signatures on the next following pages]

S-1

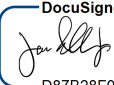
IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

1263343 ALBERTA INC.

By:  DocuSigned by:
D87D28F04A3B412...
Name: Jim Sullivan
Title: Interim Chief Executive Officer

IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

LYNX AIR HOLDINGS CORPORATION

DocuSigned by:

By: D87B28E04A3B412
Name: Jim Sullivan
Title: Interim Chief Executive Officer

SCHEDULE A-1

DEBTOR INFORMATION

Full legal name: Lynx Air Holdings Corporation

Prior names: Enerjet Holdco Inc.

Predecessor companies: N/A

Jurisdiction of incorporation or organization: Alberta

Address of chief executive office: 3215 12th Street NE, Calgary, Alberta T2E 7S9

Addresses of all places where business is carried on or tangible Personal Property is kept:
3215 12th Street NE, Calgary, Alberta T2E 7S9, and

217 Aero Court NE, Calgary, Alberta T2E 7C6

Jurisdictions in which all material account debtors are located: Alberta

Addresses of all owned real property: N/A

Addresses of all leased real property: N/A

Description of all “serial number” goods (i.e. motor vehicles, trailers, aircraft, boats and outboard motors for boats): N/A

Description of all material Permits: N/A

Subsidiaries of such Debtor: 1263343 Alberta Inc.

Instruments, Documents of Title and Chattel Paper of such Debtor: N/A

Pledged Certificated Securities:

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location
1263343 Alberta Inc.	1 Common Voting Share	100%	CVS - 002	Minute Book R.O. c/o Linmac LLP, 1400, 350 7 th Avenue SW, Calgary, Alberta, T2P 3N9
	985,660 Common Voting Shares		N/A	Minute Book R.O. c/o Linmac LLP, 1400, 350 7 th Avenue SW, Calgary, Alberta, T2P 3N9

Pledged Securities Accounts: Nil

Pledged Securities Intermediary	Securities Account Number	Pledged Securities Intermediary's Jurisdiction	Pledged Security Entitlements

Pledged Uncertificated Securities: Nil

Pledged Issuer	Pledged Issuer's Jurisdiction	Securities Owned	% of issued and outstanding Securities of Pledged Issuer

Pledged Futures Accounts: Nil.

Pledged Futures Intermediary	Futures Account Number	Pledged Futures Intermediary's Jurisdiction	Pledged Futures Contracts

Registered trade-marks and applications for trademark registrations: Nil.

<i>Country</i>	<i>Trade-mark</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Registration Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N] ²

Patents and patent applications: Nil.

<i>Country</i>	<i>Title</i>	<i>Patent No.</i>	<i>Application Date</i>	<i>Date of Grant</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Copyright registrations and applications for copyright registrations: Nil.

<i>Country</i>	<i>Work</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Industrial designs/registered designs and applications for registered designs: Nil.

<i>Country</i>	<i>Design</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Issue Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N]

² If the answer to this or any corresponding column is "yes", describe the particulars of each such licence.

SCHEDULE A-2**DEBTOR INFORMATION****1263343 Alberta Inc.****Full legal name:** 1263343 Alberta Inc.**Prior names:** N/A**Predecessor companies:** N/A**Jurisdiction of incorporation or organization:** Alberta**Address of chief executive office:** 3215 12th Street NE, Calgary, Alberta T2E 7S9**Addresses of all places where business is carried on or tangible Personal Property is kept:**3215 12th Street NE, Calgary, Alberta T2E 7S9, and

217 Aero Court NE, Calgary, Alberta T2E 7C6

Jurisdictions in which all material account debtors are located:

Alberta

Addresses of all owned real property: N/A**Addresses of all leased real property:**3215 12th Street NE, Calgary, Alberta T2E 7S9, and

217 Aero Court NE, Calgary, Alberta T2E 7C6

Description of all “serial number” goods (i.e. motor vehicles, trailers, aircraft, boats and outboard motors for boats):

Nil.

Description of all material Permits:

Issuing Authority	Title	'License' Number	Location of Issuance or Amendment	Date of Issuance or Amendment	Expiry Date	Description
Transport Canada	Air Operator Certificate	11035	Ottawa, Ontario	14 DEC 2022	N/A	Entitles the holder to operate within Canadian Aviation Regulations for Airline Operations for Boeing B38M –

						Boeing 737 8(8) aircraft
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Special Authorities Approved By Way of Air Operator Certificate:

- Types of Operation
 1. Cargo
 2. Passenger
- Types of Service
 1. Domestic
 2. Non-Scheduled International
 3. Scheduled International
- Areas of Operation
 1. Caribbean
 2. Europe
 3. North America
 4. North Atlantic
 5. South America
- Special Authorizations
 1. Dangerous Goods
 2. Category II Instrument Approaches
 3. Category IIIA Instrument Approaches
 4. Take-Off Minima – RVR 1200'
 5. Take-Off Minima – RVR 600'
 6. Standard Restricted Instrument Procedures
 7. Instrument Procedures – GNSS
 8. No Alternate IFR
 9. ILS / PRM / LDA / SOIA
 10. CMNPS
 11. NAT – MNPS
 12. Net Take-Off Flight Path Greater Bank Angle
 13. RNPC
 14. RVSM
 15. RNAV 1 & 2
 16. RNAV 5
 17. RNP 1
 18. RNP 10 Airspace
 19. En Route Fuel Reserve Reduction
 20. Flight Attendant Requirement - 1:50
 21. Increase In Flight Duty Time
 22. Controlled Rest on the Flight Deck

Issuing Authority	Title	'License' Number	Location of Issuance or Amendment	Date of Issuance or Amendment	Expiry Date	Description
Canadian Transportation Agency	Domestic License	080111	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate between points in Canada.
Canadian Transportation Agency	Non-Scheduled International License	080112	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate non-scheduled international service with large aircraft
Canadian Transportation Agency	Scheduled International License	090108	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate scheduled service to the United

						States with large aircraft
Canadian Transportation Agency	Scheduled International License	100127	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate scheduled service to the Republic of Guyana with large aircraft

Issuing Authority	Title	'License' Number	Location of Issuance or Amendment	Date of Issuance or Amendment	Expiry Date	Description
Federal Aviation Administration	Foreign Operations Specifications	As Per Canadian AOC - 11035	El Segundo, California	18 JAN 2023	N/A	Authorization granted as an extension of approved Canadian Air Operator Certificate
US Department of Transportation	Registration of trade name "Lynx Air"		Washington DC	17 FEB 2022	N/A	Acceptance of trade name "Lynx Air"

Special Authorities Approved By Way of Foreign Operations Specifications:

- Types of Operation
 1. Cargo
 2. Passenger
- Areas of Operation
 1. The 48 contiguous United States and District of Columbia
 2. The State of Alaska
- Special Authorizations
 1. Day
 2. Night
 3. RVSM
 4. Ground Deicing
 5. Class I navigation in the US airspace using area or long-range navigation systems
 6. Terminal flight operations under instrument flight rules
 7. Basic instrument approach procedures
 8. Specific IFR take-off minimums, and alternate airports for departure
 9. Category II Instrument Approaches
 10. Category III Instrument Approaches
 11. Circle to land approach maneuvers or contact approach procedures
 12. Terminal area operations with large and turbojet airplanes

Subsidiaries of such Debtor: N/A

Instruments, Documents of Title and Chattel Paper of such Debtor: N/A

Pledged Certificated Securities: Nil.

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location

Pledged Securities Accounts: Nil.

Pledged Securities Intermediary	Securities Account Number	Pledged Securities Intermediary's Jurisdiction	Pledged Security Entitlements

Pledged Uncertificated Securities: Nil.

Pledged Issuer	Pledged Issuer's Jurisdiction	Securities Owned	% of issued and outstanding Securities of Pledged Issuer

Pledged Futures Accounts: Nil.

Pledged Futures Intermediary	Futures Account Number	Pledged Futures Intermediary's Jurisdiction	Pledged Futures Contracts

Registered trade-marks and applications for trademark registrations:

<i>Country</i>	<i>Trade-mark</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Formalized Date</i>	<i>Licensed to or by Debtor</i>
Canada	ALTISAIR	1987955	2019-10-01	Pending	2019-10-16	N ³
United States	ALTISAIR	88651312	2019-10-11	Pending		N ²
Canada	LYNX	2122427	2021-07-21	Pending	2021-07-21	N ²
United States	LYNX	90887511	2021-08-17	Pending		N ²
Canada	SKYLINE AIR	1954540	2019-03-29	Pending	2019-04-03	N ²
Canada	FLYTOO	2004841	2020-01-07	Pending	2020-01-28	N ²
United States	FLYTOO	88753242	2020-01-09	Pending		N ²
Canada	LYNX AIR	2127063	2021-08-12	Pending	2021-08-12	N ²
United States	LYNX AIR	90887531	2021-08-17	Pending		N ²
Canada	LYNX AIRLINE	2127066	2021-08-12	Pending	2021-08-12	N ²
United States	LYNX AIRLINE	90887540	2021-08-17	Pending		N ²

Patents and patent applications: Nil.

<i>Country</i>	<i>Title</i>	<i>Patent No.</i>	<i>Application Date</i>	<i>Date of Grant</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Copyright registrations and applications for copyright registrations: Nil.

<i>Country</i>	<i>Work</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

³ If the answer to this or any corresponding column is "yes", describe the particulars of each such licence.

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Industrial designs/registered designs and applications for registered designs: Nil.

<i>Country</i>	<i>Design</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Issue Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N]

EXHIBIT A
FORM OF SUPPLEMENT
TO
GENERAL SECURITY AGREEMENT

TO: Indigo Northern Ventures LP

RECITALS:

- A. Reference is made to the General Security Agreement (the “**Security Agreement**”) dated as of October 26, 2023 entered into by Lynx Air Holdings Corporation and 1263343 Alberta Inc. (doing business as Lynx Air) and certain of their affiliates which thereafter signs a Supplement, in favour of the Creditor.
- B. Capitalized terms used but not otherwise defined in this Supplement have the respective meanings given to such terms in the Security Agreement, including the definitions of terms incorporated in the Security Agreement by reference to other agreements.
- C. Section 35 of the Security Agreement provides that additional Persons may from time to time after the date of the Security Agreement become Debtors under the Security Agreement by executing and delivering to the Creditor a supplemental agreement to the Security Agreement in the form of this Supplement.
- D. The undersigned (the “**New Debtor**”) has agreed to become a Debtor under the Security Agreement by executing and delivering this Supplement to the Creditor.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by the New Debtor, the New Debtor agrees with and in favour of the Creditor as follows:

1. The New Debtor has received a copy of, and has reviewed, the Security Agreement and is executing and delivering this Supplement to the Creditor pursuant to Section 35 of the Security Agreement.
2. Effective from and after the date this Supplement is executed and delivered to the Creditor by the New Debtor:
 - (a) the New Debtor shall be, and shall be deemed for all purposes to be, a Debtor under the Security Agreement with the same force and effect, and subject to the same agreements, representations, indemnities, liabilities, obligations and Security Interests, as if the New Debtor had been, as of the date of this Supplement, an original signatory to the Security Agreement as a Debtor; and
 - (b) all Collateral of the New Debtor shall be subject to the Security Interests granted by the New Debtor as security for the due payment and performance of the Liabilities of the New Debtor in accordance with the provisions of the Security Agreement.

In furtherance of the foregoing, the New Debtor, as general and continuing collateral security for the due payment and performance of its Secured Liabilities, pledges, mortgages, charges and assigns (by way of security) to the Creditor, and grants to the Creditor a security interest in, the Collateral of the New Debtor. The terms and provisions of the Security Agreement are incorporated by reference in this Supplement.

3. The New Debtor represents and warrants to the Creditor that each of the representations and warranties made or deemed to have been made by it under the Security Agreement as a Debtor are true and correct on the date of this Supplement.

4. All of the information set out in Schedule A to this Supplement with respect to the New Debtor is accurate and complete as of the date of this Supplement.

5. Upon this Supplement bearing the signature of any Person claiming to have authority to bind the New Debtor coming into the possession of the Creditor, this Supplement and the Security Agreement shall be deemed to be finally and irrevocably executed and delivered by, and be effective and binding on, and enforceable against, the New Debtor free from any promise or condition affecting or limiting the liabilities of the New Debtor. No statement, representation, agreement or promise by any officer, employee or agent of the Creditor, unless expressly set forth in this Supplement, forms any part of this Supplement or has induced the New Debtor to enter into this Supplement and the Security Agreement or in any way affects any of the agreements, obligations or liabilities of the New Debtor under this Supplement and the Security Agreement.

6. Delivery of an executed signature page to this Supplement by the New Debtor by facsimile or other electronic transmission shall be as effective as delivery by the New Debtor of a manually executed copy of this Supplement by the New Debtor.

7. This Supplement shall be governed by and construed in accordance with the laws of the Province of Ontario, and the laws of Canada applicable therein.

8. This Supplement and the Security Agreement shall be binding upon the New Debtor and its successors. The New Debtor shall not assign its rights and obligations under this Supplement or the Security Agreement, or any of its rights or obligations in this Supplement or the Security Agreement.

Dated: [MONTH] [DAY], [YEAR]

[NEW DEBTOR]

By: _____
Name:
Title:

SCHEDULE A
DEBTOR INFORMATION

Full legal name:

Prior names:

Predecessor companies:

Jurisdiction of incorporation or organization:

Address of chief executive office:

Addresses of all places where business is carried on or tangible Personal Property is kept:

Jurisdictions in which all material account debtors are located:

Addresses of all owned real property:

Addresses of all leased real property:

Description of all “serial number” goods (i.e. motor vehicles, trailers, aircraft, boats and outboard motors for boats):

Description of all material Permits:

Subsidiaries of the New Debtor:

Instruments, Documents of Title and Chattel Paper of the New Debtor:

Pledged Certificated Securities:

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location
[SUBCO]	[100 common shares]	[100%]	[C-1]	[Toronto]

Pledged Securities Accounts:

Pledged Securities Intermediary	Securities Account Number	Pledged Securities Intermediary's Jurisdiction	Pledged Security Entitlements
[BROKERAGE HOUSE]	[NUMBER]	[Ontario]	[100 common shares of [COMPANY]]

Pledged Uncertificated Securities:

Pledged Issuer	Pledged Issuer's Jurisdiction	Securities Owned	% of issued and outstanding Securities of Pledged Issuer
[LIMITED PARTNERSHIP]	[Ontario]	[100 limited partnership units]	[50% of all limited partnership interests]

Pledged Futures Accounts:

Pledged Futures Intermediary	Futures Account Number	Pledged Futures Intermediary's Jurisdiction	Pledged Futures Contracts
[BROKERAGE HOUSE]	[NUMBER]	[Ontario]	[Brief description of Contract]

Registered trade-marks and applications for trademark registrations:

<i>Country</i>	<i>Trade-mark</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Registration Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N] ⁴

Patents and patent applications:

<i>Country</i>	<i>Title</i>	<i>Patent No.</i>	<i>Application Date</i>	<i>Date of Grant</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Copyright registrations and applications for copyright registrations:

<i>Country</i>	<i>Work</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Industrial designs/registered designs and applications for registered designs:

<i>Country</i>	<i>Design</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Issue Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N]

⁴ If the answer to this or any corresponding column is "yes", describe the particulars of each such licence.

This is **Exhibit "28"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.

Julie Treleaven

Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

LYNX AIR HOLDINGS CORPORATION

(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

<u>Certificate No.</u>	<u>Principal Amount</u>
TBN-1	CAD\$6,695,500, being the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 2024

THIS IS TO CERTIFY THAT INDIGO NORTHERN VENTURES LP

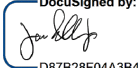
Of 2525 E. Camelback Road, Suite 900, Phoenix, Arizona, USA

is/are the registered holder(s) of CAD\$6,695,500, being the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000 in nominal amount of the secured convertible loan notes which are constituted by a third bridge note purchase agreement dated January 12, 2024 made between Lynx Air Holdings Corporation (the "**Company**"), 1263343 Alberta Inc. (the "**Guarantor**") and Indigo Northern Ventures LP (as amended, supplemented or restated from time to time, the "**Agreement**") and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.

Interest is payable on the Notes represented by this certificate semi-annually in arrears (each such date, an "**Interest Payment Date**") in each year.

The Notes shall be redeemed in accordance with Condition 3 of Schedule 11 on the Redemption Date, subject to such other redemption date or conversion in accordance with the Conditions.

LYNX AIR HOLDINGS CORPORATION

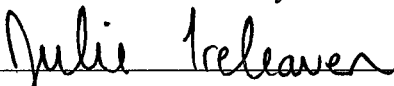
By 
Name: Jim Sullivan
Title: Interim Chief Executive Officer

Date: January 12, 2024

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.
- (B) No transfer of the whole or any part of the Notes represented by this certificate will be registered without the production of this certificate at the registered office of the Company or at such other place as the Company may from time to time designate.
- (C) Each transfer in point of time of the whole or any part of the Notes represented by this certificate will be registered free of charge.
- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.

This is **Exhibit "29"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

GUARANTEE

This Agreement is made as of January 12, 2024.

TO: Indigo Northern Ventures LP

RECITALS:

A. Lynx Air Holdings Corporation (the “**Debtor**”), 1263343 Alberta Inc. (doing business as Lynx Air) (the “**Guarantor**”) and Indigo Northern Ventures LP (and any Person to whom Indigo Northern Ventures LP has transferred any Notes (as defined in the NPA which, in turn, is defined below) in accordance with the NPA (collectively, the “**Creditor**”), are parties to a third bridge note purchase agreement dated as of January 12, 2024 (as amended, supplemented, restated or replaced from time to time, the “**NPA**”).

B. It is in the interests of the Guarantor that the Creditor purchase Notes from the Debtor under the NPA, and the Guarantor is therefore prepared to issue this Agreement to the Creditor in order to induce the Creditor to do so.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by the Guarantor, the Guarantor agrees with and in favour of the Creditor as follows:

1. Definitions. In this Agreement capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in the NPA, and the following terms have the following meanings:

“**Agreement**” means this agreement, including the recitals to this agreement, as it or they may be amended, supplemented, restated or replaced from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement.

“**Control**” means, in respect of a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlled**” has a meaning correlative thereto.

“**Creditor**” has the meaning set out in the recitals hereto.

“**Debtor**” has the meaning set out in the recitals hereto.

“**Debtor Liabilities**” means all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of the Debtor to the Creditor (or any of them) under, in connection with or with respect to the Transaction Documents.

“**Event of Default**” means any “Event of Default” as defined in the NPA.

“Governmental Authority” means the government of Canada, any other nation or any political subdivision thereof, whether provincial, state, territorial or local, and any agency, authority, instrumentality, regulatory body, court, central bank, fiscal or monetary authority or other authority regulating financial institutions, and any other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Guarantor” has the meaning set out in the recitals hereto.

“Guarantor Liabilities” means all present and future indebtedness, liabilities and obligations of the Guarantor to the Creditor under this Agreement.

“Insolvency Proceeding” means any proceeding seeking to adjudicate a Person an insolvent, seeking a receiving order against such Person under the *Bankruptcy and Insolvency Act* (Canada), or seeking liquidation, dissolution, winding-up, reorganization, compromise, arrangement, adjustment, protection, moratorium, relief or composition of such Person or its debts or a stay of proceedings of such Person’s creditors generally (or any class of creditors) or any other relief, under any federal, provincial, territorial or foreign law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, reorganization, receivership, plans of arrangement or relief or protection of debtors (including the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada) and any similar legislation in any jurisdiction) or at common law or in equity.

“Laws” means all federal, provincial, municipal, foreign and international statutes, acts, codes, ordinances, decrees, treaties, rules, regulations, municipal by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards or any provisions of the foregoing, including general principles of common and civil law and equity, and all policies, practices and guidelines of any Governmental Authority binding on or affecting the Person referred to in the context in which such word is used (including, in the case of tax matters, any accepted practice or application or official interpretation of any relevant taxation authority); and **“Law”** means any one or more of the foregoing.

“Lien” means, (a) with respect to any asset, any mortgage, deed of trust, lien, pledge, hypothec (whether movable or immovable), hypothecation, encumbrance, charge, security interest, royalty interest, adverse claim, defect to title or right of set off in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, title retention agreement or consignment agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to any asset, (c) any purchase option, call or similar right of a third party with respect to such asset, (d) any netting arrangement, defeasance arrangement or reciprocal fee arrangement, and (e) any other arrangement having the effect of providing security.

“NPA” has the meaning set out in the recitals hereto.

“Original Currency” has the meaning set out in Section 17.

“Other Currency” has the meaning set out in Section 17.

“Organizational Documents” means, with respect to any Person, such Person’s articles or other charter documents, by-laws, unanimous shareholder agreement, partnership agreement or trust

agreement, as applicable, and any and all other similar agreements, documents and instruments relative to such Person.

“**Person**” includes any natural person, corporation, company, limited liability company, unlimited liability company, trust, joint venture, association, incorporated organization, partnership, Governmental Authority or other entity.

“**Security**” means any present or future Lien, or any present or future guarantee or other financial assistance, granted by any Person with respect to any or all of the Debtor Liabilities or Guarantor Liabilities.

2. Guarantee. The Guarantor hereby unconditionally and irrevocably guarantees the prompt payment and performance to the Creditor, of all Debtor Liabilities when due in accordance with their terms. All amounts payable by the Guarantor under this Agreement shall be paid to the Creditor as directed in writing by the Creditor. All Guarantor Liabilities shall be payable or performable forthwith upon demand by the Creditor, and any which are not so paid shall bear interest from the date of such demand at the rate or rates applicable to the corresponding Debtor Liabilities.

3. Guarantor Liabilities. The Guarantor Liabilities are continuing, absolute, unconditional and irrevocable. The Guarantor Liabilities shall remain effective despite, and shall not be released, exonerated, discharged, diminished, subjected to defence, limited or in any way affected by, anything done, omitted to be done, suffered or permitted by the Creditor, the Debtor or any other Person, or by any other matter, act, omission, circumstance, development or other thing of any nature, kind or description, other than the due payment and performance in full of all of the Debtor Liabilities and all of the Guarantor Liabilities.

4. Guarantee Absolute. Without limiting the generality of Section 3, the Guarantor Liabilities shall remain fully effective and enforceable against the Guarantor and shall not be released, exonerated, discharged, diminished, subjected to defence, limited or in any way affected by, and the rights and remedies of the Creditor under this Agreement shall not in any way be diminished or prejudiced by, and the Guarantor hereby consents or waives, as applicable, to the fullest extent permitted by applicable Law:

- (a) any lack of genuineness, legality, validity or enforceability of any of the Debtor Liabilities or of any agreement or arrangement between the Debtor and the Creditor, or any failure by the Debtor to carry out any of its obligations under any such agreement or arrangement;
- (b) any change in the existence, name, objects, business, powers, organization, share capital, Organizational Documents, ownership, control, directors or management of the Debtor or the Guarantor, the reorganization of the Debtor or the Guarantor, any amalgamation or merger by the Debtor or the Guarantor with any other Person or Persons, or any continuation of the Debtor or the Guarantor under the laws of any jurisdiction;
- (c) any lack or limitation of power, incapacity or disability of the Debtor or the Guarantor or of the directors, officers, managers, employees or agents of the Debtor

or the Guarantor or any other irregularity, defect or informality, or any fraud, by the Debtor or the Guarantor or any of their respective directors, officers, managers, employees or agents, with respect to any or all of the Debtor Liabilities or any or all of the Guarantor Liabilities;

- (d) any non-compliance with or contravention by the Guarantor of any provision of any corporate statute applicable to the Guarantor relative to guarantees or other financial assistance given by the Guarantor;
- (e) any impossibility, impracticability, frustration of purpose, force majeure or act of Governmental Authority with respect to the performance of any of the Debtor Liabilities or Guarantor Liabilities;
- (f) any Insolvency Proceeding affecting, or the financial condition of, the Debtor, the Guarantor or the Creditor at any time;
- (g) any law, regulation, limitation or prescription period or other circumstance that might otherwise be a defence available to, or a discharge of, the Debtor or the Guarantor in respect of any or all of the Debtor Liabilities or any or all of the Guarantor Liabilities;
- (h) any loss of, or in respect of, any Security by or on behalf of the Creditor from the Debtor or the Guarantor, whether occasioned through the fault of the Creditor or otherwise;
- (i) any loss or impairment of any right of the Guarantor for subrogation, reimbursement or contribution, whether or not as a result of any action taken or omitted to be taken by the Creditor; or
- (j) any other matter, act, omission, circumstance, development or thing of any and every nature, kind and description whatsoever, whether similar or dissimilar to the foregoing (other than the due payment and performance in full of the Debtor Liabilities and the Guarantor Liabilities) that might in any manner (but for the operation of this Section) operate (whether by statute, at law, in equity or otherwise) to release, discharge, diminish, limit, restrict or in any way affect the liability of, or otherwise provide a defence to, a guarantor, a surety, or a principal debtor, even if known by the Creditor.

5. Dealing with Debtor Liabilities. Without limiting the generality of Section 3, the Guarantor Liabilities shall remain fully effective and enforceable against the Guarantor and shall not be released, exonerated, discharged, diminished, subjected to defence, limited or in any way affected by, and the rights and remedies of the Creditor under this Agreement shall not in any way be diminished or prejudiced by, and the Guarantor hereby consents to or waives, as applicable, to the fullest extent permitted by applicable Law:

- (a) any amendment, alteration, novation or variation in any manner and to any extent (and irrespective of the effect of the same on the Guarantor) of any of the Debtor

Liabilities, any Security or the Creditor's arrangements or agreements with the Debtor;

- (b) any limitation, compromise, subordination, postponement or abandonment of any of the Debtor Liabilities, any of the Guarantor Liabilities, any Security or the Creditor's arrangements or agreements with the Debtor;
- (c) any grant of time, renewal, extension, indulgence, release, discharge or other course of conduct by the Creditor to the Debtor;
- (d) the creation of any new or additional Debtor Liabilities, the increase or reduction of the rate of interest on any or all of the Debtor Liabilities or any other rates or fees payable under or in respect of any or all of the Debtor Liabilities;
- (e) any alteration, settlement, compromise, acceleration, extension or change in the time or manner for payment or performance by the Debtor made or permitted by the Creditor of any or all of the Debtor Liabilities;
- (f) the Creditor taking or abstaining from taking Security from the Debtor or abstaining from completing, perfecting or maintaining the perfection of any Security;
- (g) the Creditor releasing, substituting or adding one or more sureties or endorsers, accepting additional or substituted Security, or releasing, subordinating or postponing any Security;
- (h) the Creditor accepting compromises from the Debtor;
- (i) the creation or addition of any new Transaction Documents;
- (j) the Creditor doing, or omitting to do, anything to enforce the payment or performance of any or all of the Debtor Liabilities or any Security;
- (k) the Creditor giving or refusing to give or continuing to give any credit or any financial accommodation to the Debtor;
- (l) the Creditor proving any claim in any Insolvency Proceeding affecting the Debtor, as it sees fit or refraining from proving any claim or permitting or suffering the impairment of any of the Debtor Liabilities in any such Insolvency Proceeding; making any election in any such Insolvency Proceeding; permitting or suffering the creation of secured or unsecured credit or debt in any such Insolvency Proceeding; or permitting or suffering the disallowance, avoidance, or subordination of any of the Debtor Liabilities or the obligations of any other debtor with respect to the Debtor Liabilities in any such Insolvency Proceeding;
- (m) the Creditor applying any money received from the Debtor or any Security upon such part of the Debtor Liabilities as the Creditor may see fit or changing any such application in whole or in part from time to time as the Creditor may see fit; or

- (n) the Creditor otherwise dealing with the Debtor, the Debtor Liabilities, and all Security as the Creditor may see fit.

6. Settlement of Accounts. Any account settled or stated between the Creditor and the Debtor shall be accepted by the Guarantor as *prima facie* evidence that the amount thereby appearing due by the Debtor to the Creditor is so due.

7. Indemnity. If any or all of the Debtor Liabilities are not duly paid or performed by the Debtor and are not paid or performed by the Guarantor under Section 2 for any reason whatsoever, the Guarantor shall, as a separate and distinct obligation, indemnify and save the Creditor harmless from and against all losses, costs, damages, expenses, claims and liabilities that the Creditor may suffer or incur in connection with or in respect of any failure by the Debtor for any reason to pay or perform any of the Debtor Liabilities, and shall pay all such amounts to the Creditor after demand as herein provided.

8. Guarantor Liable as Principal Debtor. If, and to the extent that, any amount in respect of the Debtor Liabilities is not recoverable from the Guarantor under this Agreement on the basis of a guarantee or the Creditor is not indemnified under Section 7, in each case, for any reason whatsoever, then, notwithstanding any other provision of this Agreement, the Guarantor shall be liable under this Agreement as principal obligor in respect of the due payment of such amount and shall pay such amount to the Creditor after demand as herein provided.

9. Continuing Guarantee. This Agreement is a continuing guarantee and is binding as a continuing obligation of the Guarantor and the Debtor Liabilities shall be conclusively presumed to have been created in reliance on this Agreement. The Guarantor may not in any manner terminate this Agreement or the Guarantor Liabilities other than by the due and punctual payment in full of the Guarantor Liabilities.

10. Stay of Acceleration. If acceleration of the time for payment, or the liability of the Debtor to make payment, of any amount specified to be payable by the Debtor in respect of the Debtor Liabilities is stayed, prohibited or otherwise affected upon any Insolvency Proceeding or other event affecting the Debtor or payment of any of the Debtor Liabilities by the Debtor, all such amounts otherwise subject to acceleration or payment shall nonetheless be deemed for all purposes of this Agreement to be and to have become due and payable by the Debtor and shall be payable by the Guarantor under this Agreement immediately forthwith on demand by the Creditor.

11. Debtor Information. The Guarantor acknowledges and agrees that the Guarantor has not executed this Agreement as a result of, by reason of, or in reliance upon, any promise, representation, statement or information of any kind or nature whatsoever given, or offered to the Guarantor, by or on behalf of the Creditor or any other Person whether in answer to any enquiry by or on behalf of the Guarantor or not and the Creditor was not prior to the execution by the Guarantor of this Agreement, and is not thereafter, under any duty to disclose to the Guarantor or any other Person any information, matter or thing (material or otherwise) relating to the Debtor, its affairs or its transactions with the Creditor, including any information, matter or thing which puts or may put the Debtor in a position which the Guarantor would not naturally expect or any unexpected facts or unusual features which, whether known or unknown to the Guarantor, are present in any transaction between the Debtor and the Creditor, and the Creditor was not and is

not under any duty to do or execute any matter, thing or document relating to the Debtor, its affairs or its transactions with the Creditor. The Guarantor acknowledges and confirms that it has established its own adequate means of obtaining from the Debtor on a continuing basis all information desired by the Guarantor concerning the financial condition of the Debtor and that the Guarantor will look to the Debtor, and not to the Creditor, in order for the Guarantor to keep adequately informed of changes in the Debtor's financial condition.

12. Reinstatement. If, at any time, all or any part of any payment previously applied by the Creditor to any of the Debtor Liabilities is or must be rescinded or returned by the Creditor for any reason whatsoever (including any Insolvency Proceeding affecting the Debtor or any other Person), such Debtor Liabilities shall, for the purpose of this Agreement, to the extent that such payment is or must be rescinded or returned, be deemed to have continued in existence, notwithstanding such application by the Creditor, and this Agreement shall continue to be effective or be reinstated, as the case may be, as to such Debtor Liabilities, all as though such application by the Creditor had not been made.

13. Subrogation. Notwithstanding any payment made by the Guarantor under this Agreement or any setoff or application of funds of the Guarantor by the Creditor, the Guarantor shall have no right of subrogation to, and waives, any right to enforce any remedy which the Creditor now has or may hereafter have against the Debtor, until all of the Debtor Liabilities have been indefeasibly paid in full; and until that time, the Guarantor waives any benefit of, and any right to participate in, any Security now or hereafter held by the Creditor for the Debtor Liabilities.

14. Insolvency Proceedings. In any Insolvency Proceeding affecting the Debtor, the Creditor shall have the right, in priority to the Guarantor, to receive its full claim in respect of such Insolvency Proceeding for all of the Debtor Liabilities. The Creditor shall have the right to include in its claim in any Insolvency Proceeding affecting the Debtor all or any part of the payments made by the Guarantor under this Agreement and, to prove and rank for, and receive dividends in respect of, all such claims, all of which rights and privileges as they relate and apply to the Guarantor are hereby assigned by the Guarantor to the Creditor. The provisions of this Section shall be sufficient authority for any Person making payment of any such dividends to pay the same directly to the Creditor for the benefit of the Creditor. The Creditor shall be entitled to receive for its benefit all dividends or other payments in respect of all of the above referenced claims until all of the Debtor Liabilities are paid and satisfied in full and the Guarantor shall continue to be liable under this Agreement for any unpaid balance of the Debtor Liabilities. If any amount is paid to the Guarantor under any Insolvency Proceeding affecting the Debtor when any of the Debtor Liabilities remain outstanding, such amount shall be received and held in trust by the Guarantor for the benefit of the Creditor and shall be immediately paid to the Creditor to be credited and applied against the Guarantor Liabilities. In any Insolvency Proceeding affecting the Debtor the Creditor may in its discretion value as it sees fit, acting reasonably, or may refrain from valuing, any Security held by or for the benefit of it.

15. Marshalling. The Guarantor waives to the fullest extent permitted by applicable Law, any right or claim of right to cause a marshalling of the Debtor's assets, or to cause the Creditor to proceed against the Debtor or any other Person, or any Security, in any particular order. The Creditor shall not have any obligation to marshal any assets in favour of the Debtor or any other

Person or against or in payment of any of the Debtor Liabilities or any of the obligations of the Guarantor, the Debtor or any other Person owed to the Creditor.

16. Enforcing Rights Against Guarantor. This is a guarantee of payment and performance and not of collection. The Creditor shall not be required to take any action or to exhaust its recourse against the Debtor or any other Person, or to enforce or value any Security, before being entitled to payment from, and to enforce its rights and remedies against, the Guarantor under this Agreement. The Guarantor hereby renounces to the benefits of division and discussion.

17. Foreign Currency Guarantor Liabilities. The Guarantor shall make payment relative to any Debtor Liabilities in the currency (the "**Original Currency**") in which the Debtor is required to pay such Debtor Liabilities. If the Guarantor makes payment relative to any Debtor Liabilities in a currency (the "**Other Currency**") other than the Original Currency (whether voluntarily or pursuant to an order or judgment of a court or tribunal of any jurisdiction), such payment shall constitute a discharge of the Guarantor Liabilities only to the extent of the amount of the Original Currency which the Creditor is able to purchase at Toronto, Ontario with the amount it receives on the date of receipt. If the amount of the Original Currency which the Creditor is able to purchase is less than the amount of such currency originally due to it in respect to the relevant Debtor Liabilities, the Guarantor shall indemnify and save the Creditor harmless from and against any loss or damage arising as a result of such deficiency. This indemnity constitutes an obligation separate and independent from the other obligations contained in this Agreement, gives rise to a separate and independent cause of action, applies irrespective of any indulgence granted by the Creditor and continues in full force and effect notwithstanding any judgment or order in respect of any amount due hereunder or under any judgment or order.

18. Taxes and Set-Off. All payments to be made by the Guarantor hereunder shall be made without set-off, compensation, deduction or counterclaim and without deduction for any taxes, levies, duties, fees, deductions, withholdings, restrictions or conditions of any nature whatsoever. If at any time any applicable Law requires the Guarantor to make any such deduction or withholding from any such payment, the sum due from the Guarantor with respect to such payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Creditor receives a net sum equal to the sum which it would have received had no deduction or withholding been required.

19. Representations and Warranties. The Guarantor represents and warrants, upon each of which representations and warranties the Creditor relies, that each of the representations and warranties relative to the Guarantor in each of the other Transaction Documents is true and correct when made or deemed made.

20. Covenants. The Guarantor shall comply, and shall cause each of its subsidiaries to comply, with all of the provisions, covenants and agreements contained in each of the Transaction Documents to the extent that such provisions, covenants and agreements apply to the Guarantor or its subsidiaries and shall, and shall cause each of its subsidiaries to, take, or refrain from taking, as the case may be, all actions that are necessary to be taken or not taken so that no violation of any provision, covenant or agreement contained in any of the Transaction Documents, and so that no Default or Event of Default under any of the Transaction Documents, is caused by the actions or inactions of the Guarantor or any of its subsidiaries.

21. Communication. Any notice or other communication required or permitted to be given under this Agreement shall be made in accordance with the terms of the NPA.

22. Expenses; Indemnity; Waiver.

- (a) The Guarantor shall pay to the Creditor (i) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and all applicable taxes, in connection with the preparation and administration of this Agreement, (ii) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and applicable taxes, in connection with any amendments, modifications or waivers of the provisions hereof, and (iii) all out-of-pocket expenses incurred by the Creditor, including the fees, charges and disbursements of any counsel for the Creditor and all applicable taxes, in connection with the assessment, enforcement or protection of their rights in connection with this Agreement, including their rights under this Section, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of the Guarantor Liabilities.
- (b) The Guarantor shall indemnify the Creditor against, and hold the Creditor harmless from, any and all losses, claims, cost recovery actions, damages, expenses and liabilities of whatsoever nature or kind and all reasonable out-of-pocket expenses and all applicable taxes to which the Creditor may become subject arising out of or in connection with (i) the execution or delivery of this Agreement and the performance by the Guarantor of its obligations hereunder, (ii) any actual claim, litigation, investigation or proceeding relating to this Agreement or the Guarantor Liabilities, whether based on contract, tort, delict or any other theory and regardless of whether the Creditor is a party thereto, (iii) any other aspect of this Agreement, or (iv) the enforcement of the Creditor's rights hereunder and any related investigation, defence, preparation of defence, litigation and enquiries; provided that such indemnity shall not, as to the Creditor, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence (it being acknowledged that ordinary negligence does not necessarily constitute gross negligence) or wilful misconduct of or material breach of this Agreement by the Creditor.
- (c) The Guarantor shall not assert, and hereby waives, any claim against the Creditor (or any director, officer or employee thereof), on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement. The Guarantor irrevocably renounces any rights it may have to be released from this Agreement under Article 2362 of the *Civil Code of Québec* and agrees to renew its guarantee hereunder at the request of the Creditor by executing such documents as the Creditor may request from time to time.

- (d) All amounts due under this Section shall be payable to the Creditor for the benefit of the Creditor not later than three Business Days after written demand therefor.
- (e) The indemnifications set out in this Agreement shall survive the payout of the Debtor Liabilities and the Guarantor Liabilities.

23. Additional Security. This Agreement is in addition to, and not in substitution of, any and all other Security previously or concurrently delivered by the Guarantor or any other Person to the Creditor, all of which other Security shall remain in full force and effect.

24. Alteration. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Creditor.

25. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

26. Set-off. If an Event of Default shall have occurred and be continuing, the Creditor is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Law, to set-off, compensate against or combine and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by the Creditor or any of its Affiliates and other obligations at any time owing by the Creditor or any of its Affiliates to or for the credit or the account of the Guarantor against or with any or all of the Guarantor Liabilities, irrespective of whether or not the Creditor shall have made any demand under any Transaction Document and although such obligations may be unmatured. The rights of the Creditor under this Section are in addition to other rights and remedies (including other rights of set-off or combination) which the Creditor may have.

27. Governing Law; Attornment. This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario. Without prejudice to the ability of the Creditor to enforce this Agreement in any other proper jurisdiction, the Guarantor irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of Ontario. To the extent permitted by applicable Law, the Guarantor irrevocably waives any objection (including any claim of inconvenient forum) that it may now or hereafter have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of Ontario. The Guarantor hereby irrevocably consents to the service of any and all process in any such action or proceeding by the delivery of copies of such process to the Guarantor at the address as provided for pursuant to Section 21. Nothing in this Section affects the right of the Creditor to serve process in any manner permitted by applicable Law. In any legal proceeding relating to this Agreement, the Guarantor agrees not to assert that the Commodity Exchange Act applies to this Agreement or any Swap Obligation.

28. Time. Time is of the essence with respect to this Agreement and the time for performance of the obligations of the Guarantor under this Agreement may be strictly enforced by the Creditor. The limitation period applicable to any proceeding relating to a claim under, in connection with,

or with respect to this Agreement shall be solely as prescribed in sections 15-17 of the *Limitations Act, 2002 (Ontario)*, and any other limitation period in respect of such claim (including that provided for in section 4 of the *Limitations Act, 2002 (Ontario)*) is extended accordingly.

29. Interpretation. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “or” is disjunctive; the word “and” is conjunctive. The word “shall” is mandatory; the word “may” is permissive. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented, restated or otherwise modified (subject to any restrictions on such amendments, supplements, restatements or modifications set out herein), (b) any reference herein to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, replaced or re-enacted from time to time, (c) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (e) all references herein to Sections and Schedules shall be construed to refer to Sections and Schedules to, this Agreement. Section headings are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement. In accordance with the *Property Law Act (British Columbia)*, the doctrine of consolidation applies to this Agreement.

30. Successors and Assigns. This Agreement shall enure to the benefit of, and be binding on, the Guarantor and its successors and assigns, and shall enure to the benefit of, and be binding on, the Creditor and its successors and assigns. The Guarantor may not assign this Agreement, or any of its rights or obligations under this Agreement. The Creditor may assign this Agreement and any of their rights and obligations hereunder to any Person that replaces it in its capacity as such. If the Guarantor or the Creditor is an individual, then the term “Guarantor” or “Creditor”, as applicable, shall also include his or her heirs, administrators and executors.

31. Acknowledgment of Receipt. The Guarantor acknowledges receipt of an executed copy of this Agreement.

32. Paramourty. In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the NPA then, notwithstanding anything contained in this Agreement, the provisions contained in the NPA shall prevail to the extent of such conflict or inconsistency and the provisions of this Agreement shall be deemed to be amended to the extent necessary to eliminate such conflict or inconsistency, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to the Creditor under the NPA. If any act or omission of the Guarantor is expressly permitted under the NPA but is expressly prohibited under this Agreement, such act or omission shall be permitted. If any act or omission is expressly prohibited under this Agreement, but the NPA does not expressly permit such act or omission, or if any act is expressly required to be performed under this Agreement but the NPA does not expressly relieve the Guarantor from such performance, such circumstance shall not

constitute a conflict or inconsistency between the applicable provisions of this Agreement and the provisions of the NPA.

33. Transaction Document. The Guarantor acknowledges and agrees that this Agreement shall constitute a “Transaction Document”.

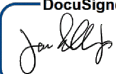
34. Electronic Signature. Delivery of an executed signature page to this Agreement by the Guarantor by facsimile or other electronic form of transmission shall be as effective as delivery by the Guarantor of a manually executed copy of this Agreement by the Guarantor.

[signatures on the next following page]

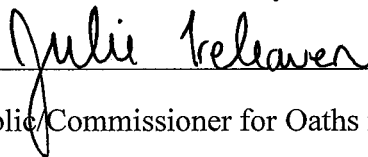
S-1

IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

1263343 ALBERTA INC.

DocuSigned by:

By: D87B28F04A3B412...
Name: Jim Sullivan
Title: Interim Chief Executive Officer

This is **Exhibit "30"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

GENERAL SECURITY AGREEMENT

This General Security Agreement is made as of January 12, 2024.

TO: Indigo Northern Ventures LP

RECITALS:

A. Lynx Air Holdings Corporation and 1263343 Alberta Inc. (doing business as Lynx Air) (each a “**Debtor**” and collectively, the “**Debtors**”) are, or may become, indebted or liable to Indigo Northern Ventures LP (and any Person to whom Indigo Northern Ventures LP has transferred any Notes (as defined in the NPA which, in turn, is defined below) in accordance with the NPA (collectively, the “**Creditor**”) pursuant to the terms of a third bridge note purchase agreement dated as of January 12, 2024 (as amended, supplemented, restated or replaced from time to time, the “**NPA**”) or otherwise.

B. To secure the payment and performance of its Secured Liabilities, each Debtor has agreed to grant to the Creditor the Security Interests with respect to its Collateral in accordance with the terms of this Agreement.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by each Debtor, each Debtor severally (and not jointly or jointly and severally) agrees with and in favour of the Creditor as follows:

1. **Definitions.** In this Agreement capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in the NPA, and the following terms have the following meanings:

“**Accessions**”, “**Account**”, “**Certificated Security**”, “**Chattel Paper**”, “**Consumer Goods**”, “**Document of Title**”, “**Equipment**”, “**Futures Account**”, “**Futures Contract**”, “**Futures Intermediary**”, “**Goods**”, “**Instrument**”, “**Intangible**”, “**Inventory**”, “**Investment Property**”, “**Money**”, “**Proceeds**”, “**Securities Account**”, “**Securities Intermediary**”, “**Security**”, “**Security Certificate**”, “**Security Entitlement**”, and “**Uncertificated Security**” have the meanings given to them in the PPSA.

“**Agreement**” means this agreement, including the Exhibits and recitals to this agreement, the Supplements and the Schedules, as it or they may be amended, supplemented, restated or replaced from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement.

“**Books and Records**” means, with respect to any Debtor, all books, records, files, papers, disks, documents and other repositories of data recording in any form or medium, evidencing or relating to the Personal Property of such Debtor which are at any time owned by such Debtor or to which such Debtor (or any Person on such Debtor’s behalf) has access.

“Collateral” means, with respect to any Debtor, all of the present and future:

- (a) undertaking;
- (b) Personal Property (including the Boeing Order and any other Personal Property that may be described in any Schedule to this Agreement or any schedules, documents or listings that such Debtor may from time to time provide to the Creditor in connection with this Agreement); and
- (c) real property (including any real property that may be described in any Schedule to this Agreement or any schedules, documents or listings that such Debtor may from time to time provide to the Creditor in connection with this Agreement and including all fixtures, improvements, buildings and other structures placed, installed or erected from time to time on any such real property),

of such Debtor, including the Boeing Order, Books and Records, Contracts, Intellectual Property Rights and Permits, and including all such property in which such Debtor now or in the future has any right, title or interest whatsoever, whether owned, leased, licensed, possessed or otherwise held by such Debtor, and all Proceeds of any of the foregoing, wherever located.

“Contracts” means, with respect to any Debtor, all contracts and agreements to which such Debtor is at any time a party or pursuant to which such Debtor has at any time acquired rights, and includes (i) all rights of such Debtor to receive money due and to become due to it in connection with a contract or agreement, (ii) all rights of such Debtor to damages arising out of, or for breach or default with respect to, a contract or agreement, and (iii) all rights of such Debtor to perform and exercise all remedies in connection with a contract or agreement.

“Control” means, with respect to a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. **“Controlled”** has the corresponding meaning.

“Control Person” means a “control person”, as such term is defined under applicable Canadian securities laws.

“Creditor” has the meaning set out in the recitals hereto.

“Debtors” means the Persons delivering a signature page to this Agreement and any other Person which hereafter delivers a Supplement, and **“Debtor”** means any one of them.

“Event of Default” means any “Event of Default” as defined in the NPA.

“Exhibits” means the exhibits to this Agreement.

“Governmental Authority” means the government of Canada, any other nation or any political subdivision thereof, whether provincial, state, territorial or local, and any agency, authority, instrumentality, regulatory body, court, central bank, fiscal or monetary authority or other authority regulating financial institutions, and any other entity exercising executive, legislative,

judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, including the Bank Committee on Banking Regulation and Supervisory Practices of the Bank of International Settlements.

“**Intellectual Property Rights**” means, with respect to any Debtor, all industrial and intellectual property rights of such Debtor or in which such Debtor has any right, title or interest, including copyrights, patents, inventions (whether or not patented), trade-marks, get-up and trade dress, industrial designs, integrated circuit topographies, plant breeders’ rights, know how and trade secrets, registrations and applications for registration for any such industrial and intellectual property rights, and all Contracts related to any such industrial and intellectual property rights.

“**Issuer**” has the meaning given to that term in the STA.

“**Laws**” means all federal, provincial, municipal, foreign and international statutes, acts, codes, ordinances, decrees, treaties, rules, regulations, municipal by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards or any provisions of the foregoing, including general principles of common and civil law and equity, and all policies, practices and guidelines of any Governmental Authority binding on or affecting the Person referred to in the context in which such word is used (including, in the case of tax matters, any accepted practice or application or official interpretation of any relevant taxation authority); and “**Law**” means any one or more of the foregoing.

“**Lien**” means, (a) with respect to any asset, any mortgage, deed of trust, lien, pledge, hypothec (whether movable or immovable), hypothecation, encumbrance, charge, security interest, royalty interest, adverse claim, defect to title or right of set off in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, title retention agreement or consignment agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to any asset, (c) any purchase option, call or similar right of a third party with respect to such asset, (d) any netting arrangement, defeasance arrangement or reciprocal fee arrangement, and (e) any other arrangement having the effect of providing security.

“**NPA**” has the meaning set out in the recitals hereto.

“**Organizational Documents**” means, with respect to any Person, such Person’s articles or other charter documents, by-laws, unanimous shareholder agreement, partnership agreement or trust agreement, as applicable, and any and all other similar agreements, documents and instruments relative to such Person.

“**Permits**” means, with respect to any Debtor, all permits, licences, waivers, exemptions, consents, certificates, authorizations, approvals, franchises, rights-of-way, easements and entitlements that such Debtor has, requires or is required to have, to own, possess or operate any of its property or to operate and carry on any part of its business.

“**Permitted Liens**” means the Security Interests of all Debtors, all liens and other security contemplated by Section 3.3 of Schedule 13 to the NPA, and all other Liens permitted in writing by the Creditor.

“Personal Property” means personal property and includes Accounts, Chattel Paper, Documents of Title, Equipment, Goods, Instruments, Intangibles, Inventory, Investment Property and Money.

“Pledged Certificated Securities” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Certificated Security.

“Pledged Futures Contracts” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Futures Contract.

“Pledged Futures Accounts” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Futures Account.

“Pledged Futures Intermediary” means, at any time, any Person which is at such time a Futures Intermediary at which a Pledged Futures Account is maintained.

“Pledged Futures Intermediary’s Jurisdiction” means, with respect to any Pledged Futures Intermediary, its jurisdiction as determined under section 7.1(4) of the PPSA.

“Pledged Issuer” means, with respect to any Debtor at any time, any Person which is an Issuer of, or with respect to, any Pledged Shares of such Debtor at such time.

“Pledged Issuer’s Jurisdiction” means, with respect to any Pledged Issuer, its jurisdiction as determined under section 44 of the STA.

“Pledged Securities” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Security.

“Pledged Securities Accounts” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Securities Account.

“Pledged Securities Intermediary” means, at any time, any Person which is at such time a Securities Intermediary at which a Pledged Securities Account is maintained.

“Pledged Securities Intermediary’s Jurisdiction” means, with respect to any Securities Pledged Securities Intermediary, its jurisdiction as determined under section 45(2) of the STA.

“Pledged Security Certificates” means, with respect to any Debtor, any and all Security Certificates of such Debtor representing the Pledged Certificated Securities.

“Pledged Security Entitlements” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Security Entitlement.

“Pledged Shares” means, with respect to any Debtor, all Pledged Securities and Pledged Security Entitlements of such Debtor.

“Pledged Uncertificated Securities” means, with respect to any Debtor, any and all Collateral of such Debtor that is an Uncertificated Security.

“**PPSA**” means the *Personal Property Security Act* (Ontario), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

“**Receiver**” means an interim receiver, a receiver, a manager or a receiver and manager.

“**Release Date**” means the date on which all the Secured Liabilities of each Debtor have been indefeasibly paid and discharged in full and the Creditor has no further obligations under the Transaction Documents pursuant to which further Secured Liabilities of any Debtor might arise.

“**Reporting Pledged Issuer**” means a Pledged Issuer that is a “reporting issuer”, as such term is defined under applicable Canadian securities laws.

“**Secured Liabilities**” means, with respect to any Debtor, all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of such Debtor to the Creditor under, in connection with or with respect to the Transaction Documents, and any unpaid balance thereof.

“**Schedules**” means the schedules to this Agreement.

“**Security Interests**” means, with respect to any Debtor, the Liens created by such Debtor in favour of the Creditor under this Agreement.

“**STA**” means the *Securities Transfer Act, 2006* (Ontario), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

“**Subsidiary**” means, with respect to any Person (the “**parent**”) at any date, any other Person (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more Subsidiaries of the parent or by the parent and one or more Subsidiaries of the parent.

“**Supplement**” has the meaning given to that term in Section 35.

“**ULC**” means an Issuer that is an unlimited company, unlimited liability corporation or unlimited liability company.

“**ULC Laws**” means the *Companies Act* (Nova Scotia), the *Business Corporations Act* (Alberta), the *Business Corporations Act* (British Columbia), and any other present or future Laws governing ULCs.

“**ULC Shares**” means shares or other equity interests in the capital stock of a ULC.

“**Voting or Equity Securities**” means (a) any “security” (as defined under applicable Canadian securities laws), other than a bond, debenture, note or similar instrument representing

indebtedness (whether secured or unsecured), of an issuer carrying a voting right either under all circumstances or under some circumstances that have occurred and are continuing or (b) a security of an issuer that carries a residual right to participate in the earnings of the issuer and, on liquidation or winding up of the issuer, in its assets.

2. **Grant of Security Interests.** As general and continuing collateral security for the due payment and performance of its Secured Liabilities, each Debtor pledges, mortgages, charges and assigns (by way of security) to the Creditor, and grants to the Creditor a security interest in, the Collateral of such Debtor.

3. **Limitations on Grant of Security Interests.** If the grant of the Security Interests with respect to any Contract, Intellectual Property Right or Permit under Section 2, other than the Boeing Order, would result in the termination or breach of such Contract, Intellectual Property Right or Permit, or is otherwise prohibited or ineffective (whether by the terms thereof or under applicable Law), then such Contract, Intellectual Property Right or Permit shall not be subject to the Security Interests but shall be held in trust by the applicable Debtor for the benefit of the Creditor and, on the exercise by the Creditor of any of its rights or remedies under this Agreement following an Event of Default shall be assigned by such Debtor as directed by the Creditor; provided that: (a) the Security Interests of such Debtor shall attach to such Contract, Intellectual Property Right or Permit, or applicable portion thereof, immediately at such time as the condition causing such termination or breach is remedied, and (b) if a term in a Contract that prohibits or restricts the grant of the Security Interests in the whole of an Account or Chattel Paper forming part of the Collateral is unenforceable against the Creditor under applicable Law, then the exclusion from the Security Interests set out above shall not apply to such Account or Chattel Paper. In addition, the Security Interests do not attach to Consumer Goods or extend to the last day of the term of any lease or agreement for lease of real property. Such last day shall be held by the applicable Debtor in trust for the Creditor and, on the exercise by the Creditor of any of its rights or remedies under this Agreement following an Event of Default, shall be assigned by such Debtor as directed by the Creditor. For greater certainty, no Intellectual Property Right in any trade-mark, get-up or trade dress is presently assigned to the Creditor by sole virtue of the grant of the Security Interests contained in Section 2.

4. **Attachment; No Obligation to Advance.** Each Debtor confirms that value has been given by the Creditor to such Debtor, that such Debtor has rights in its Collateral existing at the date of this Agreement or the date of any Supplement, as applicable, and that such Debtor and the Creditor have not agreed to postpone the time for attachment of the Security Interests to any of the Collateral of such Debtor. The Security Interests with respect to the Collateral of each Debtor created by this Agreement shall have effect and be deemed to be effective whether or not the Secured Liabilities of such Debtor or any part thereof are owing or in existence before or after or upon the date of this Agreement or the date of any Supplement, as applicable. Neither the execution and delivery of this Agreement or any Supplement nor the provision of any financial accommodation by the Creditor shall oblige the Creditor to make any financial accommodation or further financial accommodation available to any Debtor or any other Person.

5. **Representations and Warranties.** Each Debtor represents and warrants to the Creditor that, as of the date of this Agreement or the date of any Supplement, as applicable:

- (a) Debtor Information. All of the information set out in the Schedules and Supplements, as applicable, with respect to such Debtor is accurate and complete.
- (b) Title; No Other Security Interests. Except for Permitted Liens, such Debtor owns (or, with respect to any leased or licensed property forming part of the Collateral of such Debtor, holds a valid leasehold or licensed interest in) its Collateral free and clear of any Liens. Such Debtor is the record and beneficial owner of the Pledged Shares. No security agreement, financing statement or other notice with respect to any or all of the Collateral of such Debtor is on file or on record in any public office, except for filings with respect to Permitted Liens.
- (c) Amount of Accounts. The amount represented by such Debtor to the Creditor from time to time as owing by each account debtor or by all account debtors with respect to its Accounts of such Debtor will at such time be the correct amount so owing by such account debtor or debtors and, unless disclosed in writing by such Debtor to the Creditor at that time, will be owed free of any dispute, set-off or counterclaim. Except as disclosed in writing by such Debtor to the Creditor, neither such Debtor nor (to the best of such Debtor's knowledge) any other party to any Account of such Debtor or Contract of such Debtor is in default or is likely to become in default in the performance or observance of any of the terms of such Account or Contract where such default is or could reasonably be expected to be materially adverse to such Debtor or the Creditor.
- (d) Authority. Such Debtor has full power and authority to grant to the Creditor the Security Interests granted by such Debtor and to execute, deliver and perform its obligations under this Agreement, and such execution, delivery and performance does not contravene any of such Debtor's Organizational Documents or any agreement, instrument or restriction to which such Debtor is a party or by which such Debtor or any of its Collateral is bound.
- (e) Consents and Transfer Restrictions.
- (i) Except for any consent that has been obtained and is in full force and effect, no consent of any Person (including any counterparty with respect to any Contract, any account debtor with respect to any Account, or any Governmental Authority with respect to any Permit) is required, or is purported to be required, for the execution, delivery, performance and enforcement of this Agreement (this representation being given without reference to the exclusions contained in Section 3). For the purposes of complying with any transfer restrictions contained in the Organizational Documents of any Pledged Issuer, such Debtor hereby irrevocably consents to any transfer of such Debtor's Pledged Securities of such Pledged Issuer.
- (ii) (A) No order ceasing or suspending trading in, or prohibiting the transfer of the Pledged Shares has been issued and no proceedings for this purpose have been instituted, nor does such Debtor have any reason to

believe that any such proceedings are pending, contemplated or threatened and (B) the Pledged Shares are not subject to any escrow or other agreement, arrangement, commitment or understanding, prohibiting the transfer of the Pledged Shares, including pursuant to applicable Canadian securities laws or the rules, regulations or policies of any marketplace on which the Pledged Shares are listed, posted or traded.

- (f) Execution and Delivery. This Agreement has been duly authorized, executed and delivered by such Debtor and is a valid and binding obligation of such Debtor enforceable against such Debtor in accordance with its terms, subject only to bankruptcy, insolvency, liquidation, reorganization, moratorium and other similar Laws generally affecting the enforcement of creditors' rights, and to the fact that equitable remedies (such as specific performance and injunction) are discretionary remedies.
- (g) No Consumer Goods. Such Debtor does not own any Consumer Goods which are material in value or which are material to the business, operations, property, condition or prospects (financial or otherwise) of such Debtor.
- (h) Intellectual Property Rights. All registrations and applications for registration pertaining to any Intellectual Property Rights of such Debtor, all other material Intellectual Property Rights of such Debtor, and the nature of such Debtor's right, title or interest therein, are described in the Schedules and Supplements as applicable, with respect to such Debtor. Each Intellectual Property Right of such Debtor is valid, subsisting, unexpired, enforceable, and has not been abandoned. In the case of copyright works of such Debtor, such Debtor has obtained full and irrevocable waivers of all moral rights or similar rights pertaining to such works. Except as set out in the Schedules and Supplements, as applicable, none of the Intellectual Property Rights of such Debtor have been licensed or franchised by such Debtor to any Person or, to the best of such Debtor's knowledge, infringed or otherwise misused by any Person. Except as set out in the Schedules and Supplements, as applicable, the exercise of any Intellectual Property Right of such Debtor, or any licensee or franchisee thereof, has not infringed or otherwise misused any intellectual property right of any other Person, and such Debtor has not received and is not aware of any claim of such infringement or other misuse.
- (i) Partnerships, Limited Liability Companies. The terms of any interest in a partnership or limited liability company that is Collateral of such Debtor expressly provide that such interest is a "security" for the purposes of the STA.
- (j) Due Authorization. The Pledged Securities of such Debtor have been duly authorized and validly issued and are fully paid and non-assessable.
- (k) Warrants, Options, etc. There are no outstanding warrants, options or other rights to purchase, or other agreements outstanding with respect to, or property that is

now or hereafter convertible into, or that requires the issuance or sale of, any Pledged Shares of such Debtor.

- (l) **No Required Disposition.** There is no existing agreement, option, right or privilege capable of becoming an agreement or option pursuant to which such Debtor would be required to sell, redeem or otherwise dispose of any Pledged Shares of such Debtor or under which any Pledged Issuer has any obligation to issue any Securities of such Pledged Issuer to any Person.

6. **Survival of Representations and Warranties.** All representations and warranties made by each Debtor in this Agreement (a) are material, (b) shall be considered to have been relied on by the Creditor, and (c) shall survive the execution and delivery of this Agreement and any Supplement or any investigation made at any time by or on behalf of the Creditor and any disposition or payment of the Secured Liabilities until the Release Date.

7. **Covenants.** Each Debtor covenants and agrees with the Creditor that:

- (a) **Further Documentation.** Such Debtor shall from time to time, at the expense of such Debtor, promptly and duly authorize, execute and deliver such further instruments and documents, and take such further action, as the Creditor may reasonably request for the purpose of obtaining or preserving the full benefits of, and the rights and powers granted by, this Agreement (including the filing of any financing statements or financing change statements under any applicable legislation with respect to the Security Interests). In addition, upon the acquisition of interest in any airframe or engine, such Debtor shall notify the Creditor of such acquisition and shall, at the expense of such Debtor, promptly and duly authorize, execute and deliver an aircraft security agreement in respect of such interest in the airframe and engine, in favour of the Creditor, in form and substance acceptable to the Creditor, acting reasonably.¹

Such Debtor acknowledges that this Agreement has been prepared based on the existing Laws in the Province referred to in the "Governing Law" section of this Agreement and that a change in such Laws, or the Laws of other jurisdictions, may require the execution and delivery of different forms of security documentation. Accordingly, such Debtor agrees that the Creditor shall have the right to require that this Agreement be amended, supplemented, restated or replaced, and that such Debtor shall immediately on request by the Creditor authorize, execute and deliver any such amendment, supplement, restatement or replacement (i) to reflect any changes in such Laws, whether arising as a result of statutory amendments, court decisions or otherwise, (ii) to facilitate the creation and registration of appropriate security in all appropriate jurisdictions, or (iii) if such Debtor merges or amalgamates with any other Person or enters into any corporate reorganization, in each case in order to confer on the Creditor Liens similar to, and having the same effect as, the Security Interests.

¹ NTD: It is our understanding that neither the Company nor the Guarantor own any aircraft or engines.

- (b) Maintenance of Records. Such Debtor shall keep and maintain accurate and complete records of the Collateral of such Debtor, including a record of all payments received and all credits granted with respect to the Accounts and Contracts of such Debtor. At the written request of the Creditor, such Debtor shall mark any Collateral of such Debtor specified by the Creditor to evidence the existence of the Security Interests.
- (c) Right of Inspection. The Creditor may, at all times during normal business hours, without charge, examine and make copies of all Books and Records, and may discuss the affairs, finances and accounts of such Debtor with its officers and accountants. The Creditor may also, without charge, enter the premises of such Debtor where any of the Collateral of such Debtor is located for the purpose of inspecting such Collateral, observing its use or otherwise protecting its interests in such Collateral. Such Debtor, at its expense, shall provide the Creditor with such clerical and other assistance as may be reasonably requested by the Creditor to exercise any of its rights under this paragraph. Notwithstanding the foregoing, the Creditor shall conduct such examinations, inspections and attendance at the premises of the Debtor in such a manner as to reasonably minimize the interruptions of the ordinary business operation of the Debtor.
- (d) Limitations on Other Liens. Such Debtor shall not create, incur or permit to exist, and shall defend the Collateral of such Debtor against, and shall take such other action as is necessary to remove, any and all Liens in and other claims affecting the Collateral of such Debtor, other than the Permitted Liens, and such Debtor shall defend the right, title and interest of the Creditor in and to the Collateral of such Debtor against the claims and demands of all Persons.
- (e) Limitations on Dispositions of Collateral. Such Debtor shall not, without the Creditor's prior written consent, sell, lease or otherwise dispose of any of its Collateral with a value (or for a price) in excess of US\$5,000,000, except that Inventory of such Debtor may be sold, leased or otherwise disposed of and, subject to the terms of this Agreement, Accounts of such Debtor may be collected, in either case in the ordinary course of such Debtor's business. Following an Event of Default, all Proceeds of the Collateral of such Debtor (including all amounts received with respect to Accounts) received by or on behalf of such Debtor, whether or not arising in the ordinary course of such Debtor's business, shall be received by such Debtor as trustee for the Creditor and shall be immediately paid to the Creditor.
- (f) Limitations on Modifications, Waivers, Extensions. Other than as not prohibited by paragraph (g) below, such Debtor shall not (i) amend, modify, terminate, permit to expire or waive any provision of any of such Debtor's Permits, Contracts or any documents giving rise to an Account in any manner which is or could reasonably be expected to be materially adverse to such Debtor or the Creditor, or (ii) fail to exercise promptly and diligently its rights under each of such Debtor's Contracts and documents giving rise to an Account if such failure

is or could reasonably be expected to be materially adverse to such Debtor or the Creditor.

- (g) Limitations on Discounts, Compromises, Extensions of Accounts. Other than in the ordinary course of business of such Debtor consistent with previous practices, such Debtor shall not (i) grant any extension of the time for payment of any Account of such Debtor, (ii) compromise, compound or settle any Account of such Debtor for less than its full amount, (iii) release, wholly or partially, any Person liable for the payment of any Account of such Debtor, or (iv) allow any credit or discount of any Account of such Debtor.
- (h) Maintenance of Collateral. Such Debtor shall maintain all tangible Collateral of such Debtor in good operating condition, ordinary wear and tear excepted, and such Debtor shall provide all maintenance, service and repairs necessary for such purpose. Such Debtor shall maintain in good standing all registrations and applications with respect to the Intellectual Property Rights of such Debtor except to the extent that any failure to do so could not reasonably be expected to be materially adverse to such Debtor or the Creditor.
- (i) Insurance. Such Debtor shall keep the Collateral of such Debtor insured with financially sound and reputable companies to its full insurable value against loss or damage by fire, explosion, theft and such other risks as are customarily insured against by Persons carrying on similar businesses or owning similar property within the vicinity in which such Debtor's applicable business or property is located. The applicable insurance policies shall be in form and substance satisfactory to the Creditor, and shall (i) provide that no cancellation, material reduction in amount or material change in coverage will be effective until at least 30 days after receipt of written notice thereof by the Creditor, and (ii) name the Creditor as loss payee as its interest may appear. Such Debtor shall, from time to time at the Creditor's request, deliver the applicable insurance policies (or satisfactory evidence of such policies) to the Creditor. If such Debtor does not obtain or maintain such insurance, the Creditor may, but need not, do so, in which event such Debtor shall immediately on demand reimburse the Creditor for all payments made by the Creditor in connection with obtaining and maintaining such insurance, and until reimbursed any such payment shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests. Neither the Creditor nor its correspondents or its agents shall be responsible for the character, adequacy, validity or genuineness of any insurance, the solvency of any insurer, or any other risk connected with insurance.
- (j) Further Identification of Collateral. Such Debtor shall promptly furnish to the Creditor such statements and schedules further identifying and describing the Collateral of such Debtor, and such other reports in connection with the Collateral of such Debtor, as the Creditor may from time to time reasonably request, including an updated list of any motor vehicles or other "serial number" goods owned by such Debtor and classified as Equipment, including vehicle identification numbers.

- (k) Amalgamation, Merger or Consolidation. Such Debtor shall not permit any Pledged Issuer of such Debtor to amalgamate, merge or consolidate unless all of the outstanding capital stock of the surviving or resulting corporation is, upon such amalgamation, merger or consolidation, pledged under this Agreement, and no cash, securities or other property is distributed with respect to the outstanding shares of any other constituent corporation.
- (l) Agreements re Intellectual Property Rights. Promptly upon request from time to time by the Creditor, such Debtor shall authorize, execute and deliver any and all agreements, instruments, documents and papers that the Creditor may reasonably request to evidence the Security Interests in any Intellectual Property Rights of such Debtor and, where applicable, the goodwill of the business of such Debtor connected with the use of, and symbolized by, any such Intellectual Property Rights.
- (m) Instruments; Documents of Title; Chattel Paper. Where an Event of Default has occurred and is continuing, promptly upon request from time to time by the Creditor, such Debtor shall deliver to the Creditor, endorsed and/or accompanied by such instruments of assignment and transfer in such form and substance as the Creditor may reasonably request, any and all Instruments, Documents of Title and Chattel Paper of such Debtor included in or relating to the Collateral of such Debtor as the Creditor may specify in its request.
- (n) Pledged Certificated Securities. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all Pledged Security Certificates of such Debtor and other materials as may be required from time to time to provide the Creditor with control over all Pledged Certificated Securities of such Debtor in the manner provided under section 23 of the STA. Where an Event of Default has occurred and is continuing, promptly, at the request of the Creditor, such Debtor shall cause all Pledged Security Certificates of such Debtor to be registered in the name of the Creditor or its nominee.
- (o) Pledged Uncertificated Securities. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all such documents, agreements and other materials as may be required from time to time to provide the Creditor with control over all Pledged Uncertificated Securities of such Debtor in the manner provided under section 24 of the STA.
- (p) Pledged Security Entitlements. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all such documents, agreements and other materials as may be required from time to time to provide the Creditor with control over all Pledged Security Entitlements of such Debtor in the manner provided under section 25 or 26 of the STA.
- (q) Pledged Futures Contracts. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all such documents, agreements and other materials as may be required from time to time to provide

the Creditor with control over all Pledged Futures Contracts of such Debtor in the manner provided under subsection 1(2) of the PPSA.

- (r) Partnerships, Limited Liability Companies. Such Debtor shall ensure that the terms of any interest in a partnership or limited liability company that is Collateral of such Debtor shall expressly provide that such interest is a “security” for the purposes of the STA.
- (s) Transfer Restrictions. If the constating documents of any Pledged Issuer (other than a ULC) restrict the transfer of the Securities of such Pledged Issuer, then such Debtor shall deliver to the Creditor a certified copy of a resolution of the directors, shareholders, unitholders or partners of such Pledged Issuer, as applicable, consenting to the transfer(s) contemplated by this Agreement, including any prospective transfer of the Collateral of such Debtor by the Creditor upon a realization on the Security Interests.
- (t) Notices. Such Debtor shall advise the Creditor promptly, in reasonable detail, of:
 - (i) any change to a Pledged Securities Intermediary’s Jurisdiction, Pledged Issuer’s Jurisdiction, or Pledged Future Intermediary’s Jurisdiction;
 - (ii) any change in the location of the jurisdiction of incorporation or amalgamation, chief executive office or domicile of such Debtor;
 - (iii) any change in the name of such Debtor;
 - (iv) any merger, consolidation or amalgamation of such Debtor with any other Person;
 - (v) any additional jurisdiction in which such Debtor has tangible Personal Property with a net book value, in the aggregate, of at least \$100,000;
 - (vi) any additional jurisdiction in which material account debtors of such Debtor are located;
 - (vii) any acquisition of any right, title or interest in real property by such Debtor;
 - (viii) any acquisition of any Intellectual Property Rights which are the subject of a registration or application with any governmental intellectual property or other governing body or registry, or which are material to such Debtor’s business;
 - (ix) any acquisition of any Instrument, Document of Title or Chattel Paper;
 - (x) any creation or acquisition of any Subsidiary of such Debtor;

- (xi) any Lien (other than Permitted Liens) on, or claim asserted against, any of the Collateral of such Debtor;
- (xii) the Debtor becoming (or if the Debtor could reasonably be determined to have become) a Control Person with respect to any Reporting Pledged Issuer;
- (xiii) the issuance of any order ceasing or suspending trading in, or prohibiting the transfer of any Pledged Shares or the institution of proceedings for such purpose, or if such Debtor has any reason to believe that any such proceedings are pending, contemplated or threatened;
- (xiv) any occurrence of any event, claim or occurrence that could reasonably be expected to have a material adverse effect on the value of the Collateral of such Debtor or on the Security Interests; or
- (xv) any additional jurisdiction in which such Debtor carries on business.

Such Debtor shall not effect or permit any of the changes referred to in clauses (ii) through (viii) above unless all filings have been made and all other actions taken that are required in order for the Creditor to continue at all times following such change to have a valid and perfected first priority Security Interest, subject to Permitted Liens, with respect to all of the Collateral of such Debtor.

8. **Voting Rights.** Unless an Event of Default has occurred and is continuing, each Debtor shall be entitled to exercise all voting power from time to time exercisable with respect to the Pledged Shares of such Debtor and give consents, waivers and ratifications with respect thereto; provided, however, that no vote shall be cast or consent, waiver or ratification given or action taken which would be, or would have a reasonable likelihood of being, prejudicial to the interests of the Creditor or which would have the effect of reducing the value of the Collateral of such Debtor as security for the Secured Liabilities of such Debtor or imposing any restriction on the transferability of any of the Collateral of such Debtor. Immediately upon the occurrence and during the continuance of any Event of Default, but at all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, all such rights of the applicable Debtor to vote and give consents, waivers and ratifications shall cease and the Creditor or its nominee shall be entitled to exercise all such voting rights and to give all such consents, waivers and ratifications.

9. **Dividends; Interest.** Unless an Event of Default has occurred and is continuing, each Debtor shall be entitled to receive any and all cash dividends, interest, principal payments and other forms of cash distribution on the Pledged Shares of such Debtor which it is otherwise entitled to receive, but any and all stock and/or liquidating dividends, distributions of property, returns of capital or other distributions made on or with respect to the Pledged Shares of such Debtor, whether resulting from a subdivision, combination or reclassification of the outstanding capital stock of any Pledged Issuer of such Debtor or received in exchange for such Pledged Shares or any part thereof or as a result of any amalgamation, merger, consolidation, acquisition or other exchange of property to which any Pledged Issuer of such Debtor may be a party or

otherwise, and any and all cash and other property received in exchange for any Pledged Shares of such Debtor shall be and become part of the Collateral of such Debtor subject to the Security Interests; and if any of the Pledged Security Certificates have been registered in the name of the Creditor or its nominee, the Creditor shall execute and deliver (or cause to be executed and delivered) to such Debtor all such dividend orders and other instruments as such Debtor may reasonably request for the purpose of enabling such Debtor to receive the dividends, distributions or other payments which such Debtor is authorized to receive and retain pursuant to this Section. If an Event of Default has occurred and is continuing, all rights of such Debtor pursuant to this Section shall cease and the Creditor shall have the sole and exclusive right and authority to receive and retain the cash dividends, interest, principal payments and other forms of cash distribution which such Debtor would otherwise be authorized to retain pursuant to this Section. Any money and other property paid over to or received by the Creditor pursuant to the provisions of this Section shall be retained by the Creditor as additional Collateral hereunder and be applied in accordance with the provisions of this Agreement.

10. **Rights on Event of Default.** If an Event of Default has occurred and is continuing, then and in every such case all of the Secured Liabilities of each Debtor shall, at the option of the Creditor, become immediately due and payable and the Security Interests of each Debtor shall become enforceable and the Creditor, in addition to any rights now or hereafter existing under applicable Law may, personally or by agent, at such time or times as the Creditor in its discretion may determine, do any one or more of the following:

- (a) **Rights under PPSA, etc.** Exercise against any or all Debtors all of the rights and remedies granted to secured parties under the PPSA and any other applicable statute, or otherwise available to the Creditor by contract, at law or in equity.
- (b) **Demand Possession.** Demand possession of any or all of the Collateral of any or all Debtors, in which event each such Debtor shall, at the expense of such Debtor, immediately cause the Collateral of such Debtor designated by the Creditor to be assembled and made available to the Creditor.
- (c) **Take Possession.** Enter on any premises where any Collateral of any or all Debtors is located and take possession of, disable or remove such Collateral.
- (d) **Deal with Collateral.** Hold, store and keep idle, or operate, lease or otherwise use or permit the use of, any or all of the Collateral of any or all Debtors for such time and on such terms as the Creditor may determine, and demand, collect and retain all earnings and other sums due or to become due from any Person with respect to any of the Collateral of any or all Debtors.
- (e) **Carry on Business.** At all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, carry on, or concur in the carrying on of, any or all of the business or undertaking of any or all Debtors and enter on, occupy and use (without charge by such Debtor) any of the premises, buildings, plant and undertaking of, or occupied or used by, any or all Debtors.

- (f) Enforce Collateral. Seize, collect, receive, enforce or otherwise deal with any Collateral of any or all Debtors in such manner, on such terms and conditions and at such times as the Creditor deems advisable. Notwithstanding the foregoing, the Creditor may only take such aforementioned action in respect of Collateral comprised of Pledged Securities if such Pledged Securities are promptly transferred to an entity permitted by the Ownership and Control Requirements.
- (g) Dispose of Collateral. Realize on any or all of the Collateral of any or all Debtors and sell, lease, assign, give options to purchase, or otherwise dispose of and deliver any or all of the Collateral of any or all Debtors (or contract to do any of the above), in one or more parcels at any public or private sale, at any exchange, broker's board or office of the Creditor or elsewhere, with or without advertising or other formality, except as required by applicable Law, on such terms and conditions as the Creditor may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery.
- (h) Court-Approved Disposition of Collateral. Obtain from any court of competent jurisdiction an order for the sale or foreclosure of any or all of the Collateral of any or all Debtors.
- (i) Purchase by Creditor. At any public sale, and to the extent permitted by Law on any private sale, bid for and purchase any or all of the Collateral of any or all Debtors offered for sale and, upon compliance with the terms of such sale, hold, retain, sell or otherwise dispose of such Collateral without any further accountability to any Debtor or any other Person with respect to such holding, retention, sale or other disposition, except as required by Law. In any such sale to the Creditor, the Creditor may, for the purpose of making payment for all or any part of the Collateral of any Debtor so purchased, use any claim for any or all of the Secured Liabilities of such Debtor then due and payable to it as a credit against the purchase price.
- (j) Collect Accounts. Notify (whether in its own name or in the name of any Debtor) the account debtors under any Accounts of any or all Debtors of the assignment of such Accounts to the Creditor and direct such account debtors to make payment of all amounts due or to become due to any or all Debtors with respect to such Accounts directly to the Creditor and, upon such notification and at the expense of any such Debtor, enforce collection of any such Accounts, and adjust, settle or compromise the amount or payment of such Accounts, in such manner and to such extent as the Creditor deems appropriate in the circumstances.
- (k) Transfer of Collateral. At all times subject to the Ownership and Control Requirements or as otherwise permitted by the CTA, transfer any Collateral of any or all Debtors that is Pledged Shares into the name of the Creditor or its nominee.
- (l) Voting. At all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, vote any or all of the Pledged Shares of any or

all Debtors (whether or not transferred to the Creditor or its nominee) and give or withhold all consents, waivers and ratifications with respect thereto and otherwise act with respect thereto as though it were the outright owner thereof.

- (m) Exercise Other Rights. At all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, exercise any and all rights, privileges, entitlements and options pertaining to any Collateral of any or all Debtors that is Pledged Shares as if the Creditor were the absolute owner of such Pledged Shares.
- (n) Dealing with Contracts and Permits. Deal with any and all Contracts and Permits of any or all Debtors to the same extent as any such Debtor might (including the enforcement, realization, sale, assignment, transfer, and requirement for continued performance), all on such terms and conditions and at such time or times as may seem advisable to the Creditor.
- (o) Payment of Liabilities. Pay any liability secured by any Lien against any Collateral of any or all Debtors. Each such Debtor shall immediately on demand reimburse the Creditor for all such payments and, until paid, any such reimbursement obligation shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.
- (p) Borrow and Grant Liens. Borrow money for the maintenance, preservation or protection of any Collateral of any or all Debtors or for carrying on any of the business or undertaking of any or all Debtors and grant Liens on any Collateral of any or all Debtors (in priority to the Security Interests of any or all Debtors or otherwise) as security for the money so borrowed. Each such Debtor shall immediately on demand reimburse the Creditor for all such borrowings and, until paid, any such reimbursement obligations shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.
- (q) Appoint Receiver. Appoint by instrument in writing one or more Receivers of any or all Debtors or any or all of the Collateral of any or all Debtors with such rights, powers and authority (including any or all of the rights, powers and authority of the Creditor under this Agreement) as may be provided for in the instrument of appointment or any supplemental instrument, and remove and replace any such Receiver from time to time. To the extent permitted by applicable Law, any Receiver appointed by the Creditor shall (for purposes relating to responsibility for the Receiver's acts or omissions) be considered to be the agent of any such Debtor and not of the Creditor.
- (r) Court-Appointed Receiver. Obtain from any court of competent jurisdiction an order for the appointment of a Receiver of any or all Debtors or of any or all of the Collateral of any or all Debtors.

The Creditor may exercise any or all of the foregoing rights and remedies without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except as required by applicable Law) to or on any Debtor or any other Person, and each Debtor hereby waives each such demand, presentment, protest, advertisement and notice to the extent permitted by applicable Law. None of the above rights or remedies shall be exclusive of or dependent on or merge in any other right or remedy, and one or more of such rights and remedies may be exercised independently or in combination from time to time. Each Debtor acknowledges and agrees that any action taken by the Creditor hereunder following the occurrence and during the continuance of an Event of Default shall not be rendered invalid or ineffective as a result of the curing of the Event of Default on which such action was based.

11. **Realization Standards.** To the extent that applicable Law imposes duties on the Creditor to exercise remedies in a commercially reasonable manner and without prejudice to the ability of the Creditor to dispose of the Collateral in any such manner, each Debtor acknowledges and agrees that it is not commercially unreasonable for the Creditor to (or not to) (a) incur expenses reasonably deemed significant by the Creditor to prepare the Collateral of such Debtor for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (b) fail to obtain third party consents for access to the Collateral of such Debtor to be disposed of, (c) fail to exercise collection remedies against account debtors or other Persons obligated on the Collateral of such Debtor or to remove Liens against the Collateral of such Debtor, (d) exercise collection remedies against account debtors and other Persons obligated on the Collateral of such Debtor directly or through the use of collection agencies and other collection specialists, (e) dispose of Collateral of such Debtor by way of public auction, public tender or private contract, with or without advertising and without any other formality, (f) contact other Persons, whether or not in the same business of such Debtor, for expressions of interest in acquiring all or any portion of the Collateral of such Debtor, (g) hire one or more professional auctioneers to assist in the disposition of the Collateral of such Debtor, whether or not such Collateral is of a specialized nature or an upset or reserve bid or price is established, (h) dispose of the Collateral of such Debtor by utilizing internet sites that provide for the auction of assets of the types included in such Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets, (i) dispose of assets in wholesale rather than retail markets, (j) disclaim disposition warranties, such as title, possession or quiet enjoyment, (k) purchase insurance or credit enhancements to insure the Creditor against risks of loss, collection or disposition of the Collateral of such Debtor or to provide to the Creditor a guaranteed return from the collection or disposition of such Collateral, (l) to the extent deemed appropriate by the Creditor, obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Creditor in the collection or disposition of any of the Collateral of such Debtor, (m) dispose of Collateral of such Debtor in whole or in part, (n) dispose of Collateral of such Debtor to a customer of the Creditor, and (o) establish an upset or reserve bid price with respect to Collateral of such Debtor.

12. **Grant of Licence.** For the purpose of enabling the Creditor to exercise its rights and remedies under this Agreement when the Creditor is entitled to exercise such rights and remedies, and for no other purpose, each Debtor grants to the Creditor an irrevocable, non-exclusive licence (exercisable without payment of royalty or other compensation to such Debtor) to use, assign or sublicense any or all of the Intellectual Property Rights of such Debtor, including in such licence reasonable access to all media in which any of the licensed items may

be recorded or stored and to all computer programs used for the compilation or printout of the same. For any trade-marks, get-up and trade dress and other business indicia, such licence includes an obligation on the part of the Creditor to maintain the standards of quality maintained by such Debtor or, in the case of trade-marks, get-up and trade dress or other business indicia licensed to such Debtor, the standards of quality imposed upon such Debtor by the relevant licence. For copyright works, such licence shall include the benefit of any waivers of moral rights and similar rights.

13. **Securities Laws.** The Creditor is authorized, in connection with any offer or sale of any Pledged Shares of any Debtor, to comply with any limitation or restriction as it may be advised by counsel is necessary to comply with applicable Law, including compliance with procedures that may restrict the number of prospective bidders and purchasers, requiring that prospective bidders and purchasers have certain qualifications, and restricting prospective bidders and purchasers to Persons who will represent and agree that they are purchasing for their own account or investment and not with a view to the distribution or resale of such Securities. In addition to and without limiting Section 11, each Debtor further agrees that compliance with any such limitation or restriction shall not result in a sale being considered or deemed not to have been made in a commercially reasonable manner, and the Creditor shall not be liable or accountable to such Debtor for any discount allowed by reason of the fact that such Pledged Shares are sold in compliance with any such limitation or restriction. If the Creditor chooses to exercise its right to sell any or all Pledged Shares of any Debtor, upon written request, such Debtor shall cause each applicable Pledged Issuer to furnish to the Creditor all such information as the Creditor may reasonably request in order to determine the number of shares and other instruments included in the Collateral of such Debtor which may be sold by the Creditor in exempt transactions under any Laws governing securities, and the rules and regulations of any applicable securities regulatory body thereunder, as the same are from time to time in effect.

14. **ULC Shares.** Each Debtor acknowledges that certain of the Collateral of such Debtor may now or in the future consist of ULC Shares, and that it is the intention of the Creditor and each Debtor that the Creditor should not under any circumstances prior to realization thereon be held to be a "member" or a "shareholder", as applicable, of a ULC for the purposes of any ULC Laws. Therefore, notwithstanding any provisions to the contrary contained in this Agreement, the NPA or any other Transaction Document, where a Debtor is the registered owner of ULC Shares which are Collateral of such Debtor, such Debtor shall remain the sole registered owner of such ULC Shares until such time as such ULC Shares are effectively transferred into the name of the Creditor or any other Person on the books and records of the applicable ULC. Accordingly, each Debtor shall be entitled to receive and retain for its own account any dividend on or other distribution, if any, with respect to such ULC Shares (except for any dividend or distribution comprised of Pledged Security Certificates of such Debtor, which shall be delivered to the Creditor to hold hereunder) and shall have the right to vote such ULC Shares and to control the direction, management and policies of the applicable ULC to the same extent as such Debtor would if such ULC Shares were not pledged to the Creditor pursuant hereto. Nothing in this Agreement, the NPA or any other Transaction Document is intended to, and nothing in this Agreement, the NPA or any other Transaction Document shall, constitute the Creditor or any Person other than the applicable Debtor, a member or shareholder of a ULC for the purposes of any ULC Laws (whether listed or unlisted, registered or beneficial), until such time as notice is given to such Debtor and further steps are taken pursuant hereto or thereto so as to register the

Creditor or such other Person, as specified in such notice, as the holder of the ULC Shares. To the extent any provision hereof would have the effect of constituting the Creditor as a member or a shareholder, as applicable, of any ULC prior to such time, such provision shall be severed herefrom and shall be ineffective with respect to ULC Shares which are Collateral of any Debtor without otherwise invalidating or rendering unenforceable this Agreement or invalidating or rendering unenforceable such provision insofar as it relates to Collateral of any Debtor which is not ULC Shares. Except upon the exercise of rights of the Creditor to sell, transfer or otherwise dispose of ULC Shares in accordance with this Agreement, each Debtor shall not cause or permit, or enable a Pledged Issuer that is a ULC to cause or permit, the Creditor to: (a) be registered as a shareholder or member of such Pledged Issuer; (b) have any notation entered in their favour in the share register of such Pledged Issuer; (c) be held out as shareholders or members of such Pledged Issuer; (d) receive, directly or indirectly, any dividends, property or other distributions from such Pledged Issuer by reason of the Creditor holding the Security Interests over the ULC Shares; or (e) act as a shareholder of such Pledged Issuer, or exercise any rights of a shareholder including the right to attend a meeting of shareholders of such Pledged Issuer or to vote its ULC Shares.

15. **Application of Proceeds.** All Proceeds of Collateral of any Debtor received by the Creditor or a Receiver may be applied to discharge or satisfy any expenses (including the Receiver's remuneration and other expenses of enforcing the Creditor's rights against such Debtor under this Agreement), Liens on the Collateral of such Debtor in favour of Persons other than the Creditor, borrowings, taxes and other outgoings affecting the Collateral of such Debtor or which are considered advisable by the Creditor or the Receiver to protect, preserve, repair, process, maintain or enhance the Collateral of such Debtor or prepare it for sale, lease or other disposition, or to keep in good standing any Liens on the Collateral of such Debtor ranking in priority to any of the Security Interests, or to sell, lease or otherwise dispose of the Collateral of such Debtor. The balance of such Proceeds may, at the sole discretion of the Creditor, be held as collateral security for the Secured Liabilities of the applicable Debtor or be applied to such of the Secured Liabilities of the applicable Debtor (whether or not the same are due and payable) in such manner and at such times as the Creditor considers appropriate and thereafter shall be accounted for as required by Law.

16. **Continuing Liability of Debtor.** Each Debtor shall remain liable for any Secured Liabilities of such Debtor that are outstanding following realization of all or any part of the Collateral of such Debtor and the application of the Proceeds thereof.

17. **Creditor's Appointment as Attorney-in-Fact.** Effective upon the occurrence and during the continuance of an Event of Default, each Debtor constitutes and appoints the Creditor and any officer or agent of the Creditor, with full power of substitution, as such Debtor's true and lawful attorney-in-fact with full power and authority in the place of such Debtor and in the name of such Debtor or in its own name, from time to time in the Creditor's discretion, to take any and all appropriate action and to execute any and all documents and instruments as, in the opinion of such attorney, may be necessary or desirable to accomplish the purposes of this Agreement. Without limiting the effect of this Section, each Debtor grants the Creditor an irrevocable proxy to vote the Pledged Shares of such Debtor and to exercise all other rights, powers, privileges and remedies to which a holder thereof would be entitled (including giving or withholding written consents of shareholders, calling special meetings of shareholders and voting

at such meetings), which proxy shall be effective, automatically and without the necessity of any action (including any transfer of any Pledged Shares of such Debtor on the books and records of a Pledged Issuer or Pledged Securities Intermediary, as applicable), upon the occurrence of an Event of Default. These powers are coupled with an interest and are irrevocable until the Release Date. Nothing in this Section affects the right of the Creditor as secured party or any other Person on the Creditor's behalf, to sign and file or deliver (as applicable) all such financing statements, financing change statements, notices, verification statements and other documents relating to the Collateral and this Agreement as the Creditor or such other Person considers appropriate. Each Debtor hereby ratifies and confirms, and agrees to ratify and confirm, whatever lawful acts the Creditor or any of the Creditor's sub-agents, nominees or attorneys do or purport to do in exercise of the power of attorney granted to the Creditor pursuant to this Section.

18. **Performance by Creditor of Debtor's Obligations.** If any Debtor fails to perform or comply with any of the obligations of such Debtor under this Agreement, the Creditor may, but need not, perform or otherwise cause the performance or compliance of such obligation, provided that such performance or compliance shall not constitute a waiver, remedy or satisfaction of such failure. The expenses of the Creditor incurred in connection with any such performance or compliance shall be payable by such Debtor to the Creditor immediately on demand, and until paid, any such expenses shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.

19. **Interest.** If any amount payable by any Debtor to the Creditor under this Agreement is not paid when due, such Debtor shall pay to the Creditor, immediately on demand, interest on such amount from the date due until paid, at the Default Rate. All amounts payable by such Debtor to the Creditor under this Agreement, and all interest on all such amounts, compounded monthly on the last Business Day of each month, shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.

20. **Severability.** Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

21. **Rights of Creditor; Limitations on Creditor's Obligations.**

- (a) **Limitations on Creditor's Liability.** The Creditor shall not be liable to any Debtor or any other Person for any failure or delay in exercising any of the rights of such Debtor under this Agreement (including any failure to take possession of, collect, sell, lease or otherwise dispose of any Collateral of such Debtor, or to preserve rights against prior parties). Neither the Creditor, a Receiver, nor any agent of the Creditor (including, in Alberta or British Columbia, any sheriff) is required to take, or shall have any liability for any failure to take or delay in taking, any steps necessary or advisable to preserve rights against other Persons under any Collateral of any Debtor in its possession. Neither the Creditor, any Receiver, nor any agent of the Creditor shall be liable for any, and each Debtor shall bear the

full risk of all, loss or damage to any and all of the Collateral of such Debtor (including any Collateral of such Debtor in the possession of the Creditor, any Receiver, or any agent of the Creditor) caused for any reason other than the gross negligence or wilful misconduct of the Creditor, such Receiver or such agent of the Creditor.

- (b) Debtors Remain Liable under Accounts and Contracts. Notwithstanding any provision of this Agreement, each Debtor shall remain liable under each of the documents giving rise to the Accounts of such Debtor and under each of the Contracts of such Debtor to observe and perform all the conditions and obligations to be observed and performed by such Debtor thereunder, all in accordance with the terms of each such document and Contract. The Creditor shall have no obligation or liability under any Account of any Debtor (or any document giving rise thereto) or Contract of any Debtor by reason of or arising out of this Agreement or the receipt by the Creditor of any payment relating to such Account or Contract pursuant hereto, and in particular (but without limitation), the Creditor shall not be obligated in any manner to perform any of the obligations of any Debtor under or pursuant to any Account of such Debtor (or any document giving rise thereto) or under or pursuant to any Contract of such Debtor, to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party under any Account of such Debtor (or any document giving rise thereto) or under any Contract of such Debtor, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time.
- (c) Collections on Accounts and Contracts. Each Debtor shall be authorized to, at any time that an Event of Default is not continuing, collect the Accounts of such Debtor and payments under the Contracts of such Debtor in the normal course of the business of such Debtor and for the purpose of carrying on the same. If required by the Creditor at any time an Event of Default has occurred and is continuing, any payments of Accounts of such Debtor or under Contracts of such Debtor, when collected by such Debtor, shall be forthwith (and, in any event, within two Business Days) deposited by such Debtor in the exact form received, duly endorsed by such Debtor to the Creditor if required, in a special collateral account maintained by the Creditor, and until so deposited, shall be held by such Debtor in trust for the Creditor, segregated from the other funds of such Debtor. All such amounts while held by the Creditor (or by such Debtor in trust for the Creditor) and all income with respect thereto shall continue to be collateral security for the Secured Liabilities and shall not constitute payment thereof until applied as hereinafter provided. If an Event of Default has occurred and is continuing, the Creditor may apply all or any part of the amounts on deposit with respect to such Debtor in said special collateral account on account of the Secured Liabilities of such Debtor in such order as the Creditor may elect. At the Creditor's request, such Debtor shall deliver to the Creditor any documents evidencing and relating to the agreements and transactions which gave rise to the

Accounts and the Contracts of such Debtor, including all original orders, invoices and shipping receipts.

- (d) **Analysis of Accounts.** At any time and from time to time, the Creditor shall have the right to analyze and verify the Accounts of any Debtor in any manner and through any medium that it reasonably considers advisable, and each Debtor shall furnish all such assistance and information as the Creditor may reasonably require in connection therewith. If an Event of Default has occurred and is continuing, at any time and from time to time, the Creditor may in its own name or in the name of others (including any Debtor) communicate with account debtors on the Accounts of any Debtor and parties to the Contracts of any Debtor to verify with them to its satisfaction the existence, status, amount and terms of any Account or any Contract of any Debtor. At any time and from time to time, but not more than once per calendar year provided that there is not an Event of Default that is continuing, upon the Creditor's reasonable request and at the expense of the applicable Debtor, such Debtor shall furnish to the Creditor reports showing reconciliations, aging and test verifications of, and trial balances for, the Accounts of such Debtor.
- (e) **Use of Agents.** The Creditor may perform any of its rights or duties under this Agreement by or through agents and is entitled to retain counsel and to act in reliance on the advice of such counsel concerning all matters pertaining to its rights and duties under this Agreement.

22. **Dealings by Creditor.** The Creditor shall not be obliged to exhaust its recourse against any Debtor or any other Person or against any other security it may hold with respect to the Secured Liabilities of such Debtor or any part thereof before realizing upon or otherwise dealing with the Collateral of such Debtor in such manner as the Creditor may consider desirable. The Creditor may grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with any Debtor and any other Person, and with any or all of the Collateral of any Debtor, and with other security and sureties, as the Creditor may see fit, all without prejudice to the Secured Liabilities of any Debtor or to the rights and remedies of the Creditor under this Agreement. The powers conferred on the Creditor under this Agreement are solely to protect the interests of the Creditor in the Collateral of each Debtor and shall not impose any duty upon the Creditor to exercise any such powers.

23. **Communication.** Any notice or other communication required or permitted to be given under this Agreement will be made in accordance with the terms of the NPA.

24. **Release of Information.** Each Debtor authorizes the Creditor to provide a copy of this Agreement and such other information as may be reasonably requested of the Creditor (i) to the extent necessary to enforce the Creditor's rights, remedies and entitlements under this Agreement, (ii) to any assignee or prospective assignee of all or any part of its Secured Liabilities, and (iii) as required by applicable Law.

25. **Expenses; Indemnity; Waiver.**

- (a) Each Debtor shall pay (i) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and all applicable taxes, in connection with the preparation and administration of this Agreement, (ii) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and applicable taxes, in connection with any amendments, modifications or waivers of the provisions hereof, and (iii) all reasonable out-of-pocket expenses incurred by the Creditor, including the fees, charges and disbursements of any counsel for the Creditor and all applicable taxes, in connection with the assessment, enforcement or protection of their rights in connection with this Agreement, including its rights under this Section, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations with respect to the Secured Liabilities of such Debtor.
- (b) Each Debtor shall indemnify the Creditor against, and hold the Creditor harmless from, any and all losses, claims, cost recovery actions, damages, expenses and liabilities of whatsoever nature or kind and all reasonable out-of-pocket expenses and all applicable taxes to which the Creditor may become subject arising out of or in connection with (i) the execution or delivery of this Agreement and the performance by such Debtor of its obligations hereunder, (ii) any actual claim, litigation, investigation or proceeding relating to this Agreement or the Secured Liabilities of such Debtor, whether based on contract, tort or any other theory and regardless of whether the Creditor is a party thereto, (iii) any other aspect of this Agreement, or (iv) the enforcement of the Creditor's rights hereunder and any related investigation, defence, preparation of defence, litigation and enquiries; provided that such indemnity shall not, as to the Creditor, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence (it being acknowledged that ordinary negligence does not necessarily constitute gross negligence) or wilful misconduct of or material breach of this Agreement by the Creditor.
- (c) No Debtor shall assert, and each Debtor hereby waives (to the fullest extent permitted by applicable Law), (i) any claim against the Creditor (or any director, officer or employee thereof), on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, and (ii) all of the rights, benefits and protections given by any present or future statute that imposes limitations on the rights, powers or remedies of a secured party or on the methods of, or procedures for, realization of security, including any "seize or sue" or "anti-deficiency" statute or any similar provision of any other statute.
- (d) All amounts due under this Section shall be payable not later than three Business Days after written demand therefor.

- (e) The indemnifications set out in this Section shall survive the Release Date and the release or extinguishment of the Security Interests.

26. **Release of Debtor.** Upon the written request of any Debtor given at any time on or after the Release Date, the Creditor shall at the expense of such Debtor (i) release such Debtor and the Collateral of such Debtor from the Security Interests and such release shall serve to terminate any licence granted in this Agreement and (ii) return, endorsed and/or accompanied by such instruments of assignment and transfer in such form and substance as the Debtor may reasonably request, any and all Collateral pledged by the Debtor to the Creditor pursuant to this Agreement. Upon such release, and at the request and expense of such Debtor, the Creditor shall execute and deliver to such Debtor such releases and discharges as such Debtor may reasonably request.

27. **Additional Security.** This Agreement is in addition to, and not in substitution of, any and all other security previously or concurrently delivered by any Debtor or any other Person to the Creditor, all of which other security shall remain in full force and effect.

28. **Alteration or Waiver.** None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Creditor. The Creditor shall not, by any act or delay, be deemed to have waived any right or remedy hereunder or to have acquiesced in any Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Creditor, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise 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. A waiver by the Creditor of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Creditor would otherwise have on any future occasion. Neither the taking of any judgment nor the exercise of any power of seizure or sale shall extinguish the liability of any Debtor to pay the Secured Liabilities of such Debtor, nor shall the same operate as a merger of any covenant contained in this Agreement or of any other liability, nor shall the acceptance of any payment or other security constitute or create any novation.

29. **Environmental Licence and Indemnity.** Each Debtor hereby grants to the Creditor and its employees and agents an irrevocable and non-exclusive licence, subject to the rights of tenants, upon not less than 48 hours prior written notice but not more than once per calendar year provided that there is not an Event of Default that is continuing or a known or reasonably suspected release of a hazardous substance in contravention of applicable environmental laws, to enter any of the premises of such Debtor to conduct audits, testing and monitoring with respect to hazardous substances and to remove and analyze any hazardous substance at the cost and expense of such Debtor (which cost and expense shall form part of the Secured Liabilities of such Debtor and shall be payable immediately on demand and secured by the Security Interests created by this Agreement). Each Debtor shall indemnify the Creditor and hold the Creditor harmless against and from all losses, costs, damages and expenses which the Creditor may sustain, incur or be or become liable at any time whatsoever for by reason of or arising from the past, present or future existence, clean-up, removal or disposal of any hazardous substance on or about any property owned or occupied by the Creditor or compliance with environmental Laws or environmental orders relating thereto, including any clean-up, decommissioning, restoration or remediation of any premises owned or occupied by such Debtor or other affected lands or

property. This indemnification shall survive the Release Date. Notwithstanding the foregoing, the Creditor shall conduct such audits, testing and monitoring at the premises of the Debtor in such a manner as to reasonably minimize the interruptions of the ordinary business operation of the Debtor.

30. **Amalgamation.** If any Debtor is a corporation, such Debtor acknowledges that if it amalgamates or merges with any other corporation or corporations, then (i) the Collateral and the Security Interests of such Debtor shall extend to and include all the property and assets of the amalgamated corporation and to any property or assets of the amalgamated corporation thereafter owned or acquired, (ii) the term “Debtor”, where used in this Agreement, shall extend to and include the amalgamated corporation, and (iii) the term “Secured Liabilities”, where used in this Agreement, shall extend to and include the Secured Liabilities of the amalgamated corporation.

31. **Governing Law; Attornment.** This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario. Without prejudice to the ability of the Creditor to enforce this Agreement in any other proper jurisdiction, each Debtor irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of Ontario. To the extent permitted by applicable Law, each Debtor irrevocably waives any objection (including any claim of inconvenient forum) that it may now or hereafter have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of Ontario.

32. **Interpretation.** The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “or” is disjunctive; the word “and” is conjunctive. The word “shall” is mandatory; the word “may” is permissive. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set out herein), (b) any reference herein to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time, (c) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (e) all references herein to Sections and Schedules shall be construed to refer to Sections and Schedules to, this Agreement, Section headings are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement. Any reference in this Agreement to a Permitted Lien is not intended to subordinate or postpone, and shall not be interpreted as subordinating or postponing, or as any agreement to subordinate or postpone, any Security Interest to any Permitted Lien.

33. **Paramountcy.** In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the NPA then, notwithstanding anything contained in this Agreement, the provisions contained in the NPA shall prevail to the extent of such conflict or inconsistency and the provisions of this Agreement shall be deemed to be amended to the extent

necessary to eliminate such conflict or inconsistency, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to the Creditor under the NPA. If any act or omission of any or all Debtors is expressly permitted under the NPA but is expressly prohibited under this Agreement, such act or omission shall be permitted. If any act or omission is expressly prohibited under this Agreement, but the NPA does not expressly permit such act or omission, or if any act is expressly required to be performed under this Agreement but the NPA does not expressly relieve any or all Debtors from such performance, such circumstance shall not constitute a conflict or inconsistency between the applicable provisions of this Agreement and the provisions of the NPA.

34. **Successors and Assigns**. This Agreement shall enure to the benefit of, and be binding on, each Debtor and its successors and permitted assigns, and shall enure to the benefit of, and be binding on, the Creditor and its successors and assigns. No Debtor may assign this Agreement, or any of its rights or obligations under this Agreement except to successors and assigns as permitted by the NPA. The Creditor may assign this Agreement and any of its rights and obligations hereunder to any Person. If any Debtor or the Creditor is an individual, then the term “Debtor” or “Creditor”, as applicable, shall also include his or her heirs, administrators and executors.

35. **Additional Debtors**. Additional Persons may from time to time after the date of this Agreement become Debtors under this Agreement by executing and delivering to the Creditor a supplemental agreement (together with all schedules thereto, a “**Supplement**”) to this Agreement, in substantially the form attached hereto as Exhibit A. Effective from and after the date of the execution and delivery by any Person to the Creditor of a Supplement:

- (a) such Person shall be, and shall be deemed for all purposes to be, a Debtor under this Agreement with the same force and effect, and subject to the same agreements, representations, indemnities, liabilities, obligations and Security Interests, as if such Person had been an original signatory to this Agreement as a Debtor; and
- (b) all Collateral of such Person shall be subject to the Security Interest from such Person as security for the due payment and performance of the “Liabilities” of such Person in accordance with the provisions of this Agreement.

The execution and delivery of a Supplement by any additional Person shall not require the consent of any Debtor and all of the Secured Liabilities of each Debtor and the Security Interests granted thereby shall remain in full force and effect, notwithstanding the addition of any new Debtor to this Agreement.

36. **Acknowledgment of Receipt/Waiver**. Each Debtor acknowledges receipt of an executed copy of this Agreement and, to the extent permitted by applicable Law, waives the right to receive a copy of any financing statement or financing change statement registered in connection with this Agreement or any verification statement issued with respect to any such financing statement or financing change statement.

37. **Transaction Document.** Each Debtor acknowledges and agrees that this Agreement shall constitute a “Transaction Document”.

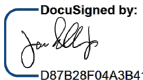
38. **Electronic Signature and Counterparts.** Delivery of an executed signature page to this Agreement by any Debtor by facsimile or other electronic form of transmission shall be as effective as delivery by such Debtor of a manually executed copy of this Agreement by such Debtor. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract.

[signatures on the next following pages]

S-1

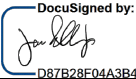
IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

1263343 ALBERTA INC.

By: 
Name: Jim Sullivan
Title: Interim Chief Executive Officer

IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

LYNX AIR HOLDINGS CORPORATION

By:  _____
Name: Jim Sullivan
Title: Interim Chief Executive Officer

SCHEDULE A-1

DEBTOR INFORMATION

Full legal name: Lynx Air Holdings Corporation

Prior names: Enerjet Holdco Inc.

Predecessor companies: N/A

Jurisdiction of incorporation or organization: Alberta

Address of chief executive office: 3215 12th Street NE, Calgary, Alberta T2E 7S9

Addresses of all places where business is carried on or tangible Personal Property is kept:
3215 12th Street NE, Calgary, Alberta T2E 7S9, and

217 Aero Court NE, Calgary, Alberta T2E 7C6

Jurisdictions in which all material account debtors are located: Alberta

Addresses of all owned real property: N/A

Addresses of all leased real property: N/A

Description of all “serial number” goods (i.e. motor vehicles, trailers, aircraft, boats and outboard motors for boats): N/A

Description of all material Permits: N/A

Subsidiaries of such Debtor: 1263343 Alberta Inc.

Instruments, Documents of Title and Chattel Paper of such Debtor: N/A

Pledged Certificated Securities:

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location
1263343 Alberta Inc.	1 Common Voting Share	100%	CVS - 002	Minute Book R.O. c/o Linmac LLP, 1400, 350 7 th Avenue SW, Calgary, Alberta, T2P 3N9
	985,660 Common Voting Shares		N/A	Minute Book R.O. c/o Linmac LLP, 1400, 350 7 th Avenue SW, Calgary, Alberta, T2P 3N9

Pledged Securities Accounts: Nil

Pledged Securities Intermediary	Securities Account Number	Pledged Securities Intermediary's Jurisdiction	Pledged Security Entitlements

Pledged Uncertificated Securities: Nil

Pledged Issuer	Pledged Issuer's Jurisdiction	Securities Owned	% of issued and outstanding Securities of Pledged Issuer

Pledged Futures Accounts: Nil.

Pledged Futures Intermediary	Futures Account Number	Pledged Futures Intermediary's Jurisdiction	Pledged Futures Contracts

Registered trade-marks and applications for trademark registrations: Nil.

<i>Country</i>	<i>Trade-mark</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Registration Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N] ²

Patents and patent applications: Nil.

<i>Country</i>	<i>Title</i>	<i>Patent No.</i>	<i>Application Date</i>	<i>Date of Grant</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Copyright registrations and applications for copyright registrations: Nil.

<i>Country</i>	<i>Work</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Industrial designs/registered designs and applications for registered designs: Nil.

<i>Country</i>	<i>Design</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Issue Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N]

² If the answer to this or any corresponding column is "yes", describe the particulars of each such licence.

SCHEDULE A-2**DEBTOR INFORMATION****1263343 Alberta Inc.****Full legal name:** 1263343 Alberta Inc.**Prior names:** N/A**Predecessor companies:** N/A**Jurisdiction of incorporation or organization:** Alberta**Address of chief executive office:** 3215 12th Street NE, Calgary, Alberta T2E 7S9**Addresses of all places where business is carried on or tangible Personal Property is kept:**3215 12th Street NE, Calgary, Alberta T2E 7S9, and

217 Aero Court NE, Calgary, Alberta T2E 7C6

Jurisdictions in which all material account debtors are located:

Alberta

Addresses of all owned real property: N/A**Addresses of all leased real property:**3215 12th Street NE, Calgary, Alberta T2E 7S9, and

217 Aero Court NE, Calgary, Alberta T2E 7C6

Description of all “serial number” goods (i.e. motor vehicles, trailers, aircraft, boats and outboard motors for boats):

Nil.

Description of all material Permits:

Issuing Authority	Title	'License' Number	Location of Issuance or Amendment	Date of Issuance or Amendment	Expiry Date	Description
Transport Canada	Air Operator Certificate	11035	Ottawa, Ontario	14 DEC 2022	N/A	Entitles the holder to operate within Canadian Aviation Regulations for Airline Operations for Boeing B38M –

						Boeing 737 8(8) aircraft
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Special Authorities Approved By Way of Air Operator Certificate:

- Types of Operation
 1. Cargo
 2. Passenger
- Types of Service
 1. Domestic
 2. Non-Scheduled International
 3. Scheduled International
- Areas of Operation
 1. Caribbean
 2. Europe
 3. North America
 4. North Atlantic
 5. South America
- Special Authorizations
 1. Dangerous Goods
 2. Category II Instrument Approaches
 3. Category IIIA Instrument Approaches
 4. Take-Off Minima – RVR 1200'
 5. Take-Off Minima – RVR 600'
 6. Standard Restricted Instrument Procedures
 7. Instrument Procedures – GNSS
 8. No Alternate IFR
 9. ILS / PRM / LDA / SOIA
 10. CMNPS
 11. NAT – MNPS
 12. Net Take-Off Flight Path Greater Bank Angle
 13. RNPC
 14. RVSM
 15. RNAV 1 & 2
 16. RNAV 5
 17. RNP 1
 18. RNP 10 Airspace
 19. En Route Fuel Reserve Reduction
 20. Flight Attendant Requirement - 1:50
 21. Increase In Flight Duty Time
 22. Controlled Rest on the Flight Deck

Issuing Authority	Title	'License' Number	Location of Issuance or Amendment	Date of Issuance or Amendment	Expiry Date	Description
Canadian Transportation Agency	Domestic License	080111	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate between points in Canada.
Canadian Transportation Agency	Non-Scheduled International License	080112	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate non-scheduled international service with large aircraft
Canadian Transportation Agency	Scheduled International License	090108	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate scheduled service to the United

						States with large aircraft
Canadian Transportation Agency	Scheduled International License	100127	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate scheduled service to the Republic of Guyana with large aircraft

Issuing Authority	Title	'License' Number	Location of Issuance or Amendment	Date of Issuance or Amendment	Expiry Date	Description
Federal Aviation Administration	Foreign Operations Specifications	As Per Canadian AOC - 11035	El Segundo, California	18 JAN 2023	N/A	Authorization granted as an extension of approved Canadian Air Operator Certificate
US Department of Transportation	Registration of trade name "Lynx Air"		Washington DC	17 FEB 2022	N/A	Acceptance of trade name "Lynx Air"

Special Authorities Approved By Way of Foreign Operations Specifications:

- Types of Operation
 1. Cargo
 2. Passenger
- Areas of Operation
 1. The 48 contiguous United States and District of Columbia
 2. The State of Alaska
- Special Authorizations
 1. Day
 2. Night
 3. RVSM
 4. Ground Deicing
 5. Class I navigation in the US airspace using area or long-range navigation systems
 6. Terminal flight operations under instrument flight rules
 7. Basic instrument approach procedures
 8. Specific IFR take-off minimums, and alternate airports for departure
 9. Category II Instrument Approaches
 10. Category III Instrument Approaches
 11. Circle to land approach maneuvers or contact approach procedures
 12. Terminal area operations with large and turbojet airplanes

Subsidiaries of such Debtor: N/A

Instruments, Documents of Title and Chattel Paper of such Debtor: N/A

Pledged Certificated Securities: Nil.

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location

Pledged Securities Accounts: Nil.

Pledged Securities Intermediary	Securities Account Number	Pledged Securities Intermediary's Jurisdiction	Pledged Security Entitlements

Pledged Uncertificated Securities: Nil.

Pledged Issuer	Pledged Issuer's Jurisdiction	Securities Owned	% of issued and outstanding Securities of Pledged Issuer

Pledged Futures Accounts: Nil.

Pledged Futures Intermediary	Futures Account Number	Pledged Futures Intermediary's Jurisdiction	Pledged Futures Contracts

Registered trade-marks and applications for trademark registrations:

<i>Country</i>	<i>Trade-mark</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Formalized Date</i>	<i>Licensed to or by Debtor</i>
Canada	ALTISAIR	1987955	2019-10-01	Pending	2019-10-16	N ³
United States	ALTISAIR	88651312	2019-10-11	Pending		N ²
Canada	LYNX	2122427	2021-07-21	Pending	2021-07-21	N ²
United States	LYNX	90887511	2021-08-17	Pending		N ²
Canada	SKYLINE AIR	1954540	2019-03-29	Pending	2019-04-03	N ²
Canada	FLYTOO	2004841	2020-01-07	Pending	2020-01-28	N ²
United States	FLYTOO	88753242	2020-01-09	Pending		N ²
Canada	LYNX AIR	2127063	2021-08-12	Pending	2021-08-12	N ²
United States	LYNX AIR	90887531	2021-08-17	Pending		N ²
Canada	LYNX AIRLINE	2127066	2021-08-12	Pending	2021-08-12	N ²
United States	LYNX AIRLINE	90887540	2021-08-17	Pending		N ²

Patents and patent applications: Nil.

<i>Country</i>	<i>Title</i>	<i>Patent No.</i>	<i>Application Date</i>	<i>Date of Grant</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Copyright registrations and applications for copyright registrations: Nil.

<i>Country</i>	<i>Work</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

³ If the answer to this or any corresponding column is "yes", describe the particulars of each such licence.

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Industrial designs/registered designs and applications for registered designs: Nil.

<i>Country</i>	<i>Design</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Issue Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N]

EXHIBIT A
FORM OF SUPPLEMENT
TO
GENERAL SECURITY AGREEMENT

TO: Indigo Northern Ventures LP

RECITALS:

- A. Reference is made to the General Security Agreement (the “**Security Agreement**”) dated as of January 12, 2024 entered into by Lynx Air Holdings Corporation and 1263343 Alberta Inc. (doing business as Lynx Air) and certain of their affiliates which thereafter signs a Supplement, in favour of the Creditor.
- B. Capitalized terms used but not otherwise defined in this Supplement have the respective meanings given to such terms in the Security Agreement, including the definitions of terms incorporated in the Security Agreement by reference to other agreements.
- C. Section 35 of the Security Agreement provides that additional Persons may from time to time after the date of the Security Agreement become Debtors under the Security Agreement by executing and delivering to the Creditor a supplemental agreement to the Security Agreement in the form of this Supplement.
- D. The undersigned (the “**New Debtor**”) has agreed to become a Debtor under the Security Agreement by executing and delivering this Supplement to the Creditor.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by the New Debtor, the New Debtor agrees with and in favour of the Creditor as follows:

1. The New Debtor has received a copy of, and has reviewed, the Security Agreement and is executing and delivering this Supplement to the Creditor pursuant to Section 35 of the Security Agreement.
2. Effective from and after the date this Supplement is executed and delivered to the Creditor by the New Debtor:
 - (a) the New Debtor shall be, and shall be deemed for all purposes to be, a Debtor under the Security Agreement with the same force and effect, and subject to the same agreements, representations, indemnities, liabilities, obligations and Security Interests, as if the New Debtor had been, as of the date of this Supplement, an original signatory to the Security Agreement as a Debtor; and
 - (b) all Collateral of the New Debtor shall be subject to the Security Interests granted by the New Debtor as security for the due payment and performance of the Liabilities of the New Debtor in accordance with the provisions of the Security Agreement.

In furtherance of the foregoing, the New Debtor, as general and continuing collateral security for the due payment and performance of its Secured Liabilities, pledges, mortgages, charges and assigns (by way of security) to the Creditor, and grants to the Creditor a security interest in, the Collateral of the New Debtor. The terms and provisions of the Security Agreement are incorporated by reference in this Supplement.

3. The New Debtor represents and warrants to the Creditor that each of the representations and warranties made or deemed to have been made by it under the Security Agreement as a Debtor are true and correct on the date of this Supplement.

4. All of the information set out in Schedule A to this Supplement with respect to the New Debtor is accurate and complete as of the date of this Supplement.

5. Upon this Supplement bearing the signature of any Person claiming to have authority to bind the New Debtor coming into the possession of the Creditor, this Supplement and the Security Agreement shall be deemed to be finally and irrevocably executed and delivered by, and be effective and binding on, and enforceable against, the New Debtor free from any promise or condition affecting or limiting the liabilities of the New Debtor. No statement, representation, agreement or promise by any officer, employee or agent of the Creditor, unless expressly set forth in this Supplement, forms any part of this Supplement or has induced the New Debtor to enter into this Supplement and the Security Agreement or in any way affects any of the agreements, obligations or liabilities of the New Debtor under this Supplement and the Security Agreement.

6. Delivery of an executed signature page to this Supplement by the New Debtor by facsimile or other electronic transmission shall be as effective as delivery by the New Debtor of a manually executed copy of this Supplement by the New Debtor.

7. This Supplement shall be governed by and construed in accordance with the laws of the Province of Ontario, and the laws of Canada applicable therein.

8. This Supplement and the Security Agreement shall be binding upon the New Debtor and its successors. The New Debtor shall not assign its rights and obligations under this Supplement or the Security Agreement, or any of its rights or obligations in this Supplement or the Security Agreement.

Dated: [MONTH] [DAY], [YEAR]

[NEW DEBTOR]

By: _____
Name:
Title:

SCHEDULE A
DEBTOR INFORMATION

Full legal name:

Prior names:

Predecessor companies:

Jurisdiction of incorporation or organization:

Address of chief executive office:

Addresses of all places where business is carried on or tangible Personal Property is kept:

Jurisdictions in which all material account debtors are located:

Addresses of all owned real property:

Addresses of all leased real property:

Description of all “serial number” goods (i.e. motor vehicles, trailers, aircraft, boats and outboard motors for boats):

Description of all material Permits:

Subsidiaries of the New Debtor:

Instruments, Documents of Title and Chattel Paper of the New Debtor:

Pledged Certificated Securities:

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location
[SUBCO]	[100 common shares]	[100%]	[C-1]	[Toronto]

Pledged Securities Accounts:

Pledged Securities Intermediary	Securities Account Number	Pledged Securities Intermediary's Jurisdiction	Pledged Security Entitlements
[BROKERAGE HOUSE]	[NUMBER]	[Ontario]	[100 common shares of [COMPANY]]

Pledged Uncertificated Securities:

Pledged Issuer	Pledged Issuer's Jurisdiction	Securities Owned	% of issued and outstanding Securities of Pledged Issuer
[LIMITED PARTNERSHIP]	[Ontario]	[100 limited partnership units]	[50% of all limited partnership interests]

Pledged Futures Accounts:

Pledged Futures Intermediary	Futures Account Number	Pledged Futures Intermediary's Jurisdiction	Pledged Futures Contracts
[BROKERAGE HOUSE]	[NUMBER]	[Ontario]	[Brief description of Contract]

Registered trade-marks and applications for trademark registrations:

<i>Country</i>	<i>Trade-mark</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Registration Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N] ⁴

Patents and patent applications:

<i>Country</i>	<i>Title</i>	<i>Patent No.</i>	<i>Application Date</i>	<i>Date of Grant</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Copyright registrations and applications for copyright registrations:

<i>Country</i>	<i>Work</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Industrial designs/registered designs and applications for registered designs:

<i>Country</i>	<i>Design</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Issue Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N]

⁴ If the answer to this or any corresponding column is "yes", describe the particulars of each such licence.

This is **Exhibit “31”** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.

A handwritten signature in cursive script, reading "Julie Treleaven", is written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

LYNX AIR HOLDINGS CORPORATION

(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

<u>Certificate No.</u>	<u>Principal Amount</u>
FBN-1	CAD\$6,698,500, being the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 2024

THIS IS TO CERTIFY THAT INDIGO NORTHERN VENTURES LP

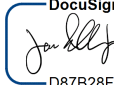
Of 2525 E. Camelback Road, Suite 900, Phoenix, Arizona, USA

is/are the registered holder(s) of CAD\$6,698,500, being the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000 in nominal amount of the secured convertible loan notes which are constituted by a fourth bridge note purchase agreement dated February 2, 2024 made between Lynx Air Holdings Corporation (the "**Company**"), 1263343 Alberta Inc. (the "**Guarantor**") and Indigo Northern Ventures LP (as amended, supplemented or restated from time to time, the "**Agreement**") and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.

Interest is payable on the Notes represented by this certificate semi-annually in arrears (each such date, an "**Interest Payment Date**") in each year.

The Notes shall be redeemed in accordance with Condition 3 of Schedule 11 on the Redemption Date, subject to such other redemption date or conversion in accordance with the Conditions.

LYNX AIR HOLDINGS CORPORATION

DocuSigned by:

By _____
D87B28F04A3B412...
Name: Jim Sullivan
Title: Interim Chief Executive Officer

Dated: February 2, 2024

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.
- (B) No transfer of the whole or any part of the Notes represented by this certificate will be registered without the production of this certificate at the registered office of the Company or at such other place as the Company may from time to time designate.
- (C) Each transfer in point of time of the whole or any part of the Notes represented by this certificate will be registered free of charge.
- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.

This is **Exhibit "32"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.

Julie Treleaven

Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barister & Solicitor

GUARANTEE

This Agreement is made as of February 2, 2024.

TO: Indigo Northern Ventures LP

RECITALS:

A. Lynx Air Holdings Corporation (the “**Debtor**”), 1263343 Alberta Inc. (doing business as Lynx Air) (the “**Guarantor**”) and Indigo Northern Ventures LP (and any Person to whom Indigo Northern Ventures LP has transferred any Notes (as defined in the NPA which, in turn, is defined below) in accordance with the NPA (collectively, the “**Creditor**”), are parties to a fourth bridge note purchase agreement dated as of February 2, 2024 (as amended, supplemented, restated or replaced from time to time, the “**NPA**”).

B. It is in the interests of the Guarantor that the Creditor purchase Notes from the Debtor under the NPA, and the Guarantor is therefore prepared to issue this Agreement to the Creditor in order to induce the Creditor to do so.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by the Guarantor, the Guarantor agrees with and in favour of the Creditor as follows:

1. Definitions. In this Agreement capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in the NPA, and the following terms have the following meanings:

“**Agreement**” means this agreement, including the recitals to this agreement, as it or they may be amended, supplemented, restated or replaced from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement.

“**Control**” means, in respect of a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlled**” has a meaning correlative thereto.

“**Creditor**” has the meaning set out in the recitals hereto.

“**Debtor**” has the meaning set out in the recitals hereto.

“**Debtor Liabilities**” means all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of the Debtor to the Creditor (or any of them) under, in connection with or with respect to the Transaction Documents.

“**Event of Default**” means any “Event of Default” as defined in the NPA.

“Governmental Authority” means the government of Canada, any other nation or any political subdivision thereof, whether provincial, state, territorial or local, and any agency, authority, instrumentality, regulatory body, court, central bank, fiscal or monetary authority or other authority regulating financial institutions, and any other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Guarantor” has the meaning set out in the recitals hereto.

“Guarantor Liabilities” means all present and future indebtedness, liabilities and obligations of the Guarantor to the Creditor under this Agreement.

“Insolvency Proceeding” means any proceeding seeking to adjudicate a Person an insolvent, seeking a receiving order against such Person under the *Bankruptcy and Insolvency Act* (Canada), or seeking liquidation, dissolution, winding-up, reorganization, compromise, arrangement, adjustment, protection, moratorium, relief or composition of such Person or its debts or a stay of proceedings of such Person’s creditors generally (or any class of creditors) or any other relief, under any federal, provincial, territorial or foreign law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, reorganization, receivership, plans of arrangement or relief or protection of debtors (including the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada) and any similar legislation in any jurisdiction) or at common law or in equity.

“Laws” means all federal, provincial, municipal, foreign and international statutes, acts, codes, ordinances, decrees, treaties, rules, regulations, municipal by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards or any provisions of the foregoing, including general principles of common and civil law and equity, and all policies, practices and guidelines of any Governmental Authority binding on or affecting the Person referred to in the context in which such word is used (including, in the case of tax matters, any accepted practice or application or official interpretation of any relevant taxation authority); and **“Law”** means any one or more of the foregoing.

“Lien” means, (a) with respect to any asset, any mortgage, deed of trust, lien, pledge, hypothec (whether movable or immovable), hypothecation, encumbrance, charge, security interest, royalty interest, adverse claim, defect to title or right of set off in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, title retention agreement or consignment agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to any asset, (c) any purchase option, call or similar right of a third party with respect to such asset, (d) any netting arrangement, defeasance arrangement or reciprocal fee arrangement, and (e) any other arrangement having the effect of providing security.

“NPA” has the meaning set out in the recitals hereto.

“Original Currency” has the meaning set out in Section 17.

“Other Currency” has the meaning set out in Section 17.

“Organizational Documents” means, with respect to any Person, such Person’s articles or other charter documents, by-laws, unanimous shareholder agreement, partnership agreement or trust

agreement, as applicable, and any and all other similar agreements, documents and instruments relative to such Person.

“**Person**” includes any natural person, corporation, company, limited liability company, unlimited liability company, trust, joint venture, association, incorporated organization, partnership, Governmental Authority or other entity.

“**Security**” means any present or future Lien, or any present or future guarantee or other financial assistance, granted by any Person with respect to any or all of the Debtor Liabilities or Guarantor Liabilities.

2. Guarantee. The Guarantor hereby unconditionally and irrevocably guarantees the prompt payment and performance to the Creditor, of all Debtor Liabilities when due in accordance with their terms. All amounts payable by the Guarantor under this Agreement shall be paid to the Creditor as directed in writing by the Creditor. All Guarantor Liabilities shall be payable or performable forthwith upon demand by the Creditor, and any which are not so paid shall bear interest from the date of such demand at the rate or rates applicable to the corresponding Debtor Liabilities.

3. Guarantor Liabilities. The Guarantor Liabilities are continuing, absolute, unconditional and irrevocable. The Guarantor Liabilities shall remain effective despite, and shall not be released, exonerated, discharged, diminished, subjected to defence, limited or in any way affected by, anything done, omitted to be done, suffered or permitted by the Creditor, the Debtor or any other Person, or by any other matter, act, omission, circumstance, development or other thing of any nature, kind or description, other than the due payment and performance in full of all of the Debtor Liabilities and all of the Guarantor Liabilities.

4. Guarantee Absolute. Without limiting the generality of Section 3, the Guarantor Liabilities shall remain fully effective and enforceable against the Guarantor and shall not be released, exonerated, discharged, diminished, subjected to defence, limited or in any way affected by, and the rights and remedies of the Creditor under this Agreement shall not in any way be diminished or prejudiced by, and the Guarantor hereby consents or waives, as applicable, to the fullest extent permitted by applicable Law:

- (a) any lack of genuineness, legality, validity or enforceability of any of the Debtor Liabilities or of any agreement or arrangement between the Debtor and the Creditor, or any failure by the Debtor to carry out any of its obligations under any such agreement or arrangement;
- (b) any change in the existence, name, objects, business, powers, organization, share capital, Organizational Documents, ownership, control, directors or management of the Debtor or the Guarantor, the reorganization of the Debtor or the Guarantor, any amalgamation or merger by the Debtor or the Guarantor with any other Person or Persons, or any continuation of the Debtor or the Guarantor under the laws of any jurisdiction;
- (c) any lack or limitation of power, incapacity or disability of the Debtor or the Guarantor or of the directors, officers, managers, employees or agents of the Debtor

or the Guarantor or any other irregularity, defect or informality, or any fraud, by the Debtor or the Guarantor or any of their respective directors, officers, managers, employees or agents, with respect to any or all of the Debtor Liabilities or any or all of the Guarantor Liabilities;

- (d) any non-compliance with or contravention by the Guarantor of any provision of any corporate statute applicable to the Guarantor relative to guarantees or other financial assistance given by the Guarantor;
- (e) any impossibility, impracticability, frustration of purpose, force majeure or act of Governmental Authority with respect to the performance of any of the Debtor Liabilities or Guarantor Liabilities;
- (f) any Insolvency Proceeding affecting, or the financial condition of, the Debtor, the Guarantor or the Creditor at any time;
- (g) any law, regulation, limitation or prescription period or other circumstance that might otherwise be a defence available to, or a discharge of, the Debtor or the Guarantor in respect of any or all of the Debtor Liabilities or any or all of the Guarantor Liabilities;
- (h) any loss of, or in respect of, any Security by or on behalf of the Creditor from the Debtor or the Guarantor, whether occasioned through the fault of the Creditor or otherwise;
- (i) any loss or impairment of any right of the Guarantor for subrogation, reimbursement or contribution, whether or not as a result of any action taken or omitted to be taken by the Creditor; or
- (j) any other matter, act, omission, circumstance, development or thing of any and every nature, kind and description whatsoever, whether similar or dissimilar to the foregoing (other than the due payment and performance in full of the Debtor Liabilities and the Guarantor Liabilities) that might in any manner (but for the operation of this Section) operate (whether by statute, at law, in equity or otherwise) to release, discharge, diminish, limit, restrict or in any way affect the liability of, or otherwise provide a defence to, a guarantor, a surety, or a principal debtor, even if known by the Creditor.

5. Dealing with Debtor Liabilities. Without limiting the generality of Section 3, the Guarantor Liabilities shall remain fully effective and enforceable against the Guarantor and shall not be released, exonerated, discharged, diminished, subjected to defence, limited or in any way affected by, and the rights and remedies of the Creditor under this Agreement shall not in any way be diminished or prejudiced by, and the Guarantor hereby consents to or waives, as applicable, to the fullest extent permitted by applicable Law:

- (a) any amendment, alteration, novation or variation in any manner and to any extent (and irrespective of the effect of the same on the Guarantor) of any of the Debtor

Liabilities, any Security or the Creditor's arrangements or agreements with the Debtor;

- (b) any limitation, compromise, subordination, postponement or abandonment of any of the Debtor Liabilities, any of the Guarantor Liabilities, any Security or the Creditor's arrangements or agreements with the Debtor;
- (c) any grant of time, renewal, extension, indulgence, release, discharge or other course of conduct by the Creditor to the Debtor;
- (d) the creation of any new or additional Debtor Liabilities, the increase or reduction of the rate of interest on any or all of the Debtor Liabilities or any other rates or fees payable under or in respect of any or all of the Debtor Liabilities;
- (e) any alteration, settlement, compromise, acceleration, extension or change in the time or manner for payment or performance by the Debtor made or permitted by the Creditor of any or all of the Debtor Liabilities;
- (f) the Creditor taking or abstaining from taking Security from the Debtor or abstaining from completing, perfecting or maintaining the perfection of any Security;
- (g) the Creditor releasing, substituting or adding one or more sureties or endorsers, accepting additional or substituted Security, or releasing, subordinating or postponing any Security;
- (h) the Creditor accepting compromises from the Debtor;
- (i) the creation or addition of any new Transaction Documents;
- (j) the Creditor doing, or omitting to do, anything to enforce the payment or performance of any or all of the Debtor Liabilities or any Security;
- (k) the Creditor giving or refusing to give or continuing to give any credit or any financial accommodation to the Debtor;
- (l) the Creditor proving any claim in any Insolvency Proceeding affecting the Debtor, as it sees fit or refraining from proving any claim or permitting or suffering the impairment of any of the Debtor Liabilities in any such Insolvency Proceeding; making any election in any such Insolvency Proceeding; permitting or suffering the creation of secured or unsecured credit or debt in any such Insolvency Proceeding; or permitting or suffering the disallowance, avoidance, or subordination of any of the Debtor Liabilities or the obligations of any other debtor with respect to the Debtor Liabilities in any such Insolvency Proceeding;
- (m) the Creditor applying any money received from the Debtor or any Security upon such part of the Debtor Liabilities as the Creditor may see fit or changing any such application in whole or in part from time to time as the Creditor may see fit; or

- (n) the Creditor otherwise dealing with the Debtor, the Debtor Liabilities, and all Security as the Creditor may see fit.

6. Settlement of Accounts. Any account settled or stated between the Creditor and the Debtor shall be accepted by the Guarantor as *prima facie* evidence that the amount thereby appearing due by the Debtor to the Creditor is so due.

7. Indemnity. If any or all of the Debtor Liabilities are not duly paid or performed by the Debtor and are not paid or performed by the Guarantor under Section 2 for any reason whatsoever, the Guarantor shall, as a separate and distinct obligation, indemnify and save the Creditor harmless from and against all losses, costs, damages, expenses, claims and liabilities that the Creditor may suffer or incur in connection with or in respect of any failure by the Debtor for any reason to pay or perform any of the Debtor Liabilities, and shall pay all such amounts to the Creditor after demand as herein provided.

8. Guarantor Liable as Principal Debtor. If, and to the extent that, any amount in respect of the Debtor Liabilities is not recoverable from the Guarantor under this Agreement on the basis of a guarantee or the Creditor is not indemnified under Section 7, in each case, for any reason whatsoever, then, notwithstanding any other provision of this Agreement, the Guarantor shall be liable under this Agreement as principal obligor in respect of the due payment of such amount and shall pay such amount to the Creditor after demand as herein provided.

9. Continuing Guarantee. This Agreement is a continuing guarantee and is binding as a continuing obligation of the Guarantor and the Debtor Liabilities shall be conclusively presumed to have been created in reliance on this Agreement. The Guarantor may not in any manner terminate this Agreement or the Guarantor Liabilities other than by the due and punctual payment in full of the Guarantor Liabilities.

10. Stay of Acceleration. If acceleration of the time for payment, or the liability of the Debtor to make payment, of any amount specified to be payable by the Debtor in respect of the Debtor Liabilities is stayed, prohibited or otherwise affected upon any Insolvency Proceeding or other event affecting the Debtor or payment of any of the Debtor Liabilities by the Debtor, all such amounts otherwise subject to acceleration or payment shall nonetheless be deemed for all purposes of this Agreement to be and to have become due and payable by the Debtor and shall be payable by the Guarantor under this Agreement immediately forthwith on demand by the Creditor.

11. Debtor Information. The Guarantor acknowledges and agrees that the Guarantor has not executed this Agreement as a result of, by reason of, or in reliance upon, any promise, representation, statement or information of any kind or nature whatsoever given, or offered to the Guarantor, by or on behalf of the Creditor or any other Person whether in answer to any enquiry by or on behalf of the Guarantor or not and the Creditor was not prior to the execution by the Guarantor of this Agreement, and is not thereafter, under any duty to disclose to the Guarantor or any other Person any information, matter or thing (material or otherwise) relating to the Debtor, its affairs or its transactions with the Creditor, including any information, matter or thing which puts or may put the Debtor in a position which the Guarantor would not naturally expect or any unexpected facts or unusual features which, whether known or unknown to the Guarantor, are present in any transaction between the Debtor and the Creditor, and the Creditor was not and is

not under any duty to do or execute any matter, thing or document relating to the Debtor, its affairs or its transactions with the Creditor. The Guarantor acknowledges and confirms that it has established its own adequate means of obtaining from the Debtor on a continuing basis all information desired by the Guarantor concerning the financial condition of the Debtor and that the Guarantor will look to the Debtor, and not to the Creditor, in order for the Guarantor to keep adequately informed of changes in the Debtor's financial condition.

12. Reinstatement. If, at any time, all or any part of any payment previously applied by the Creditor to any of the Debtor Liabilities is or must be rescinded or returned by the Creditor for any reason whatsoever (including any Insolvency Proceeding affecting the Debtor or any other Person), such Debtor Liabilities shall, for the purpose of this Agreement, to the extent that such payment is or must be rescinded or returned, be deemed to have continued in existence, notwithstanding such application by the Creditor, and this Agreement shall continue to be effective or be reinstated, as the case may be, as to such Debtor Liabilities, all as though such application by the Creditor had not been made.

13. Subrogation. Notwithstanding any payment made by the Guarantor under this Agreement or any setoff or application of funds of the Guarantor by the Creditor, the Guarantor shall have no right of subrogation to, and waives, any right to enforce any remedy which the Creditor now has or may hereafter have against the Debtor, until all of the Debtor Liabilities have been indefeasibly paid in full; and until that time, the Guarantor waives any benefit of, and any right to participate in, any Security now or hereafter held by the Creditor for the Debtor Liabilities.

14. Insolvency Proceedings. In any Insolvency Proceeding affecting the Debtor, the Creditor shall have the right, in priority to the Guarantor, to receive its full claim in respect of such Insolvency Proceeding for all of the Debtor Liabilities. The Creditor shall have the right to include in its claim in any Insolvency Proceeding affecting the Debtor all or any part of the payments made by the Guarantor under this Agreement and, to prove and rank for, and receive dividends in respect of, all such claims, all of which rights and privileges as they relate and apply to the Guarantor are hereby assigned by the Guarantor to the Creditor. The provisions of this Section shall be sufficient authority for any Person making payment of any such dividends to pay the same directly to the Creditor for the benefit of the Creditor. The Creditor shall be entitled to receive for its benefit all dividends or other payments in respect of all of the above referenced claims until all of the Debtor Liabilities are paid and satisfied in full and the Guarantor shall continue to be liable under this Agreement for any unpaid balance of the Debtor Liabilities. If any amount is paid to the Guarantor under any Insolvency Proceeding affecting the Debtor when any of the Debtor Liabilities remain outstanding, such amount shall be received and held in trust by the Guarantor for the benefit of the Creditor and shall be immediately paid to the Creditor to be credited and applied against the Guarantor Liabilities. In any Insolvency Proceeding affecting the Debtor the Creditor may in its discretion value as it sees fit, acting reasonably, or may refrain from valuing, any Security held by or for the benefit of it.

15. Marshalling. The Guarantor waives to the fullest extent permitted by applicable Law, any right or claim of right to cause a marshalling of the Debtor's assets, or to cause the Creditor to proceed against the Debtor or any other Person, or any Security, in any particular order. The Creditor shall not have any obligation to marshal any assets in favour of the Debtor or any other

Person or against or in payment of any of the Debtor Liabilities or any of the obligations of the Guarantor, the Debtor or any other Person owed to the Creditor.

16. Enforcing Rights Against Guarantor. This is a guarantee of payment and performance and not of collection. The Creditor shall not be required to take any action or to exhaust its recourse against the Debtor or any other Person, or to enforce or value any Security, before being entitled to payment from, and to enforce its rights and remedies against, the Guarantor under this Agreement. The Guarantor hereby renounces to the benefits of division and discussion.

17. Foreign Currency Guarantor Liabilities. The Guarantor shall make payment relative to any Debtor Liabilities in the currency (the "**Original Currency**") in which the Debtor is required to pay such Debtor Liabilities. If the Guarantor makes payment relative to any Debtor Liabilities in a currency (the "**Other Currency**") other than the Original Currency (whether voluntarily or pursuant to an order or judgment of a court or tribunal of any jurisdiction), such payment shall constitute a discharge of the Guarantor Liabilities only to the extent of the amount of the Original Currency which the Creditor is able to purchase at Toronto, Ontario with the amount it receives on the date of receipt. If the amount of the Original Currency which the Creditor is able to purchase is less than the amount of such currency originally due to it in respect to the relevant Debtor Liabilities, the Guarantor shall indemnify and save the Creditor harmless from and against any loss or damage arising as a result of such deficiency. This indemnity constitutes an obligation separate and independent from the other obligations contained in this Agreement, gives rise to a separate and independent cause of action, applies irrespective of any indulgence granted by the Creditor and continues in full force and effect notwithstanding any judgment or order in respect of any amount due hereunder or under any judgment or order.

18. Taxes and Set-Off. All payments to be made by the Guarantor hereunder shall be made without set-off, compensation, deduction or counterclaim and without deduction for any taxes, levies, duties, fees, deductions, withholdings, restrictions or conditions of any nature whatsoever. If at any time any applicable Law requires the Guarantor to make any such deduction or withholding from any such payment, the sum due from the Guarantor with respect to such payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Creditor receives a net sum equal to the sum which it would have received had no deduction or withholding been required.

19. Representations and Warranties. The Guarantor represents and warrants, upon each of which representations and warranties the Creditor relies, that each of the representations and warranties relative to the Guarantor in each of the other Transaction Documents is true and correct when made or deemed made.

20. Covenants. The Guarantor shall comply, and shall cause each of its subsidiaries to comply, with all of the provisions, covenants and agreements contained in each of the Transaction Documents to the extent that such provisions, covenants and agreements apply to the Guarantor or its subsidiaries and shall, and shall cause each of its subsidiaries to, take, or refrain from taking, as the case may be, all actions that are necessary to be taken or not taken so that no violation of any provision, covenant or agreement contained in any of the Transaction Documents, and so that no Default or Event of Default under any of the Transaction Documents, is caused by the actions or inactions of the Guarantor or any of its subsidiaries.

21. **Communication.** Any notice or other communication required or permitted to be given under this Agreement shall be made in accordance with the terms of the NPA.

22. **Expenses; Indemnity; Waiver.**

- (a) The Guarantor shall pay to the Creditor (i) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and all applicable taxes, in connection with the preparation and administration of this Agreement, (ii) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and applicable taxes, in connection with any amendments, modifications or waivers of the provisions hereof, and (iii) all out-of-pocket expenses incurred by the Creditor, including the fees, charges and disbursements of any counsel for the Creditor and all applicable taxes, in connection with the assessment, enforcement or protection of their rights in connection with this Agreement, including their rights under this Section, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of the Guarantor Liabilities.
- (b) The Guarantor shall indemnify the Creditor against, and hold the Creditor harmless from, any and all losses, claims, cost recovery actions, damages, expenses and liabilities of whatsoever nature or kind and all reasonable out-of-pocket expenses and all applicable taxes to which the Creditor may become subject arising out of or in connection with (i) the execution or delivery of this Agreement and the performance by the Guarantor of its obligations hereunder, (ii) any actual claim, litigation, investigation or proceeding relating to this Agreement or the Guarantor Liabilities, whether based on contract, tort, delict or any other theory and regardless of whether the Creditor is a party thereto, (iii) any other aspect of this Agreement, or (iv) the enforcement of the Creditor's rights hereunder and any related investigation, defence, preparation of defence, litigation and enquiries; provided that such indemnity shall not, as to the Creditor, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence (it being acknowledged that ordinary negligence does not necessarily constitute gross negligence) or wilful misconduct of or material breach of this Agreement by the Creditor.
- (c) The Guarantor shall not assert, and hereby waives, any claim against the Creditor (or any director, officer or employee thereof), on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement. The Guarantor irrevocably renounces any rights it may have to be released from this Agreement under Article 2362 of the *Civil Code of Québec* and agrees to renew its guarantee hereunder at the request of the Creditor by executing such documents as the Creditor may request from time to time.

- (d) All amounts due under this Section shall be payable to the Creditor for the benefit of the Creditor not later than three Business Days after written demand therefor.
- (e) The indemnifications set out in this Agreement shall survive the payout of the Debtor Liabilities and the Guarantor Liabilities.

23. Additional Security. This Agreement is in addition to, and not in substitution of, any and all other Security previously or concurrently delivered by the Guarantor or any other Person to the Creditor, all of which other Security shall remain in full force and effect.

24. Alteration. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Creditor.

25. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

26. Set-off. If an Event of Default shall have occurred and be continuing, the Creditor is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Law, to set-off, compensate against or combine and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by the Creditor or any of its Affiliates and other obligations at any time owing by the Creditor or any of its Affiliates to or for the credit or the account of the Guarantor against or with any or all of the Guarantor Liabilities, irrespective of whether or not the Creditor shall have made any demand under any Transaction Document and although such obligations may be unmatured. The rights of the Creditor under this Section are in addition to other rights and remedies (including other rights of set-off or combination) which the Creditor may have.

27. Governing Law; Attornment. This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario. Without prejudice to the ability of the Creditor to enforce this Agreement in any other proper jurisdiction, the Guarantor irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of Ontario. To the extent permitted by applicable Law, the Guarantor irrevocably waives any objection (including any claim of inconvenient forum) that it may now or hereafter have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of Ontario. The Guarantor hereby irrevocably consents to the service of any and all process in any such action or proceeding by the delivery of copies of such process to the Guarantor at the address as provided for pursuant to Section 21. Nothing in this Section affects the right of the Creditor to serve process in any manner permitted by applicable Law. In any legal proceeding relating to this Agreement, the Guarantor agrees not to assert that the Commodity Exchange Act applies to this Agreement or any Swap Obligation.

28. Time. Time is of the essence with respect to this Agreement and the time for performance of the obligations of the Guarantor under this Agreement may be strictly enforced by the Creditor. The limitation period applicable to any proceeding relating to a claim under, in connection with,

or with respect to this Agreement shall be solely as prescribed in sections 15-17 of the *Limitations Act, 2002 (Ontario)*, and any other limitation period in respect of such claim (including that provided for in section 4 of the *Limitations Act, 2002 (Ontario)*) is extended accordingly.

29. Interpretation. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “or” is disjunctive; the word “and” is conjunctive. The word “shall” is mandatory; the word “may” is permissive. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented, restated or otherwise modified (subject to any restrictions on such amendments, supplements, restatements or modifications set out herein), (b) any reference herein to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, replaced or re-enacted from time to time, (c) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (e) all references herein to Sections and Schedules shall be construed to refer to Sections and Schedules to, this Agreement. Section headings are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement. In accordance with the *Property Law Act (British Columbia)*, the doctrine of consolidation applies to this Agreement.

30. Successors and Assigns. This Agreement shall enure to the benefit of, and be binding on, the Guarantor and its successors and assigns, and shall enure to the benefit of, and be binding on, the Creditor and its successors and assigns. The Guarantor may not assign this Agreement, or any of its rights or obligations under this Agreement. The Creditor may assign this Agreement and any of their rights and obligations hereunder to any Person that replaces it in its capacity as such. If the Guarantor or the Creditor is an individual, then the term “Guarantor” or “Creditor”, as applicable, shall also include his or her heirs, administrators and executors.

31. Acknowledgment of Receipt. The Guarantor acknowledges receipt of an executed copy of this Agreement.

32. Paramountcy. In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the NPA then, notwithstanding anything contained in this Agreement, the provisions contained in the NPA shall prevail to the extent of such conflict or inconsistency and the provisions of this Agreement shall be deemed to be amended to the extent necessary to eliminate such conflict or inconsistency, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to the Creditor under the NPA. If any act or omission of the Guarantor is expressly permitted under the NPA but is expressly prohibited under this Agreement, such act or omission shall be permitted. If any act or omission is expressly prohibited under this Agreement, but the NPA does not expressly permit such act or omission, or if any act is expressly required to be performed under this Agreement but the NPA does not expressly relieve the Guarantor from such performance, such circumstance shall not

constitute a conflict or inconsistency between the applicable provisions of this Agreement and the provisions of the NPA.

33. Transaction Document. The Guarantor acknowledges and agrees that this Agreement shall constitute a “Transaction Document”.

34. Electronic Signature. Delivery of an executed signature page to this Agreement by the Guarantor by facsimile or other electronic form of transmission shall be as effective as delivery by the Guarantor of a manually executed copy of this Agreement by the Guarantor.

[signatures on the next following page]

S-1

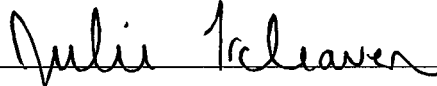
IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

1263343 ALBERTA INC.

DocuSigned by:

By: _____
Name: Jim Sullivan
Title: Interim Chief Executive Officer

This is **Exhibit “33”** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

GENERAL SECURITY AGREEMENT

This General Security Agreement is made as of February 2, 2024.

TO: Indigo Northern Ventures LP

RECITALS:

A. Lynx Air Holdings Corporation and 1263343 Alberta Inc. (doing business as Lynx Air) (each a “**Debtor**” and collectively, the “**Debtors**”) are, or may become, indebted or liable to Indigo Northern Ventures LP (and any Person to whom Indigo Northern Ventures LP has transferred any Notes (as defined in the NPA which, in turn, is defined below) in accordance with the NPA (collectively, the “**Creditor**”) pursuant to the terms of a fourth bridge note purchase agreement dated as of February 2, 2024 (as amended, supplemented, restated or replaced from time to time, the “**NPA**”) or otherwise.

B. To secure the payment and performance of its Secured Liabilities, each Debtor has agreed to grant to the Creditor the Security Interests with respect to its Collateral in accordance with the terms of this Agreement.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by each Debtor, each Debtor severally (and not jointly or jointly and severally) agrees with and in favour of the Creditor as follows:

1. **Definitions.** In this Agreement capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in the NPA, and the following terms have the following meanings:

“**Accessions**”, “**Account**”, “**Certificated Security**”, “**Chattel Paper**”, “**Consumer Goods**”, “**Document of Title**”, “**Equipment**”, “**Futures Account**”, “**Futures Contract**”, “**Futures Intermediary**”, “**Goods**”, “**Instrument**”, “**Intangible**”, “**Inventory**”, “**Investment Property**”, “**Money**”, “**Proceeds**”, “**Securities Account**”, “**Securities Intermediary**”, “**Security**”, “**Security Certificate**”, “**Security Entitlement**”, and “**Uncertificated Security**” have the meanings given to them in the PPSA.

“**Agreement**” means this agreement, including the Exhibits and recitals to this agreement, the Supplements and the Schedules, as it or they may be amended, supplemented, restated or replaced from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement.

“**Books and Records**” means, with respect to any Debtor, all books, records, files, papers, disks, documents and other repositories of data recording in any form or medium, evidencing or relating to the Personal Property of such Debtor which are at any time owned by such Debtor or to which such Debtor (or any Person on such Debtor’s behalf) has access.

“Collateral” means, with respect to any Debtor, all of the present and future:

- (a) undertaking;
- (b) Personal Property (including the Boeing Order and any other Personal Property that may be described in any Schedule to this Agreement or any schedules, documents or listings that such Debtor may from time to time provide to the Creditor in connection with this Agreement); and
- (c) real property (including any real property that may be described in any Schedule to this Agreement or any schedules, documents or listings that such Debtor may from time to time provide to the Creditor in connection with this Agreement and including all fixtures, improvements, buildings and other structures placed, installed or erected from time to time on any such real property),

of such Debtor, including the Boeing Order, Books and Records, Contracts, Intellectual Property Rights and Permits, and including all such property in which such Debtor now or in the future has any right, title or interest whatsoever, whether owned, leased, licensed, possessed or otherwise held by such Debtor, and all Proceeds of any of the foregoing, wherever located.

“Contracts” means, with respect to any Debtor, all contracts and agreements to which such Debtor is at any time a party or pursuant to which such Debtor has at any time acquired rights, and includes (i) all rights of such Debtor to receive money due and to become due to it in connection with a contract or agreement, (ii) all rights of such Debtor to damages arising out of, or for breach or default with respect to, a contract or agreement, and (iii) all rights of such Debtor to perform and exercise all remedies in connection with a contract or agreement.

“Control” means, with respect to a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. **“Controlled”** has the corresponding meaning.

“Control Person” means a “control person”, as such term is defined under applicable Canadian securities laws.

“Creditor” has the meaning set out in the recitals hereto.

“Debtors” means the Persons delivering a signature page to this Agreement and any other Person which hereafter delivers a Supplement, and **“Debtor”** means any one of them.

“Event of Default” means any “Event of Default” as defined in the NPA.

“Exhibits” means the exhibits to this Agreement.

“Governmental Authority” means the government of Canada, any other nation or any political subdivision thereof, whether provincial, state, territorial or local, and any agency, authority, instrumentality, regulatory body, court, central bank, fiscal or monetary authority or other authority regulating financial institutions, and any other entity exercising executive, legislative,

judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, including the Bank Committee on Banking Regulation and Supervisory Practices of the Bank of International Settlements.

“Intellectual Property Rights” means, with respect to any Debtor, all industrial and intellectual property rights of such Debtor or in which such Debtor has any right, title or interest, including copyrights, patents, inventions (whether or not patented), trade-marks, get-up and trade dress, industrial designs, integrated circuit topographies, plant breeders’ rights, know how and trade secrets, registrations and applications for registration for any such industrial and intellectual property rights, and all Contracts related to any such industrial and intellectual property rights.

“Issuer” has the meaning given to that term in the STA.

“Laws” means all federal, provincial, municipal, foreign and international statutes, acts, codes, ordinances, decrees, treaties, rules, regulations, municipal by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards or any provisions of the foregoing, including general principles of common and civil law and equity, and all policies, practices and guidelines of any Governmental Authority binding on or affecting the Person referred to in the context in which such word is used (including, in the case of tax matters, any accepted practice or application or official interpretation of any relevant taxation authority); and **“Law”** means any one or more of the foregoing.

“Lien” means, (a) with respect to any asset, any mortgage, deed of trust, lien, pledge, hypothec (whether movable or immovable), hypothecation, encumbrance, charge, security interest, royalty interest, adverse claim, defect to title or right of set off in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, title retention agreement or consignment agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to any asset, (c) any purchase option, call or similar right of a third party with respect to such asset, (d) any netting arrangement, defeasance arrangement or reciprocal fee arrangement, and (e) any other arrangement having the effect of providing security.

“NPA” has the meaning set out in the recitals hereto.

“Organizational Documents” means, with respect to any Person, such Person’s articles or other charter documents, by-laws, unanimous shareholder agreement, partnership agreement or trust agreement, as applicable, and any and all other similar agreements, documents and instruments relative to such Person.

“Permits” means, with respect to any Debtor, all permits, licences, waivers, exemptions, consents, certificates, authorizations, approvals, franchises, rights-of-way, easements and entitlements that such Debtor has, requires or is required to have, to own, possess or operate any of its property or to operate and carry on any part of its business.

“Permitted Liens” means the Security Interests of all Debtors, all liens and other security contemplated by Section 3.3 of Schedule 13 to the NPA, and all other Liens permitted in writing by the Creditor.

“Personal Property” means personal property and includes Accounts, Chattel Paper, Documents of Title, Equipment, Goods, Instruments, Intangibles, Inventory, Investment Property and Money.

“Pledged Certificated Securities” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Certificated Security.

“Pledged Futures Contracts” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Futures Contract.

“Pledged Futures Accounts” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Futures Account.

“Pledged Futures Intermediary” means, at any time, any Person which is at such time a Futures Intermediary at which a Pledged Futures Account is maintained.

“Pledged Futures Intermediary’s Jurisdiction” means, with respect to any Pledged Futures Intermediary, its jurisdiction as determined under section 7.1(4) of the PPSA.

“Pledged Issuer” means, with respect to any Debtor at any time, any Person which is an Issuer of, or with respect to, any Pledged Shares of such Debtor at such time.

“Pledged Issuer’s Jurisdiction” means, with respect to any Pledged Issuer, its jurisdiction as determined under section 44 of the STA.

“Pledged Securities” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Security.

“Pledged Securities Accounts” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Securities Account.

“Pledged Securities Intermediary” means, at any time, any Person which is at such time a Securities Intermediary at which a Pledged Securities Account is maintained.

“Pledged Securities Intermediary’s Jurisdiction” means, with respect to any Securities Pledged Securities Intermediary, its jurisdiction as determined under section 45(2) of the STA.

“Pledged Security Certificates” means, with respect to any Debtor, any and all Security Certificates of such Debtor representing the Pledged Certificated Securities.

“Pledged Security Entitlements” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Security Entitlement.

“Pledged Shares” means, with respect to any Debtor, all Pledged Securities and Pledged Security Entitlements of such Debtor.

“Pledged Uncertificated Securities” means, with respect to any Debtor, any and all Collateral of such Debtor that is an Uncertificated Security.

“**PPSA**” means the *Personal Property Security Act* (Ontario), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

“**Receiver**” means an interim receiver, a receiver, a manager or a receiver and manager.

“**Release Date**” means the date on which all the Secured Liabilities of each Debtor have been indefeasibly paid and discharged in full and the Creditor has no further obligations under the Transaction Documents pursuant to which further Secured Liabilities of any Debtor might arise.

“**Reporting Pledged Issuer**” means a Pledged Issuer that is a “reporting issuer”, as such term is defined under applicable Canadian securities laws.

“**Secured Liabilities**” means, with respect to any Debtor, all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of such Debtor to the Creditor under, in connection with or with respect to the Transaction Documents, and any unpaid balance thereof.

“**Schedules**” means the schedules to this Agreement.

“**Security Interests**” means, with respect to any Debtor, the Liens created by such Debtor in favour of the Creditor under this Agreement.

“**STA**” means the *Securities Transfer Act, 2006* (Ontario), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

“**Subsidiary**” means, with respect to any Person (the “**parent**”) at any date, any other Person (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more Subsidiaries of the parent or by the parent and one or more Subsidiaries of the parent.

“**Supplement**” has the meaning given to that term in Section 35.

“**ULC**” means an Issuer that is an unlimited company, unlimited liability corporation or unlimited liability company.

“**ULC Laws**” means the *Companies Act* (Nova Scotia), the *Business Corporations Act* (Alberta), the *Business Corporations Act* (British Columbia), and any other present or future Laws governing ULCs.

“**ULC Shares**” means shares or other equity interests in the capital stock of a ULC.

“**Voting or Equity Securities**” means (a) any “security” (as defined under applicable Canadian securities laws), other than a bond, debenture, note or similar instrument representing

indebtedness (whether secured or unsecured), of an issuer carrying a voting right either under all circumstances or under some circumstances that have occurred and are continuing or (b) a security of an issuer that carries a residual right to participate in the earnings of the issuer and, on liquidation or winding up of the issuer, in its assets.

2. **Grant of Security Interests.** As general and continuing collateral security for the due payment and performance of its Secured Liabilities, each Debtor pledges, mortgages, charges and assigns (by way of security) to the Creditor, and grants to the Creditor a security interest in, the Collateral of such Debtor.

3. **Limitations on Grant of Security Interests.** If the grant of the Security Interests with respect to any Contract, Intellectual Property Right or Permit under Section 2, other than the Boeing Order, would result in the termination or breach of such Contract, Intellectual Property Right or Permit, or is otherwise prohibited or ineffective (whether by the terms thereof or under applicable Law), then such Contract, Intellectual Property Right or Permit shall not be subject to the Security Interests but shall be held in trust by the applicable Debtor for the benefit of the Creditor and, on the exercise by the Creditor of any of its rights or remedies under this Agreement following an Event of Default shall be assigned by such Debtor as directed by the Creditor; provided that: (a) the Security Interests of such Debtor shall attach to such Contract, Intellectual Property Right or Permit, or applicable portion thereof, immediately at such time as the condition causing such termination or breach is remedied, and (b) if a term in a Contract that prohibits or restricts the grant of the Security Interests in the whole of an Account or Chattel Paper forming part of the Collateral is unenforceable against the Creditor under applicable Law, then the exclusion from the Security Interests set out above shall not apply to such Account or Chattel Paper. In addition, the Security Interests do not attach to Consumer Goods or extend to the last day of the term of any lease or agreement for lease of real property. Such last day shall be held by the applicable Debtor in trust for the Creditor and, on the exercise by the Creditor of any of its rights or remedies under this Agreement following an Event of Default, shall be assigned by such Debtor as directed by the Creditor. For greater certainty, no Intellectual Property Right in any trade-mark, get-up or trade dress is presently assigned to the Creditor by sole virtue of the grant of the Security Interests contained in Section 2.

4. **Attachment; No Obligation to Advance.** Each Debtor confirms that value has been given by the Creditor to such Debtor, that such Debtor has rights in its Collateral existing at the date of this Agreement or the date of any Supplement, as applicable, and that such Debtor and the Creditor have not agreed to postpone the time for attachment of the Security Interests to any of the Collateral of such Debtor. The Security Interests with respect to the Collateral of each Debtor created by this Agreement shall have effect and be deemed to be effective whether or not the Secured Liabilities of such Debtor or any part thereof are owing or in existence before or after or upon the date of this Agreement or the date of any Supplement, as applicable. Neither the execution and delivery of this Agreement or any Supplement nor the provision of any financial accommodation by the Creditor shall oblige the Creditor to make any financial accommodation or further financial accommodation available to any Debtor or any other Person.

5. **Representations and Warranties.** Each Debtor represents and warrants to the Creditor that, as of the date of this Agreement or the date of any Supplement, as applicable:

- (a) Debtor Information. All of the information set out in the Schedules and Supplements, as applicable, with respect to such Debtor is accurate and complete.
- (b) Title; No Other Security Interests. Except for Permitted Liens, such Debtor owns (or, with respect to any leased or licensed property forming part of the Collateral of such Debtor, holds a valid leasehold or licensed interest in) its Collateral free and clear of any Liens. Such Debtor is the record and beneficial owner of the Pledged Shares. No security agreement, financing statement or other notice with respect to any or all of the Collateral of such Debtor is on file or on record in any public office, except for filings with respect to Permitted Liens.
- (c) Amount of Accounts. The amount represented by such Debtor to the Creditor from time to time as owing by each account debtor or by all account debtors with respect to its Accounts of such Debtor will at such time be the correct amount so owing by such account debtor or debtors and, unless disclosed in writing by such Debtor to the Creditor at that time, will be owed free of any dispute, set-off or counterclaim. Except as disclosed in writing by such Debtor to the Creditor, neither such Debtor nor (to the best of such Debtor's knowledge) any other party to any Account of such Debtor or Contract of such Debtor is in default or is likely to become in default in the performance or observance of any of the terms of such Account or Contract where such default is or could reasonably be expected to be materially adverse to such Debtor or the Creditor.
- (d) Authority. Such Debtor has full power and authority to grant to the Creditor the Security Interests granted by such Debtor and to execute, deliver and perform its obligations under this Agreement, and such execution, delivery and performance does not contravene any of such Debtor's Organizational Documents or any agreement, instrument or restriction to which such Debtor is a party or by which such Debtor or any of its Collateral is bound.
- (e) Consents and Transfer Restrictions.
 - (i) Except for any consent that has been obtained and is in full force and effect, no consent of any Person (including any counterparty with respect to any Contract, any account debtor with respect to any Account, or any Governmental Authority with respect to any Permit) is required, or is purported to be required, for the execution, delivery, performance and enforcement of this Agreement (this representation being given without reference to the exclusions contained in Section 3). For the purposes of complying with any transfer restrictions contained in the Organizational Documents of any Pledged Issuer, such Debtor hereby irrevocably consents to any transfer of such Debtor's Pledged Securities of such Pledged Issuer.
 - (ii) (A) No order ceasing or suspending trading in, or prohibiting the transfer of the Pledged Shares has been issued and no proceedings for this purpose have been instituted, nor does such Debtor have any reason to

believe that any such proceedings are pending, contemplated or threatened and (B) the Pledged Shares are not subject to any escrow or other agreement, arrangement, commitment or understanding, prohibiting the transfer of the Pledged Shares, including pursuant to applicable Canadian securities laws or the rules, regulations or policies of any marketplace on which the Pledged Shares are listed, posted or traded.

- (f) Execution and Delivery. This Agreement has been duly authorized, executed and delivered by such Debtor and is a valid and binding obligation of such Debtor enforceable against such Debtor in accordance with its terms, subject only to bankruptcy, insolvency, liquidation, reorganization, moratorium and other similar Laws generally affecting the enforcement of creditors' rights, and to the fact that equitable remedies (such as specific performance and injunction) are discretionary remedies.
- (g) No Consumer Goods. Such Debtor does not own any Consumer Goods which are material in value or which are material to the business, operations, property, condition or prospects (financial or otherwise) of such Debtor.
- (h) Intellectual Property Rights. All registrations and applications for registration pertaining to any Intellectual Property Rights of such Debtor, all other material Intellectual Property Rights of such Debtor, and the nature of such Debtor's right, title or interest therein, are described in the Schedules and Supplements as applicable, with respect to such Debtor. Each Intellectual Property Right of such Debtor is valid, subsisting, unexpired, enforceable, and has not been abandoned. In the case of copyright works of such Debtor, such Debtor has obtained full and irrevocable waivers of all moral rights or similar rights pertaining to such works. Except as set out in the Schedules and Supplements, as applicable, none of the Intellectual Property Rights of such Debtor have been licensed or franchised by such Debtor to any Person or, to the best of such Debtor's knowledge, infringed or otherwise misused by any Person. Except as set out in the Schedules and Supplements, as applicable, the exercise of any Intellectual Property Right of such Debtor, or any licensee or franchisee thereof, has not infringed or otherwise misused any intellectual property right of any other Person, and such Debtor has not received and is not aware of any claim of such infringement or other misuse.
- (i) Partnerships, Limited Liability Companies. The terms of any interest in a partnership or limited liability company that is Collateral of such Debtor expressly provide that such interest is a "security" for the purposes of the STA.
- (j) Due Authorization. The Pledged Securities of such Debtor have been duly authorized and validly issued and are fully paid and non-assessable.
- (k) Warrants, Options, etc. There are no outstanding warrants, options or other rights to purchase, or other agreements outstanding with respect to, or property that is

now or hereafter convertible into, or that requires the issuance or sale of, any Pledged Shares of such Debtor.

- (l) **No Required Disposition.** There is no existing agreement, option, right or privilege capable of becoming an agreement or option pursuant to which such Debtor would be required to sell, redeem or otherwise dispose of any Pledged Shares of such Debtor or under which any Pledged Issuer has any obligation to issue any Securities of such Pledged Issuer to any Person.

6. **Survival of Representations and Warranties.** All representations and warranties made by each Debtor in this Agreement (a) are material, (b) shall be considered to have been relied on by the Creditor, and (c) shall survive the execution and delivery of this Agreement and any Supplement or any investigation made at any time by or on behalf of the Creditor and any disposition or payment of the Secured Liabilities until the Release Date.

7. **Covenants.** Each Debtor covenants and agrees with the Creditor that:

- (a) **Further Documentation.** Such Debtor shall from time to time, at the expense of such Debtor, promptly and duly authorize, execute and deliver such further instruments and documents, and take such further action, as the Creditor may reasonably request for the purpose of obtaining or preserving the full benefits of, and the rights and powers granted by, this Agreement (including the filing of any financing statements or financing change statements under any applicable legislation with respect to the Security Interests). In addition, upon the acquisition of interest in any airframe or engine, such Debtor shall notify the Creditor of such acquisition and shall, at the expense of such Debtor, promptly and duly authorize, execute and deliver an aircraft security agreement in respect of such interest in the airframe and engine, in favour of the Creditor, in form and substance acceptable to the Creditor, acting reasonably.¹

Such Debtor acknowledges that this Agreement has been prepared based on the existing Laws in the Province referred to in the “Governing Law” section of this Agreement and that a change in such Laws, or the Laws of other jurisdictions, may require the execution and delivery of different forms of security documentation. Accordingly, such Debtor agrees that the Creditor shall have the right to require that this Agreement be amended, supplemented, restated or replaced, and that such Debtor shall immediately on request by the Creditor authorize, execute and deliver any such amendment, supplement, restatement or replacement (i) to reflect any changes in such Laws, whether arising as a result of statutory amendments, court decisions or otherwise, (ii) to facilitate the creation and registration of appropriate security in all appropriate jurisdictions, or (iii) if such Debtor merges or amalgamates with any other Person or enters into any corporate reorganization, in each case in order to confer on the Creditor Liens similar to, and having the same effect as, the Security Interests.

¹ NTD: It is our understanding that neither the Company nor the Guarantor own any aircraft or engines.

- (b) Maintenance of Records. Such Debtor shall keep and maintain accurate and complete records of the Collateral of such Debtor, including a record of all payments received and all credits granted with respect to the Accounts and Contracts of such Debtor. At the written request of the Creditor, such Debtor shall mark any Collateral of such Debtor specified by the Creditor to evidence the existence of the Security Interests.
- (c) Right of Inspection. The Creditor may, at all times during normal business hours, without charge, examine and make copies of all Books and Records, and may discuss the affairs, finances and accounts of such Debtor with its officers and accountants. The Creditor may also, without charge, enter the premises of such Debtor where any of the Collateral of such Debtor is located for the purpose of inspecting such Collateral, observing its use or otherwise protecting its interests in such Collateral. Such Debtor, at its expense, shall provide the Creditor with such clerical and other assistance as may be reasonably requested by the Creditor to exercise any of its rights under this paragraph. Notwithstanding the foregoing, the Creditor shall conduct such examinations, inspections and attendance at the premises of the Debtor in such a manner as to reasonably minimize the interruptions of the ordinary business operation of the Debtor.
- (d) Limitations on Other Liens. Such Debtor shall not create, incur or permit to exist, and shall defend the Collateral of such Debtor against, and shall take such other action as is necessary to remove, any and all Liens in and other claims affecting the Collateral of such Debtor, other than the Permitted Liens, and such Debtor shall defend the right, title and interest of the Creditor in and to the Collateral of such Debtor against the claims and demands of all Persons.
- (e) Limitations on Dispositions of Collateral. Such Debtor shall not, without the Creditor's prior written consent, sell, lease or otherwise dispose of any of its Collateral with a value (or for a price) in excess of US\$5,000,000, except that Inventory of such Debtor may be sold, leased or otherwise disposed of and, subject to the terms of this Agreement, Accounts of such Debtor may be collected, in either case in the ordinary course of such Debtor's business. Following an Event of Default, all Proceeds of the Collateral of such Debtor (including all amounts received with respect to Accounts) received by or on behalf of such Debtor, whether or not arising in the ordinary course of such Debtor's business, shall be received by such Debtor as trustee for the Creditor and shall be immediately paid to the Creditor.
- (f) Limitations on Modifications, Waivers, Extensions. Other than as not prohibited by paragraph (g) below, such Debtor shall not (i) amend, modify, terminate, permit to expire or waive any provision of any of such Debtor's Permits, Contracts or any documents giving rise to an Account in any manner which is or could reasonably be expected to be materially adverse to such Debtor or the Creditor, or (ii) fail to exercise promptly and diligently its rights under each of such Debtor's Contracts and documents giving rise to an Account if such failure

is or could reasonably be expected to be materially adverse to such Debtor or the Creditor.

- (g) Limitations on Discounts, Compromises, Extensions of Accounts. Other than in the ordinary course of business of such Debtor consistent with previous practices, such Debtor shall not (i) grant any extension of the time for payment of any Account of such Debtor, (ii) compromise, compound or settle any Account of such Debtor for less than its full amount, (iii) release, wholly or partially, any Person liable for the payment of any Account of such Debtor, or (iv) allow any credit or discount of any Account of such Debtor.
- (h) Maintenance of Collateral. Such Debtor shall maintain all tangible Collateral of such Debtor in good operating condition, ordinary wear and tear excepted, and such Debtor shall provide all maintenance, service and repairs necessary for such purpose. Such Debtor shall maintain in good standing all registrations and applications with respect to the Intellectual Property Rights of such Debtor except to the extent that any failure to do so could not reasonably be expected to be materially adverse to such Debtor or the Creditor.
- (i) Insurance. Such Debtor shall keep the Collateral of such Debtor insured with financially sound and reputable companies to its full insurable value against loss or damage by fire, explosion, theft and such other risks as are customarily insured against by Persons carrying on similar businesses or owning similar property within the vicinity in which such Debtor's applicable business or property is located. The applicable insurance policies shall be in form and substance satisfactory to the Creditor, and shall (i) provide that no cancellation, material reduction in amount or material change in coverage will be effective until at least 30 days after receipt of written notice thereof by the Creditor, and (ii) name the Creditor as loss payee as its interest may appear. Such Debtor shall, from time to time at the Creditor's request, deliver the applicable insurance policies (or satisfactory evidence of such policies) to the Creditor. If such Debtor does not obtain or maintain such insurance, the Creditor may, but need not, do so, in which event such Debtor shall immediately on demand reimburse the Creditor for all payments made by the Creditor in connection with obtaining and maintaining such insurance, and until reimbursed any such payment shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests. Neither the Creditor nor its correspondents or its agents shall be responsible for the character, adequacy, validity or genuineness of any insurance, the solvency of any insurer, or any other risk connected with insurance.
- (j) Further Identification of Collateral. Such Debtor shall promptly furnish to the Creditor such statements and schedules further identifying and describing the Collateral of such Debtor, and such other reports in connection with the Collateral of such Debtor, as the Creditor may from time to time reasonably request, including an updated list of any motor vehicles or other "serial number" goods owned by such Debtor and classified as Equipment, including vehicle identification numbers.

- (k) Amalgamation, Merger or Consolidation. Such Debtor shall not permit any Pledged Issuer of such Debtor to amalgamate, merge or consolidate unless all of the outstanding capital stock of the surviving or resulting corporation is, upon such amalgamation, merger or consolidation, pledged under this Agreement, and no cash, securities or other property is distributed with respect to the outstanding shares of any other constituent corporation.
- (l) Agreements re Intellectual Property Rights. Promptly upon request from time to time by the Creditor, such Debtor shall authorize, execute and deliver any and all agreements, instruments, documents and papers that the Creditor may reasonably request to evidence the Security Interests in any Intellectual Property Rights of such Debtor and, where applicable, the goodwill of the business of such Debtor connected with the use of, and symbolized by, any such Intellectual Property Rights.
- (m) Instruments; Documents of Title; Chattel Paper. Where an Event of Default has occurred and is continuing, promptly upon request from time to time by the Creditor, such Debtor shall deliver to the Creditor, endorsed and/or accompanied by such instruments of assignment and transfer in such form and substance as the Creditor may reasonably request, any and all Instruments, Documents of Title and Chattel Paper of such Debtor included in or relating to the Collateral of such Debtor as the Creditor may specify in its request.
- (n) Pledged Certificated Securities. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all Pledged Security Certificates of such Debtor and other materials as may be required from time to time to provide the Creditor with control over all Pledged Certificated Securities of such Debtor in the manner provided under section 23 of the STA. Where an Event of Default has occurred and is continuing, promptly, at the request of the Creditor, such Debtor shall cause all Pledged Security Certificates of such Debtor to be registered in the name of the Creditor or its nominee.
- (o) Pledged Uncertificated Securities. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all such documents, agreements and other materials as may be required from time to time to provide the Creditor with control over all Pledged Uncertificated Securities of such Debtor in the manner provided under section 24 of the STA.
- (p) Pledged Security Entitlements. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all such documents, agreements and other materials as may be required from time to time to provide the Creditor with control over all Pledged Security Entitlements of such Debtor in the manner provided under section 25 or 26 of the STA.
- (q) Pledged Futures Contracts. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all such documents, agreements and other materials as may be required from time to time to provide

the Creditor with control over all Pledged Futures Contracts of such Debtor in the manner provided under subsection 1(2) of the PPSA.

- (r) Partnerships, Limited Liability Companies. Such Debtor shall ensure that the terms of any interest in a partnership or limited liability company that is Collateral of such Debtor shall expressly provide that such interest is a “security” for the purposes of the STA.
- (s) Transfer Restrictions. If the constating documents of any Pledged Issuer (other than a ULC) restrict the transfer of the Securities of such Pledged Issuer, then such Debtor shall deliver to the Creditor a certified copy of a resolution of the directors, shareholders, unitholders or partners of such Pledged Issuer, as applicable, consenting to the transfer(s) contemplated by this Agreement, including any prospective transfer of the Collateral of such Debtor by the Creditor upon a realization on the Security Interests.
- (t) Notices. Such Debtor shall advise the Creditor promptly, in reasonable detail, of:
 - (i) any change to a Pledged Securities Intermediary’s Jurisdiction, Pledged Issuer’s Jurisdiction, or Pledged Future Intermediary’s Jurisdiction;
 - (ii) any change in the location of the jurisdiction of incorporation or amalgamation, chief executive office or domicile of such Debtor;
 - (iii) any change in the name of such Debtor;
 - (iv) any merger, consolidation or amalgamation of such Debtor with any other Person;
 - (v) any additional jurisdiction in which such Debtor has tangible Personal Property with a net book value, in the aggregate, of at least \$100,000;
 - (vi) any additional jurisdiction in which material account debtors of such Debtor are located;
 - (vii) any acquisition of any right, title or interest in real property by such Debtor;
 - (viii) any acquisition of any Intellectual Property Rights which are the subject of a registration or application with any governmental intellectual property or other governing body or registry, or which are material to such Debtor’s business;
 - (ix) any acquisition of any Instrument, Document of Title or Chattel Paper;
 - (x) any creation or acquisition of any Subsidiary of such Debtor;

- (xi) any Lien (other than Permitted Liens) on, or claim asserted against, any of the Collateral of such Debtor;
- (xii) the Debtor becoming (or if the Debtor could reasonably be determined to have become) a Control Person with respect to any Reporting Pledged Issuer;
- (xiii) the issuance of any order ceasing or suspending trading in, or prohibiting the transfer of any Pledged Shares or the institution of proceedings for such purpose, or if such Debtor has any reason to believe that any such proceedings are pending, contemplated or threatened;
- (xiv) any occurrence of any event, claim or occurrence that could reasonably be expected to have a material adverse effect on the value of the Collateral of such Debtor or on the Security Interests; or
- (xv) any additional jurisdiction in which such Debtor carries on business.

Such Debtor shall not effect or permit any of the changes referred to in clauses (ii) through (viii) above unless all filings have been made and all other actions taken that are required in order for the Creditor to continue at all times following such change to have a valid and perfected first priority Security Interest, subject to Permitted Liens, with respect to all of the Collateral of such Debtor.

8. **Voting Rights.** Unless an Event of Default has occurred and is continuing, each Debtor shall be entitled to exercise all voting power from time to time exercisable with respect to the Pledged Shares of such Debtor and give consents, waivers and ratifications with respect thereto; provided, however, that no vote shall be cast or consent, waiver or ratification given or action taken which would be, or would have a reasonable likelihood of being, prejudicial to the interests of the Creditor or which would have the effect of reducing the value of the Collateral of such Debtor as security for the Secured Liabilities of such Debtor or imposing any restriction on the transferability of any of the Collateral of such Debtor. Immediately upon the occurrence and during the continuance of any Event of Default, but at all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, all such rights of the applicable Debtor to vote and give consents, waivers and ratifications shall cease and the Creditor or its nominee shall be entitled to exercise all such voting rights and to give all such consents, waivers and ratifications.

9. **Dividends; Interest.** Unless an Event of Default has occurred and is continuing, each Debtor shall be entitled to receive any and all cash dividends, interest, principal payments and other forms of cash distribution on the Pledged Shares of such Debtor which it is otherwise entitled to receive, but any and all stock and/or liquidating dividends, distributions of property, returns of capital or other distributions made on or with respect to the Pledged Shares of such Debtor, whether resulting from a subdivision, combination or reclassification of the outstanding capital stock of any Pledged Issuer of such Debtor or received in exchange for such Pledged Shares or any part thereof or as a result of any amalgamation, merger, consolidation, acquisition or other exchange of property to which any Pledged Issuer of such Debtor may be a party or

otherwise, and any and all cash and other property received in exchange for any Pledged Shares of such Debtor shall be and become part of the Collateral of such Debtor subject to the Security Interests; and if any of the Pledged Security Certificates have been registered in the name of the Creditor or its nominee, the Creditor shall execute and deliver (or cause to be executed and delivered) to such Debtor all such dividend orders and other instruments as such Debtor may reasonably request for the purpose of enabling such Debtor to receive the dividends, distributions or other payments which such Debtor is authorized to receive and retain pursuant to this Section. If an Event of Default has occurred and is continuing, all rights of such Debtor pursuant to this Section shall cease and the Creditor shall have the sole and exclusive right and authority to receive and retain the cash dividends, interest, principal payments and other forms of cash distribution which such Debtor would otherwise be authorized to retain pursuant to this Section. Any money and other property paid over to or received by the Creditor pursuant to the provisions of this Section shall be retained by the Creditor as additional Collateral hereunder and be applied in accordance with the provisions of this Agreement.

10. **Rights on Event of Default.** If an Event of Default has occurred and is continuing, then and in every such case all of the Secured Liabilities of each Debtor shall, at the option of the Creditor, become immediately due and payable and the Security Interests of each Debtor shall become enforceable and the Creditor, in addition to any rights now or hereafter existing under applicable Law may, personally or by agent, at such time or times as the Creditor in its discretion may determine, do any one or more of the following:

- (a) **Rights under PPSA, etc.** Exercise against any or all Debtors all of the rights and remedies granted to secured parties under the PPSA and any other applicable statute, or otherwise available to the Creditor by contract, at law or in equity.
- (b) **Demand Possession.** Demand possession of any or all of the Collateral of any or all Debtors, in which event each such Debtor shall, at the expense of such Debtor, immediately cause the Collateral of such Debtor designated by the Creditor to be assembled and made available to the Creditor.
- (c) **Take Possession.** Enter on any premises where any Collateral of any or all Debtors is located and take possession of, disable or remove such Collateral.
- (d) **Deal with Collateral.** Hold, store and keep idle, or operate, lease or otherwise use or permit the use of, any or all of the Collateral of any or all Debtors for such time and on such terms as the Creditor may determine, and demand, collect and retain all earnings and other sums due or to become due from any Person with respect to any of the Collateral of any or all Debtors.
- (e) **Carry on Business.** At all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, carry on, or concur in the carrying on of, any or all of the business or undertaking of any or all Debtors and enter on, occupy and use (without charge by such Debtor) any of the premises, buildings, plant and undertaking of, or occupied or used by, any or all Debtors.

- (f) Enforce Collateral. Seize, collect, receive, enforce or otherwise deal with any Collateral of any or all Debtors in such manner, on such terms and conditions and at such times as the Creditor deems advisable. Notwithstanding the foregoing, the Creditor may only take such aforementioned action in respect of Collateral comprised of Pledged Securities if such Pledged Securities are promptly transferred to an entity permitted by the Ownership and Control Requirements.
- (g) Dispose of Collateral. Realize on any or all of the Collateral of any or all Debtors and sell, lease, assign, give options to purchase, or otherwise dispose of and deliver any or all of the Collateral of any or all Debtors (or contract to do any of the above), in one or more parcels at any public or private sale, at any exchange, broker's board or office of the Creditor or elsewhere, with or without advertising or other formality, except as required by applicable Law, on such terms and conditions as the Creditor may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery.
- (h) Court-Approved Disposition of Collateral. Obtain from any court of competent jurisdiction an order for the sale or foreclosure of any or all of the Collateral of any or all Debtors.
- (i) Purchase by Creditor. At any public sale, and to the extent permitted by Law on any private sale, bid for and purchase any or all of the Collateral of any or all Debtors offered for sale and, upon compliance with the terms of such sale, hold, retain, sell or otherwise dispose of such Collateral without any further accountability to any Debtor or any other Person with respect to such holding, retention, sale or other disposition, except as required by Law. In any such sale to the Creditor, the Creditor may, for the purpose of making payment for all or any part of the Collateral of any Debtor so purchased, use any claim for any or all of the Secured Liabilities of such Debtor then due and payable to it as a credit against the purchase price.
- (j) Collect Accounts. Notify (whether in its own name or in the name of any Debtor) the account debtors under any Accounts of any or all Debtors of the assignment of such Accounts to the Creditor and direct such account debtors to make payment of all amounts due or to become due to any or all Debtors with respect to such Accounts directly to the Creditor and, upon such notification and at the expense of any such Debtor, enforce collection of any such Accounts, and adjust, settle or compromise the amount or payment of such Accounts, in such manner and to such extent as the Creditor deems appropriate in the circumstances.
- (k) Transfer of Collateral. At all times subject to the Ownership and Control Requirements or as otherwise permitted by the CTA, transfer any Collateral of any or all Debtors that is Pledged Shares into the name of the Creditor or its nominee.
- (l) Voting. At all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, vote any or all of the Pledged Shares of any or

all Debtors (whether or not transferred to the Creditor or its nominee) and give or withhold all consents, waivers and ratifications with respect thereto and otherwise act with respect thereto as though it were the outright owner thereof.

- (m) Exercise Other Rights. At all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, exercise any and all rights, privileges, entitlements and options pertaining to any Collateral of any or all Debtors that is Pledged Shares as if the Creditor were the absolute owner of such Pledged Shares.
- (n) Dealing with Contracts and Permits. Deal with any and all Contracts and Permits of any or all Debtors to the same extent as any such Debtor might (including the enforcement, realization, sale, assignment, transfer, and requirement for continued performance), all on such terms and conditions and at such time or times as may seem advisable to the Creditor.
- (o) Payment of Liabilities. Pay any liability secured by any Lien against any Collateral of any or all Debtors. Each such Debtor shall immediately on demand reimburse the Creditor for all such payments and, until paid, any such reimbursement obligation shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.
- (p) Borrow and Grant Liens. Borrow money for the maintenance, preservation or protection of any Collateral of any or all Debtors or for carrying on any of the business or undertaking of any or all Debtors and grant Liens on any Collateral of any or all Debtors (in priority to the Security Interests of any or all Debtors or otherwise) as security for the money so borrowed. Each such Debtor shall immediately on demand reimburse the Creditor for all such borrowings and, until paid, any such reimbursement obligations shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.
- (q) Appoint Receiver. Appoint by instrument in writing one or more Receivers of any or all Debtors or any or all of the Collateral of any or all Debtors with such rights, powers and authority (including any or all of the rights, powers and authority of the Creditor under this Agreement) as may be provided for in the instrument of appointment or any supplemental instrument, and remove and replace any such Receiver from time to time. To the extent permitted by applicable Law, any Receiver appointed by the Creditor shall (for purposes relating to responsibility for the Receiver's acts or omissions) be considered to be the agent of any such Debtor and not of the Creditor.
- (r) Court-Appointed Receiver. Obtain from any court of competent jurisdiction an order for the appointment of a Receiver of any or all Debtors or of any or all of the Collateral of any or all Debtors.

The Creditor may exercise any or all of the foregoing rights and remedies without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except as required by applicable Law) to or on any Debtor or any other Person, and each Debtor hereby waives each such demand, presentment, protest, advertisement and notice to the extent permitted by applicable Law. None of the above rights or remedies shall be exclusive of or dependent on or merge in any other right or remedy, and one or more of such rights and remedies may be exercised independently or in combination from time to time. Each Debtor acknowledges and agrees that any action taken by the Creditor hereunder following the occurrence and during the continuance of an Event of Default shall not be rendered invalid or ineffective as a result of the curing of the Event of Default on which such action was based.

11. **Realization Standards.** To the extent that applicable Law imposes duties on the Creditor to exercise remedies in a commercially reasonable manner and without prejudice to the ability of the Creditor to dispose of the Collateral in any such manner, each Debtor acknowledges and agrees that it is not commercially unreasonable for the Creditor to (or not to) (a) incur expenses reasonably deemed significant by the Creditor to prepare the Collateral of such Debtor for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (b) fail to obtain third party consents for access to the Collateral of such Debtor to be disposed of, (c) fail to exercise collection remedies against account debtors or other Persons obligated on the Collateral of such Debtor or to remove Liens against the Collateral of such Debtor, (d) exercise collection remedies against account debtors and other Persons obligated on the Collateral of such Debtor directly or through the use of collection agencies and other collection specialists, (e) dispose of Collateral of such Debtor by way of public auction, public tender or private contract, with or without advertising and without any other formality, (f) contact other Persons, whether or not in the same business of such Debtor, for expressions of interest in acquiring all or any portion of the Collateral of such Debtor, (g) hire one or more professional auctioneers to assist in the disposition of the Collateral of such Debtor, whether or not such Collateral is of a specialized nature or an upset or reserve bid or price is established, (h) dispose of the Collateral of such Debtor by utilizing internet sites that provide for the auction of assets of the types included in such Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets, (i) dispose of assets in wholesale rather than retail markets, (j) disclaim disposition warranties, such as title, possession or quiet enjoyment, (k) purchase insurance or credit enhancements to insure the Creditor against risks of loss, collection or disposition of the Collateral of such Debtor or to provide to the Creditor a guaranteed return from the collection or disposition of such Collateral, (l) to the extent deemed appropriate by the Creditor, obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Creditor in the collection or disposition of any of the Collateral of such Debtor, (m) dispose of Collateral of such Debtor in whole or in part, (n) dispose of Collateral of such Debtor to a customer of the Creditor, and (o) establish an upset or reserve bid price with respect to Collateral of such Debtor.

12. **Grant of Licence.** For the purpose of enabling the Creditor to exercise its rights and remedies under this Agreement when the Creditor is entitled to exercise such rights and remedies, and for no other purpose, each Debtor grants to the Creditor an irrevocable, non-exclusive licence (exercisable without payment of royalty or other compensation to such Debtor) to use, assign or sublicense any or all of the Intellectual Property Rights of such Debtor, including in such licence reasonable access to all media in which any of the licensed items may

be recorded or stored and to all computer programs used for the compilation or printout of the same. For any trade-marks, get-up and trade dress and other business indicia, such licence includes an obligation on the part of the Creditor to maintain the standards of quality maintained by such Debtor or, in the case of trade-marks, get-up and trade dress or other business indicia licensed to such Debtor, the standards of quality imposed upon such Debtor by the relevant licence. For copyright works, such licence shall include the benefit of any waivers of moral rights and similar rights.

13. **Securities Laws.** The Creditor is authorized, in connection with any offer or sale of any Pledged Shares of any Debtor, to comply with any limitation or restriction as it may be advised by counsel is necessary to comply with applicable Law, including compliance with procedures that may restrict the number of prospective bidders and purchasers, requiring that prospective bidders and purchasers have certain qualifications, and restricting prospective bidders and purchasers to Persons who will represent and agree that they are purchasing for their own account or investment and not with a view to the distribution or resale of such Securities. In addition to and without limiting Section 11, each Debtor further agrees that compliance with any such limitation or restriction shall not result in a sale being considered or deemed not to have been made in a commercially reasonable manner, and the Creditor shall not be liable or accountable to such Debtor for any discount allowed by reason of the fact that such Pledged Shares are sold in compliance with any such limitation or restriction. If the Creditor chooses to exercise its right to sell any or all Pledged Shares of any Debtor, upon written request, such Debtor shall cause each applicable Pledged Issuer to furnish to the Creditor all such information as the Creditor may reasonably request in order to determine the number of shares and other instruments included in the Collateral of such Debtor which may be sold by the Creditor in exempt transactions under any Laws governing securities, and the rules and regulations of any applicable securities regulatory body thereunder, as the same are from time to time in effect.

14. **ULC Shares.** Each Debtor acknowledges that certain of the Collateral of such Debtor may now or in the future consist of ULC Shares, and that it is the intention of the Creditor and each Debtor that the Creditor should not under any circumstances prior to realization thereon be held to be a “member” or a “shareholder”, as applicable, of a ULC for the purposes of any ULC Laws. Therefore, notwithstanding any provisions to the contrary contained in this Agreement, the NPA or any other Transaction Document, where a Debtor is the registered owner of ULC Shares which are Collateral of such Debtor, such Debtor shall remain the sole registered owner of such ULC Shares until such time as such ULC Shares are effectively transferred into the name of the Creditor or any other Person on the books and records of the applicable ULC. Accordingly, each Debtor shall be entitled to receive and retain for its own account any dividend on or other distribution, if any, with respect to such ULC Shares (except for any dividend or distribution comprised of Pledged Security Certificates of such Debtor, which shall be delivered to the Creditor to hold hereunder) and shall have the right to vote such ULC Shares and to control the direction, management and policies of the applicable ULC to the same extent as such Debtor would if such ULC Shares were not pledged to the Creditor pursuant hereto. Nothing in this Agreement, the NPA or any other Transaction Document is intended to, and nothing in this Agreement, the NPA or any other Transaction Document shall, constitute the Creditor or any Person other than the applicable Debtor, a member or shareholder of a ULC for the purposes of any ULC Laws (whether listed or unlisted, registered or beneficial), until such time as notice is given to such Debtor and further steps are taken pursuant hereto or thereto so as to register the

Creditor or such other Person, as specified in such notice, as the holder of the ULC Shares. To the extent any provision hereof would have the effect of constituting the Creditor as a member or a shareholder, as applicable, of any ULC prior to such time, such provision shall be severed herefrom and shall be ineffective with respect to ULC Shares which are Collateral of any Debtor without otherwise invalidating or rendering unenforceable this Agreement or invalidating or rendering unenforceable such provision insofar as it relates to Collateral of any Debtor which is not ULC Shares. Except upon the exercise of rights of the Creditor to sell, transfer or otherwise dispose of ULC Shares in accordance with this Agreement, each Debtor shall not cause or permit, or enable a Pledged Issuer that is a ULC to cause or permit, the Creditor to: (a) be registered as a shareholder or member of such Pledged Issuer; (b) have any notation entered in their favour in the share register of such Pledged Issuer; (c) be held out as shareholders or members of such Pledged Issuer; (d) receive, directly or indirectly, any dividends, property or other distributions from such Pledged Issuer by reason of the Creditor holding the Security Interests over the ULC Shares; or (e) act as a shareholder of such Pledged Issuer, or exercise any rights of a shareholder including the right to attend a meeting of shareholders of such Pledged Issuer or to vote its ULC Shares.

15. **Application of Proceeds.** All Proceeds of Collateral of any Debtor received by the Creditor or a Receiver may be applied to discharge or satisfy any expenses (including the Receiver's remuneration and other expenses of enforcing the Creditor's rights against such Debtor under this Agreement), Liens on the Collateral of such Debtor in favour of Persons other than the Creditor, borrowings, taxes and other outgoings affecting the Collateral of such Debtor or which are considered advisable by the Creditor or the Receiver to protect, preserve, repair, process, maintain or enhance the Collateral of such Debtor or prepare it for sale, lease or other disposition, or to keep in good standing any Liens on the Collateral of such Debtor ranking in priority to any of the Security Interests, or to sell, lease or otherwise dispose of the Collateral of such Debtor. The balance of such Proceeds may, at the sole discretion of the Creditor, be held as collateral security for the Secured Liabilities of the applicable Debtor or be applied to such of the Secured Liabilities of the applicable Debtor (whether or not the same are due and payable) in such manner and at such times as the Creditor considers appropriate and thereafter shall be accounted for as required by Law.

16. **Continuing Liability of Debtor.** Each Debtor shall remain liable for any Secured Liabilities of such Debtor that are outstanding following realization of all or any part of the Collateral of such Debtor and the application of the Proceeds thereof.

17. **Creditor's Appointment as Attorney-in-Fact.** Effective upon the occurrence and during the continuance of an Event of Default, each Debtor constitutes and appoints the Creditor and any officer or agent of the Creditor, with full power of substitution, as such Debtor's true and lawful attorney-in-fact with full power and authority in the place of such Debtor and in the name of such Debtor or in its own name, from time to time in the Creditor's discretion, to take any and all appropriate action and to execute any and all documents and instruments as, in the opinion of such attorney, may be necessary or desirable to accomplish the purposes of this Agreement. Without limiting the effect of this Section, each Debtor grants the Creditor an irrevocable proxy to vote the Pledged Shares of such Debtor and to exercise all other rights, powers, privileges and remedies to which a holder thereof would be entitled (including giving or withholding written consents of shareholders, calling special meetings of shareholders and voting

at such meetings), which proxy shall be effective, automatically and without the necessity of any action (including any transfer of any Pledged Shares of such Debtor on the books and records of a Pledged Issuer or Pledged Securities Intermediary, as applicable), upon the occurrence of an Event of Default. These powers are coupled with an interest and are irrevocable until the Release Date. Nothing in this Section affects the right of the Creditor as secured party or any other Person on the Creditor's behalf, to sign and file or deliver (as applicable) all such financing statements, financing change statements, notices, verification statements and other documents relating to the Collateral and this Agreement as the Creditor or such other Person considers appropriate. Each Debtor hereby ratifies and confirms, and agrees to ratify and confirm, whatever lawful acts the Creditor or any of the Creditor's sub-agents, nominees or attorneys do or purport to do in exercise of the power of attorney granted to the Creditor pursuant to this Section.

18. **Performance by Creditor of Debtor's Obligations.** If any Debtor fails to perform or comply with any of the obligations of such Debtor under this Agreement, the Creditor may, but need not, perform or otherwise cause the performance or compliance of such obligation, provided that such performance or compliance shall not constitute a waiver, remedy or satisfaction of such failure. The expenses of the Creditor incurred in connection with any such performance or compliance shall be payable by such Debtor to the Creditor immediately on demand, and until paid, any such expenses shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.

19. **Interest.** If any amount payable by any Debtor to the Creditor under this Agreement is not paid when due, such Debtor shall pay to the Creditor, immediately on demand, interest on such amount from the date due until paid, at the Default Rate. All amounts payable by such Debtor to the Creditor under this Agreement, and all interest on all such amounts, compounded monthly on the last Business Day of each month, shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.

20. **Severability.** Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

21. **Rights of Creditor; Limitations on Creditor's Obligations.**

- (a) **Limitations on Creditor's Liability.** The Creditor shall not be liable to any Debtor or any other Person for any failure or delay in exercising any of the rights of such Debtor under this Agreement (including any failure to take possession of, collect, sell, lease or otherwise dispose of any Collateral of such Debtor, or to preserve rights against prior parties). Neither the Creditor, a Receiver, nor any agent of the Creditor (including, in Alberta or British Columbia, any sheriff) is required to take, or shall have any liability for any failure to take or delay in taking, any steps necessary or advisable to preserve rights against other Persons under any Collateral of any Debtor in its possession. Neither the Creditor, any Receiver, nor any agent of the Creditor shall be liable for any, and each Debtor shall bear the

full risk of all, loss or damage to any and all of the Collateral of such Debtor (including any Collateral of such Debtor in the possession of the Creditor, any Receiver, or any agent of the Creditor) caused for any reason other than the gross negligence or wilful misconduct of the Creditor, such Receiver or such agent of the Creditor.

- (b) Debtors Remain Liable under Accounts and Contracts. Notwithstanding any provision of this Agreement, each Debtor shall remain liable under each of the documents giving rise to the Accounts of such Debtor and under each of the Contracts of such Debtor to observe and perform all the conditions and obligations to be observed and performed by such Debtor thereunder, all in accordance with the terms of each such document and Contract. The Creditor shall have no obligation or liability under any Account of any Debtor (or any document giving rise thereto) or Contract of any Debtor by reason of or arising out of this Agreement or the receipt by the Creditor of any payment relating to such Account or Contract pursuant hereto, and in particular (but without limitation), the Creditor shall not be obligated in any manner to perform any of the obligations of any Debtor under or pursuant to any Account of such Debtor (or any document giving rise thereto) or under or pursuant to any Contract of such Debtor, to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party under any Account of such Debtor (or any document giving rise thereto) or under any Contract of such Debtor, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time.
- (c) Collections on Accounts and Contracts. Each Debtor shall be authorized to, at any time that an Event of Default is not continuing, collect the Accounts of such Debtor and payments under the Contracts of such Debtor in the normal course of the business of such Debtor and for the purpose of carrying on the same. If required by the Creditor at any time an Event of Default has occurred and is continuing, any payments of Accounts of such Debtor or under Contracts of such Debtor, when collected by such Debtor, shall be forthwith (and, in any event, within two Business Days) deposited by such Debtor in the exact form received, duly endorsed by such Debtor to the Creditor if required, in a special collateral account maintained by the Creditor, and until so deposited, shall be held by such Debtor in trust for the Creditor, segregated from the other funds of such Debtor. All such amounts while held by the Creditor (or by such Debtor in trust for the Creditor) and all income with respect thereto shall continue to be collateral security for the Secured Liabilities and shall not constitute payment thereof until applied as hereinafter provided. If an Event of Default has occurred and is continuing, the Creditor may apply all or any part of the amounts on deposit with respect to such Debtor in said special collateral account on account of the Secured Liabilities of such Debtor in such order as the Creditor may elect. At the Creditor's request, such Debtor shall deliver to the Creditor any documents evidencing and relating to the agreements and transactions which gave rise to the

Accounts and the Contracts of such Debtor, including all original orders, invoices and shipping receipts.

- (d) Analysis of Accounts. At any time and from time to time, the Creditor shall have the right to analyze and verify the Accounts of any Debtor in any manner and through any medium that it reasonably considers advisable, and each Debtor shall furnish all such assistance and information as the Creditor may reasonably require in connection therewith. If an Event of Default has occurred and is continuing, at any time and from time to time, the Creditor may in its own name or in the name of others (including any Debtor) communicate with account debtors on the Accounts of any Debtor and parties to the Contracts of any Debtor to verify with them to its satisfaction the existence, status, amount and terms of any Account or any Contract of any Debtor. At any time and from time to time, but not more than once per calendar year provided that there is not an Event of Default that is continuing, upon the Creditor's reasonable request and at the expense of the applicable Debtor, such Debtor shall furnish to the Creditor reports showing reconciliations, aging and test verifications of, and trial balances for, the Accounts of such Debtor.
- (e) Use of Agents. The Creditor may perform any of its rights or duties under this Agreement by or through agents and is entitled to retain counsel and to act in reliance on the advice of such counsel concerning all matters pertaining to its rights and duties under this Agreement.

22. Dealings by Creditor. The Creditor shall not be obliged to exhaust its recourse against any Debtor or any other Person or against any other security it may hold with respect to the Secured Liabilities of such Debtor or any part thereof before realizing upon or otherwise dealing with the Collateral of such Debtor in such manner as the Creditor may consider desirable. The Creditor may grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with any Debtor and any other Person, and with any or all of the Collateral of any Debtor, and with other security and sureties, as the Creditor may see fit, all without prejudice to the Secured Liabilities of any Debtor or to the rights and remedies of the Creditor under this Agreement. The powers conferred on the Creditor under this Agreement are solely to protect the interests of the Creditor in the Collateral of each Debtor and shall not impose any duty upon the Creditor to exercise any such powers.

23. Communication. Any notice or other communication required or permitted to be given under this Agreement will be made in accordance with the terms of the NPA.

24. Release of Information. Each Debtor authorizes the Creditor to provide a copy of this Agreement and such other information as may be reasonably requested of the Creditor (i) to the extent necessary to enforce the Creditor's rights, remedies and entitlements under this Agreement, (ii) to any assignee or prospective assignee of all or any part of its Secured Liabilities, and (iii) as required by applicable Law.

25. **Expenses; Indemnity; Waiver.**

- (a) Each Debtor shall pay (i) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and all applicable taxes, in connection with the preparation and administration of this Agreement, (ii) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and applicable taxes, in connection with any amendments, modifications or waivers of the provisions hereof, and (iii) all reasonable out-of-pocket expenses incurred by the Creditor, including the fees, charges and disbursements of any counsel for the Creditor and all applicable taxes, in connection with the assessment, enforcement or protection of their rights in connection with this Agreement, including its rights under this Section, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations with respect to the Secured Liabilities of such Debtor.
- (b) Each Debtor shall indemnify the Creditor against, and hold the Creditor harmless from, any and all losses, claims, cost recovery actions, damages, expenses and liabilities of whatsoever nature or kind and all reasonable out-of-pocket expenses and all applicable taxes to which the Creditor may become subject arising out of or in connection with (i) the execution or delivery of this Agreement and the performance by such Debtor of its obligations hereunder, (ii) any actual claim, litigation, investigation or proceeding relating to this Agreement or the Secured Liabilities of such Debtor, whether based on contract, tort or any other theory and regardless of whether the Creditor is a party thereto, (iii) any other aspect of this Agreement, or (iv) the enforcement of the Creditor's rights hereunder and any related investigation, defence, preparation of defence, litigation and enquiries; provided that such indemnity shall not, as to the Creditor, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence (it being acknowledged that ordinary negligence does not necessarily constitute gross negligence) or wilful misconduct of or material breach of this Agreement by the Creditor.
- (c) No Debtor shall assert, and each Debtor hereby waives (to the fullest extent permitted by applicable Law), (i) any claim against the Creditor (or any director, officer or employee thereof), on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, and (ii) all of the rights, benefits and protections given by any present or future statute that imposes limitations on the rights, powers or remedies of a secured party or on the methods of, or procedures for, realization of security, including any "seize or sue" or "anti-deficiency" statute or any similar provision of any other statute.
- (d) All amounts due under this Section shall be payable not later than three Business Days after written demand therefor.

- (e) The indemnifications set out in this Section shall survive the Release Date and the release or extinguishment of the Security Interests.

26. **Release of Debtor.** Upon the written request of any Debtor given at any time on or after the Release Date, the Creditor shall at the expense of such Debtor (i) release such Debtor and the Collateral of such Debtor from the Security Interests and such release shall serve to terminate any licence granted in this Agreement and (ii) return, endorsed and/or accompanied by such instruments of assignment and transfer in such form and substance as the Debtor may reasonably request, any and all Collateral pledged by the Debtor to the Creditor pursuant to this Agreement. Upon such release, and at the request and expense of such Debtor, the Creditor shall execute and deliver to such Debtor such releases and discharges as such Debtor may reasonably request.

27. **Additional Security.** This Agreement is in addition to, and not in substitution of, any and all other security previously or concurrently delivered by any Debtor or any other Person to the Creditor, all of which other security shall remain in full force and effect.

28. **Alteration or Waiver.** None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Creditor. The Creditor shall not, by any act or delay, be deemed to have waived any right or remedy hereunder or to have acquiesced in any Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Creditor, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise 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. A waiver by the Creditor of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Creditor would otherwise have on any future occasion. Neither the taking of any judgment nor the exercise of any power of seizure or sale shall extinguish the liability of any Debtor to pay the Secured Liabilities of such Debtor, nor shall the same operate as a merger of any covenant contained in this Agreement or of any other liability, nor shall the acceptance of any payment or other security constitute or create any novation.

29. **Environmental Licence and Indemnity.** Each Debtor hereby grants to the Creditor and its employees and agents an irrevocable and non-exclusive licence, subject to the rights of tenants, upon not less than 48 hours prior written notice but not more than once per calendar year provided that there is not an Event of Default that is continuing or a known or reasonably suspected release of a hazardous substance in contravention of applicable environmental laws, to enter any of the premises of such Debtor to conduct audits, testing and monitoring with respect to hazardous substances and to remove and analyze any hazardous substance at the cost and expense of such Debtor (which cost and expense shall form part of the Secured Liabilities of such Debtor and shall be payable immediately on demand and secured by the Security Interests created by this Agreement). Each Debtor shall indemnify the Creditor and hold the Creditor harmless against and from all losses, costs, damages and expenses which the Creditor may sustain, incur or be or become liable at any time whatsoever for by reason of or arising from the past, present or future existence, clean-up, removal or disposal of any hazardous substance on or about any property owned or occupied by the Creditor or compliance with environmental Laws or environmental orders relating thereto, including any clean-up, decommissioning, restoration or remediation of any premises owned or occupied by such Debtor or other affected lands or

property. This indemnification shall survive the Release Date. Notwithstanding the foregoing, the Creditor shall conduct such audits, testing and monitoring at the premises of the Debtor in such a manner as to reasonably minimize the interruptions of the ordinary business operation of the Debtor.

30. **Amalgamation.** If any Debtor is a corporation, such Debtor acknowledges that if it amalgamates or merges with any other corporation or corporations, then (i) the Collateral and the Security Interests of such Debtor shall extend to and include all the property and assets of the amalgamated corporation and to any property or assets of the amalgamated corporation thereafter owned or acquired, (ii) the term “Debtor”, where used in this Agreement, shall extend to and include the amalgamated corporation, and (iii) the term “Secured Liabilities”, where used in this Agreement, shall extend to and include the Secured Liabilities of the amalgamated corporation.

31. **Governing Law; Attornment.** This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario. Without prejudice to the ability of the Creditor to enforce this Agreement in any other proper jurisdiction, each Debtor irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of Ontario. To the extent permitted by applicable Law, each Debtor irrevocably waives any objection (including any claim of inconvenient forum) that it may now or hereafter have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of Ontario.

32. **Interpretation.** The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “or” is disjunctive; the word “and” is conjunctive. The word “shall” is mandatory; the word “may” is permissive. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set out herein), (b) any reference herein to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time, (c) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (e) all references herein to Sections and Schedules shall be construed to refer to Sections and Schedules to, this Agreement, Section headings are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement. Any reference in this Agreement to a Permitted Lien is not intended to subordinate or postpone, and shall not be interpreted as subordinating or postponing, or as any agreement to subordinate or postpone, any Security Interest to any Permitted Lien.

33. **Paramountcy.** In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the NPA then, notwithstanding anything contained in this Agreement, the provisions contained in the NPA shall prevail to the extent of such conflict or inconsistency and the provisions of this Agreement shall be deemed to be amended to the extent

necessary to eliminate such conflict or inconsistency, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to the Creditor under the NPA. If any act or omission of any or all Debtors is expressly permitted under the NPA but is expressly prohibited under this Agreement, such act or omission shall be permitted. If any act or omission is expressly prohibited under this Agreement, but the NPA does not expressly permit such act or omission, or if any act is expressly required to be performed under this Agreement but the NPA does not expressly relieve any or all Debtors from such performance, such circumstance shall not constitute a conflict or inconsistency between the applicable provisions of this Agreement and the provisions of the NPA.

34. **Successors and Assigns**. This Agreement shall enure to the benefit of, and be binding on, each Debtor and its successors and permitted assigns, and shall enure to the benefit of, and be binding on, the Creditor and its successors and assigns. No Debtor may assign this Agreement, or any of its rights or obligations under this Agreement except to successors and assigns as permitted by the NPA. The Creditor may assign this Agreement and any of its rights and obligations hereunder to any Person. If any Debtor or the Creditor is an individual, then the term “Debtor” or “Creditor”, as applicable, shall also include his or her heirs, administrators and executors.

35. **Additional Debtors**. Additional Persons may from time to time after the date of this Agreement become Debtors under this Agreement by executing and delivering to the Creditor a supplemental agreement (together with all schedules thereto, a “**Supplement**”) to this Agreement, in substantially the form attached hereto as Exhibit A. Effective from and after the date of the execution and delivery by any Person to the Creditor of a Supplement:

- (a) such Person shall be, and shall be deemed for all purposes to be, a Debtor under this Agreement with the same force and effect, and subject to the same agreements, representations, indemnities, liabilities, obligations and Security Interests, as if such Person had been an original signatory to this Agreement as a Debtor; and
- (b) all Collateral of such Person shall be subject to the Security Interest from such Person as security for the due payment and performance of the “Liabilities” of such Person in accordance with the provisions of this Agreement.

The execution and delivery of a Supplement by any additional Person shall not require the consent of any Debtor and all of the Secured Liabilities of each Debtor and the Security Interests granted thereby shall remain in full force and effect, notwithstanding the addition of any new Debtor to this Agreement.

36. **Acknowledgment of Receipt/Waiver**. Each Debtor acknowledges receipt of an executed copy of this Agreement and, to the extent permitted by applicable Law, waives the right to receive a copy of any financing statement or financing change statement registered in connection with this Agreement or any verification statement issued with respect to any such financing statement or financing change statement.

37. **Transaction Document.** Each Debtor acknowledges and agrees that this Agreement shall constitute a “Transaction Document”.

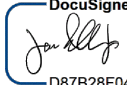
38. **Electronic Signature and Counterparts.** Delivery of an executed signature page to this Agreement by any Debtor by facsimile or other electronic form of transmission shall be as effective as delivery by such Debtor of a manually executed copy of this Agreement by such Debtor. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract.

[signatures on the next following pages]

S-1

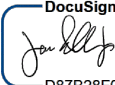
IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

1263343 ALBERTA INC.

By:  DocuSigned by:
D87B28E04A3B412...
Name: Jim Sullivan
Title: Interim Chief Executive Officer

IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

LYNX AIR HOLDINGS CORPORATION

By:  DocuSigned by:
D87B28F04A3B412
Name: Jim Sullivan
Title: Interim Chief Executive Officer

SCHEDULE A-1

DEBTOR INFORMATION

Full legal name: Lynx Air Holdings Corporation

Prior names: Enerjet Holdco Inc.

Predecessor companies: N/A

Jurisdiction of incorporation or organization: Alberta

Address of chief executive office: 3215 12th Street NE, Calgary, Alberta T2E 7S9

Addresses of all places where business is carried on or tangible Personal Property is kept:
3215 12th Street NE, Calgary, Alberta T2E 7S9, and

217 Aero Court NE, Calgary, Alberta T2E 7C6

Jurisdictions in which all material account debtors are located: Alberta

Addresses of all owned real property: N/A

Addresses of all leased real property: N/A

Description of all “serial number” goods (i.e. motor vehicles, trailers, aircraft, boats and outboard motors for boats): N/A

Description of all material Permits: N/A

Subsidiaries of such Debtor: 1263343 Alberta Inc.

Instruments, Documents of Title and Chattel Paper of such Debtor: N/A

Pledged Certificated Securities:

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location
1263343 Alberta Inc.	1 Common Voting Share	100%	CVS - 002	Minute Book R.O. c/o Linmac LLP, 1400, 350 7 th Avenue SW, Calgary, Alberta, T2P 3N9
	985,660 Common Voting Shares		N/A	Minute Book R.O. c/o Linmac LLP, 1400, 350 7 th Avenue SW, Calgary, Alberta, T2P 3N9

Pledged Securities Accounts: Nil

Pledged Securities Intermediary	Securities Account Number	Pledged Securities Intermediary's Jurisdiction	Pledged Security Entitlements

Pledged Uncertificated Securities: Nil

Pledged Issuer	Pledged Issuer's Jurisdiction	Securities Owned	% of issued and outstanding Securities of Pledged Issuer

Pledged Futures Accounts: Nil.

Pledged Futures Intermediary	Futures Account Number	Pledged Futures Intermediary's Jurisdiction	Pledged Futures Contracts

Registered trade-marks and applications for trademark registrations: Nil.

<i>Country</i>	<i>Trade-mark</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Registration Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N] ²

Patents and patent applications: Nil.

<i>Country</i>	<i>Title</i>	<i>Patent No.</i>	<i>Application Date</i>	<i>Date of Grant</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Copyright registrations and applications for copyright registrations: Nil.

<i>Country</i>	<i>Work</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Industrial designs/registered designs and applications for registered designs: Nil.

<i>Country</i>	<i>Design</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Issue Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N]

² If the answer to this or any corresponding column is “yes”, describe the particulars of each such licence.

SCHEDULE A-2

DEBTOR INFORMATION

1263343 Alberta Inc.

Full legal name: 1263343 Alberta Inc.

Prior names: N/A

Predecessor companies: N/A

Jurisdiction of incorporation or organization: Alberta

Address of chief executive office: 3215 12th Street NE, Calgary, Alberta T2E 7S9

Addresses of all places where business is carried on or tangible Personal Property is kept:

3215 12th Street NE, Calgary, Alberta T2E 7S9, and

217 Aero Court NE, Calgary, Alberta T2E 7C6

Jurisdictions in which all material account debtors are located:

Alberta

Addresses of all owned real property: N/A

Addresses of all leased real property:

3215 12th Street NE, Calgary, Alberta T2E 7S9, and

217 Aero Court NE, Calgary, Alberta T2E 7C6

Description of all “serial number” goods (i.e. motor vehicles, trailers, aircraft, boats and outboard motors for boats):

Nil.

Description of all material Permits:

Issuing Authority	Title	‘License’ Number	Location of Issuance or Amendment	Date of Issuance or Amendment	Expiry Date	Description
Transport Canada	Air Operator Certificate	11035	Ottawa, Ontario	14 DEC 2022	N/A	Entitles the holder to operate within Canadian Aviation Regulations for Airline Operations for Boeing B38M –

						Boeing 737 8(8) aircraft
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Special Authorities Approved By Way of Air Operator Certificate:

- Types of Operation
 1. Cargo
 2. Passenger
- Types of Service
 1. Domestic
 2. Non-Scheduled International
 3. Scheduled International
- Areas of Operation
 1. Caribbean
 2. Europe
 3. North America
 4. North Atlantic
 5. South America
- Special Authorizations
 1. Dangerous Goods
 2. Category II Instrument Approaches
 3. Category IIIA Instrument Approaches
 4. Take-Off Minima – RVR 1200’
 5. Take-Off Minima – RVR 600’
 6. Standard Restricted Instrument Procedures
 7. Instrument Procedures – GNSS
 8. No Alternate IFR
 9. ILS / PRM / LDA / SOIA
 10. CMNPS
 11. NAT – MNPS
 12. Net Take-Off Flight Path Greater Bank Angle
 13. RNPC
 14. RVSM
 15. RNAV 1 & 2
 16. RNAV 5
 17. RNP 1
 18. RNP 10 Airspace
 19. En Route Fuel Reserve Reduction
 20. Flight Attendant Requirement - 1:50
 21. Increase In Flight Duty Time
 22. Controlled Rest on the Flight Deck

Issuing Authority	Title	‘License’ Number	Location of Issuance or Amendment	Date of Issuance or Amendment	Expiry Date	Description
Canadian Transportation Agency	Domestic License	080111	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate between points in Canada.
Canadian Transportation Agency	Non-Scheduled International License	080112	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate non-scheduled international service with large aircraft
Canadian Transportation Agency	Scheduled International License	090108	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate scheduled service to the United

						States with large aircraft
Canadian Transportation Agency	Scheduled International License	100127	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate scheduled service to the Republic of Guyana with large aircraft

Issuing Authority	Title	'License' Number	Location of Issuance or Amendment	Date of Issuance or Amendment	Expiry Date	Description
Federal Aviation Administration	Foreign Operations Specifications	As Per Canadian AOC - 11035	El Segundo, California	18 JAN 2023	N/A	Authorization granted as an extension of approved Canadian Air Operator Certificate
US Department of Transportation	Registration of trade name "Lynx Air"		Washington DC	17 FEB 2022	N/A	Acceptance of trade name "Lynx Air"

Special Authorities Approved By Way of Foreign Operations Specifications:

- Types of Operation
 1. Cargo
 2. Passenger
- Areas of Operation
 1. The 48 contiguous United States and District of Columbia
 2. The State of Alaska
- Special Authorizations
 1. Day
 2. Night
 3. RVSM
 4. Ground Deicing
 5. Class I navigation in the US airspace using area or long-range navigation systems
 6. Terminal flight operations under instrument flight rules
 7. Basic instrument approach procedures
 8. Specific IFR take-off minimums, and alternate airports for departure
 9. Category II Instrument Approaches
 10. Category III Instrument Approaches
 11. Circle to land approach maneuvers or contact approach procedures
 12. Terminal area operations with large and turbojet airplanes

Subsidiaries of such Debtor: N/A

Instruments, Documents of Title and Chattel Paper of such Debtor: N/A

Pledged Certificated Securities: Nil.

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location

Pledged Securities Accounts: Nil.

Pledged Securities Intermediary	Securities Account Number	Pledged Securities Intermediary's Jurisdiction	Pledged Security Entitlements

Pledged Uncertificated Securities: Nil.

Pledged Issuer	Pledged Issuer's Jurisdiction	Securities Owned	% of issued and outstanding Securities of Pledged Issuer

Pledged Futures Accounts: Nil.

Pledged Futures Intermediary	Futures Account Number	Pledged Futures Intermediary's Jurisdiction	Pledged Futures Contracts

Registered trade-marks and applications for trademark registrations:

<i>Country</i>	<i>Trade-mark</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Formalized Date</i>	<i>Licensed to or by Debtor</i>
Canada	ALTISAIR	1987955	2019-10-01	Pending	2019-10-16	N ³
United States	ALTISAIR	88651312	2019-10-11	Pending		N ²
Canada	LYNX	2122427	2021-07-21	Pending	2021-07-21	N ²
United States	LYNX	90887511	2021-08-17	Pending		N ²
Canada	SKYLINE AIR	1954540	2019-03-29	Pending	2019-04-03	N ²
Canada	FLYTOO	2004841	2020-01-07	Pending	2020-01-28	N ²
United States	FLYTOO	88753242	2020-01-09	Pending		N ²
Canada	LYNX AIR	2127063	2021-08-12	Pending	2021-08-12	N ²
United States	LYNX AIR	90887531	2021-08-17	Pending		N ²
Canada	LYNX AIRLINE	2127066	2021-08-12	Pending	2021-08-12	N ²
United States	LYNX AIRLINE	90887540	2021-08-17	Pending		N ²

Patents and patent applications: Nil.

<i>Country</i>	<i>Title</i>	<i>Patent No.</i>	<i>Application Date</i>	<i>Date of Grant</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Copyright registrations and applications for copyright registrations: Nil.

<i>Country</i>	<i>Work</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

³ If the answer to this or any corresponding column is “yes”, describe the particulars of each such licence.

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Industrial designs/registered designs and applications for registered designs: Nil.

<i>Country</i>	<i>Design</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Issue Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N]

EXHIBIT A
FORM OF SUPPLEMENT
TO
GENERAL SECURITY AGREEMENT

TO: Indigo Northern Ventures LP

RECITALS:

- A. Reference is made to the General Security Agreement (the “**Security Agreement**”) dated as of February 2, 2024 entered into by Lynx Air Holdings Corporation and 1263343 Alberta Inc. (doing business as Lynx Air) and certain of their affiliates which thereafter signs a Supplement, in favour of the Creditor.
- B. Capitalized terms used but not otherwise defined in this Supplement have the respective meanings given to such terms in the Security Agreement, including the definitions of terms incorporated in the Security Agreement by reference to other agreements.
- C. Section 35 of the Security Agreement provides that additional Persons may from time to time after the date of the Security Agreement become Debtors under the Security Agreement by executing and delivering to the Creditor a supplemental agreement to the Security Agreement in the form of this Supplement.
- D. The undersigned (the “**New Debtor**”) has agreed to become a Debtor under the Security Agreement by executing and delivering this Supplement to the Creditor.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by the New Debtor, the New Debtor agrees with and in favour of the Creditor as follows:

1. The New Debtor has received a copy of, and has reviewed, the Security Agreement and is executing and delivering this Supplement to the Creditor pursuant to Section 35 of the Security Agreement.
2. Effective from and after the date this Supplement is executed and delivered to the Creditor by the New Debtor:
 - (a) the New Debtor shall be, and shall be deemed for all purposes to be, a Debtor under the Security Agreement with the same force and effect, and subject to the same agreements, representations, indemnities, liabilities, obligations and Security Interests, as if the New Debtor had been, as of the date of this Supplement, an original signatory to the Security Agreement as a Debtor; and
 - (b) all Collateral of the New Debtor shall be subject to the Security Interests granted by the New Debtor as security for the due payment and performance of the Liabilities of the New Debtor in accordance with the provisions of the Security Agreement.

In furtherance of the foregoing, the New Debtor, as general and continuing collateral security for the due payment and performance of its Secured Liabilities, pledges, mortgages, charges and assigns (by way of security) to the Creditor, and grants to the Creditor a security interest in, the Collateral of the New Debtor. The terms and provisions of the Security Agreement are incorporated by reference in this Supplement.

3. The New Debtor represents and warrants to the Creditor that each of the representations and warranties made or deemed to have been made by it under the Security Agreement as a Debtor are true and correct on the date of this Supplement.

4. All of the information set out in Schedule A to this Supplement with respect to the New Debtor is accurate and complete as of the date of this Supplement.

5. Upon this Supplement bearing the signature of any Person claiming to have authority to bind the New Debtor coming into the possession of the Creditor, this Supplement and the Security Agreement shall be deemed to be finally and irrevocably executed and delivered by, and be effective and binding on, and enforceable against, the New Debtor free from any promise or condition affecting or limiting the liabilities of the New Debtor. No statement, representation, agreement or promise by any officer, employee or agent of the Creditor, unless expressly set forth in this Supplement, forms any part of this Supplement or has induced the New Debtor to enter into this Supplement and the Security Agreement or in any way affects any of the agreements, obligations or liabilities of the New Debtor under this Supplement and the Security Agreement.

6. Delivery of an executed signature page to this Supplement by the New Debtor by facsimile or other electronic transmission shall be as effective as delivery by the New Debtor of a manually executed copy of this Supplement by the New Debtor.

7. This Supplement shall be governed by and construed in accordance with the laws of the Province of Ontario, and the laws of Canada applicable therein.

8. This Supplement and the Security Agreement shall be binding upon the New Debtor and its successors. The New Debtor shall not assign its rights and obligations under this Supplement or the Security Agreement, or any of its rights or obligations in this Supplement or the Security Agreement.

Dated: [MONTH] [DAY], [YEAR]

[NEW DEBTOR]

By: _____
Name:
Title:

SCHEDULE A
DEBTOR INFORMATION

Full legal name:

Prior names:

Predecessor companies:

Jurisdiction of incorporation or organization:

Address of chief executive office:

Addresses of all places where business is carried on or tangible Personal Property is kept:

Jurisdictions in which all material account debtors are located:

Addresses of all owned real property:

Addresses of all leased real property:

Description of all “serial number” goods (i.e. motor vehicles, trailers, aircraft, boats and outboard motors for boats):

Description of all material Permits:

Subsidiaries of the New Debtor:

Instruments, Documents of Title and Chattel Paper of the New Debtor:

Pledged Certificated Securities:

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location
[SUBCO]	[100 common shares]	[100%]	[C-1]	[Toronto]

Pledged Securities Accounts:

Pledged Securities Intermediary	Securities Account Number	Pledged Securities Intermediary's Jurisdiction	Pledged Security Entitlements
[BROKERAGE HOUSE]	[NUMBER]	[Ontario]	[100 common shares of [COMPANY]]

Pledged Uncertificated Securities:

Pledged Issuer	Pledged Issuer's Jurisdiction	Securities Owned	% of issued and outstanding Securities of Pledged Issuer
[LIMITED PARTNERSHIP]	[Ontario]	[100 limited partnership units]	[50% of all limited partnership interests]

Pledged Futures Accounts:

Pledged Futures Intermediary	Futures Account Number	Pledged Futures Intermediary's Jurisdiction	Pledged Futures Contracts
[BROKERAGE HOUSE]	[NUMBER]	[Ontario]	[Brief description of Contract]

Registered trade-marks and applications for trademark registrations:

<i>Country</i>	<i>Trade-mark</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Registration Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N] ⁴

Patents and patent applications:

<i>Country</i>	<i>Title</i>	<i>Patent No.</i>	<i>Application Date</i>	<i>Date of Grant</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Copyright registrations and applications for copyright registrations:

<i>Country</i>	<i>Work</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Industrial designs/registered designs and applications for registered designs:

<i>Country</i>	<i>Design</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Issue Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N]

⁴ If the answer to this or any corresponding column is “yes”, describe the particulars of each such licence.

This is **Exhibit "34"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.

Julie Treleaven

Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

LYNX AIR HOLDINGS CORPORATION

(a company incorporated under the laws of Alberta)

CERTIFICATE REPRESENTING NOTES

<u>Certificate No.</u>	<u>Principal Amount</u>
VBN-1	CAD\$6,753,000, being the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000

ISSUE OF SECURED CONVERTIBLE LOAN NOTES 2024

THIS IS TO CERTIFY THAT INDIGO NORTHERN VENTURES LP

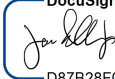
Of 2525 E. Camelback Road, Suite 900, Phoenix, Arizona, USA

is/are the registered holder(s) of CAD\$6,753,000, being the Equivalent Amount in Canadian Dollars of U.S.\$5,000,000 in nominal amount of the secured convertible loan notes which are constituted by a fifth bridge note purchase agreement dated February 7, 2024 made between Lynx Air Holdings Corporation (the "**Company**"), 1263343 Alberta Inc. (the "**Guarantor**") and Indigo Northern Ventures LP (as amended, supplemented or restated from time to time, the "**Agreement**") and which are issued with the benefit of and subject to the provisions contained in the Agreement and the Conditions set out in Schedule 11 to the Agreement, a copy of which is attached hereto.

Interest is payable on the Notes represented by this certificate semi-annually in arrears (each such date, an "**Interest Payment Date**") in each year.

The Notes shall be redeemed in accordance with Condition 3 of Schedule 11 on the Redemption Date, subject to such other redemption date or conversion in accordance with the Conditions.

LYNX AIR HOLDINGS CORPORATION

DocuSigned by:

By D87B28F04A3B412...
Name: Jim Sullivan
Title: Interim Chief Executive Officer

Dated: February 7, 2024

Notes:

- (A) The Notes (including the debt by the Company to the relevant Noteholder evidenced by the Notes and the rights and obligations of the relevant Noteholder herein) are transferable only in accordance with Conditions 6 to 9 inclusive and only in amounts of not less than \$100 in nominal value and such higher amounts as shall include additional integral multiples of \$100 in nominal value or in such other amounts as the Company may agree from time to time.
- (B) No transfer of the whole or any part of the Notes represented by this certificate will be registered without the production of this certificate at the registered office of the Company or at such other place as the Company may from time to time designate.
- (C) Each transfer in point of time of the whole or any part of the Notes represented by this certificate will be registered free of charge.
- (D) The Notes are repayable in accordance with the Conditions endorsed on or attached to this certificate.

This is **Exhibit "35"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

GUARANTEE

This Agreement is made as of February 7, 2024.

TO: Indigo Northern Ventures LP

RECITALS:

A. Lynx Air Holdings Corporation (the “**Debtor**”), 1263343 Alberta Inc. (doing business as Lynx Air) (the “**Guarantor**”) and Indigo Northern Ventures LP (and any Person to whom Indigo Northern Ventures LP has transferred any Notes (as defined in the NPA which, in turn, is defined below) in accordance with the NPA (collectively, the “**Creditor**”), are parties to a fifth bridge note purchase agreement dated as of February 7, 2024 (as amended, supplemented, restated or replaced from time to time, the “**NPA**”).

B. It is in the interests of the Guarantor that the Creditor purchase Notes from the Debtor under the NPA, and the Guarantor is therefore prepared to issue this Agreement to the Creditor in order to induce the Creditor to do so.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by the Guarantor, the Guarantor agrees with and in favour of the Creditor as follows:

1. Definitions. In this Agreement capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in the NPA, and the following terms have the following meanings:

“**Agreement**” means this agreement, including the recitals to this agreement, as it or they may be amended, supplemented, restated or replaced from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement.

“**Control**” means, in respect of a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlled**” has a meaning correlative thereto.

“**Creditor**” has the meaning set out in the recitals hereto.

“**Debtor**” has the meaning set out in the recitals hereto.

“**Debtor Liabilities**” means all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of the Debtor to the Creditor (or any of them) under, in connection with or with respect to the Transaction Documents.

“**Event of Default**” means any “Event of Default” as defined in the NPA.

“Governmental Authority” means the government of Canada, any other nation or any political subdivision thereof, whether provincial, state, territorial or local, and any agency, authority, instrumentality, regulatory body, court, central bank, fiscal or monetary authority or other authority regulating financial institutions, and any other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Guarantor” has the meaning set out in the recitals hereto.

“Guarantor Liabilities” means all present and future indebtedness, liabilities and obligations of the Guarantor to the Creditor under this Agreement.

“Insolvency Proceeding” means any proceeding seeking to adjudicate a Person an insolvent, seeking a receiving order against such Person under the *Bankruptcy and Insolvency Act* (Canada), or seeking liquidation, dissolution, winding-up, reorganization, compromise, arrangement, adjustment, protection, moratorium, relief or composition of such Person or its debts or a stay of proceedings of such Person’s creditors generally (or any class of creditors) or any other relief, under any federal, provincial, territorial or foreign law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, reorganization, receivership, plans of arrangement or relief or protection of debtors (including the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada) and any similar legislation in any jurisdiction) or at common law or in equity.

“Laws” means all federal, provincial, municipal, foreign and international statutes, acts, codes, ordinances, decrees, treaties, rules, regulations, municipal by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards or any provisions of the foregoing, including general principles of common and civil law and equity, and all policies, practices and guidelines of any Governmental Authority binding on or affecting the Person referred to in the context in which such word is used (including, in the case of tax matters, any accepted practice or application or official interpretation of any relevant taxation authority); and **“Law”** means any one or more of the foregoing.

“Lien” means, (a) with respect to any asset, any mortgage, deed of trust, lien, pledge, hypothec (whether movable or immovable), hypothecation, encumbrance, charge, security interest, royalty interest, adverse claim, defect to title or right of set off in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, title retention agreement or consignment agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to any asset, (c) any purchase option, call or similar right of a third party with respect to such asset, (d) any netting arrangement, defeasance arrangement or reciprocal fee arrangement, and (e) any other arrangement having the effect of providing security.

“NPA” has the meaning set out in the recitals hereto.

“Original Currency” has the meaning set out in Section 17.

“Other Currency” has the meaning set out in Section 17.

“Organizational Documents” means, with respect to any Person, such Person’s articles or other charter documents, by-laws, unanimous shareholder agreement, partnership agreement or trust

agreement, as applicable, and any and all other similar agreements, documents and instruments relative to such Person.

“**Person**” includes any natural person, corporation, company, limited liability company, unlimited liability company, trust, joint venture, association, incorporated organization, partnership, Governmental Authority or other entity.

“**Security**” means any present or future Lien, or any present or future guarantee or other financial assistance, granted by any Person with respect to any or all of the Debtor Liabilities or Guarantor Liabilities.

2. Guarantee. The Guarantor hereby unconditionally and irrevocably guarantees the prompt payment and performance to the Creditor, of all Debtor Liabilities when due in accordance with their terms. All amounts payable by the Guarantor under this Agreement shall be paid to the Creditor as directed in writing by the Creditor. All Guarantor Liabilities shall be payable or performable forthwith upon demand by the Creditor, and any which are not so paid shall bear interest from the date of such demand at the rate or rates applicable to the corresponding Debtor Liabilities.

3. Guarantor Liabilities. The Guarantor Liabilities are continuing, absolute, unconditional and irrevocable. The Guarantor Liabilities shall remain effective despite, and shall not be released, exonerated, discharged, diminished, subjected to defence, limited or in any way affected by, anything done, omitted to be done, suffered or permitted by the Creditor, the Debtor or any other Person, or by any other matter, act, omission, circumstance, development or other thing of any nature, kind or description, other than the due payment and performance in full of all of the Debtor Liabilities and all of the Guarantor Liabilities.

4. Guarantee Absolute. Without limiting the generality of Section 3, the Guarantor Liabilities shall remain fully effective and enforceable against the Guarantor and shall not be released, exonerated, discharged, diminished, subjected to defence, limited or in any way affected by, and the rights and remedies of the Creditor under this Agreement shall not in any way be diminished or prejudiced by, and the Guarantor hereby consents or waives, as applicable, to the fullest extent permitted by applicable Law:

- (a) any lack of genuineness, legality, validity or enforceability of any of the Debtor Liabilities or of any agreement or arrangement between the Debtor and the Creditor, or any failure by the Debtor to carry out any of its obligations under any such agreement or arrangement;
- (b) any change in the existence, name, objects, business, powers, organization, share capital, Organizational Documents, ownership, control, directors or management of the Debtor or the Guarantor, the reorganization of the Debtor or the Guarantor, any amalgamation or merger by the Debtor or the Guarantor with any other Person or Persons, or any continuation of the Debtor or the Guarantor under the laws of any jurisdiction;
- (c) any lack or limitation of power, incapacity or disability of the Debtor or the Guarantor or of the directors, officers, managers, employees or agents of the Debtor

or the Guarantor or any other irregularity, defect or informality, or any fraud, by the Debtor or the Guarantor or any of their respective directors, officers, managers, employees or agents, with respect to any or all of the Debtor Liabilities or any or all of the Guarantor Liabilities;

- (d) any non-compliance with or contravention by the Guarantor of any provision of any corporate statute applicable to the Guarantor relative to guarantees or other financial assistance given by the Guarantor;
- (e) any impossibility, impracticability, frustration of purpose, force majeure or act of Governmental Authority with respect to the performance of any of the Debtor Liabilities or Guarantor Liabilities;
- (f) any Insolvency Proceeding affecting, or the financial condition of, the Debtor, the Guarantor or the Creditor at any time;
- (g) any law, regulation, limitation or prescription period or other circumstance that might otherwise be a defence available to, or a discharge of, the Debtor or the Guarantor in respect of any or all of the Debtor Liabilities or any or all of the Guarantor Liabilities;
- (h) any loss of, or in respect of, any Security by or on behalf of the Creditor from the Debtor or the Guarantor, whether occasioned through the fault of the Creditor or otherwise;
- (i) any loss or impairment of any right of the Guarantor for subrogation, reimbursement or contribution, whether or not as a result of any action taken or omitted to be taken by the Creditor; or
- (j) any other matter, act, omission, circumstance, development or thing of any and every nature, kind and description whatsoever, whether similar or dissimilar to the foregoing (other than the due payment and performance in full of the Debtor Liabilities and the Guarantor Liabilities) that might in any manner (but for the operation of this Section) operate (whether by statute, at law, in equity or otherwise) to release, discharge, diminish, limit, restrict or in any way affect the liability of, or otherwise provide a defence to, a guarantor, a surety, or a principal debtor, even if known by the Creditor.

5. Dealing with Debtor Liabilities. Without limiting the generality of Section 3, the Guarantor Liabilities shall remain fully effective and enforceable against the Guarantor and shall not be released, exonerated, discharged, diminished, subjected to defence, limited or in any way affected by, and the rights and remedies of the Creditor under this Agreement shall not in any way be diminished or prejudiced by, and the Guarantor hereby consents to or waives, as applicable, to the fullest extent permitted by applicable Law:

- (a) any amendment, alteration, novation or variation in any manner and to any extent (and irrespective of the effect of the same on the Guarantor) of any of the Debtor

Liabilities, any Security or the Creditor's arrangements or agreements with the Debtor;

- (b) any limitation, compromise, subordination, postponement or abandonment of any of the Debtor Liabilities, any of the Guarantor Liabilities, any Security or the Creditor's arrangements or agreements with the Debtor;
- (c) any grant of time, renewal, extension, indulgence, release, discharge or other course of conduct by the Creditor to the Debtor;
- (d) the creation of any new or additional Debtor Liabilities, the increase or reduction of the rate of interest on any or all of the Debtor Liabilities or any other rates or fees payable under or in respect of any or all of the Debtor Liabilities;
- (e) any alteration, settlement, compromise, acceleration, extension or change in the time or manner for payment or performance by the Debtor made or permitted by the Creditor of any or all of the Debtor Liabilities;
- (f) the Creditor taking or abstaining from taking Security from the Debtor or abstaining from completing, perfecting or maintaining the perfection of any Security;
- (g) the Creditor releasing, substituting or adding one or more sureties or endorsers, accepting additional or substituted Security, or releasing, subordinating or postponing any Security;
- (h) the Creditor accepting compromises from the Debtor;
- (i) the creation or addition of any new Transaction Documents;
- (j) the Creditor doing, or omitting to do, anything to enforce the payment or performance of any or all of the Debtor Liabilities or any Security;
- (k) the Creditor giving or refusing to give or continuing to give any credit or any financial accommodation to the Debtor;
- (l) the Creditor proving any claim in any Insolvency Proceeding affecting the Debtor, as it sees fit or refraining from proving any claim or permitting or suffering the impairment of any of the Debtor Liabilities in any such Insolvency Proceeding; making any election in any such Insolvency Proceeding; permitting or suffering the creation of secured or unsecured credit or debt in any such Insolvency Proceeding; or permitting or suffering the disallowance, avoidance, or subordination of any of the Debtor Liabilities or the obligations of any other debtor with respect to the Debtor Liabilities in any such Insolvency Proceeding;
- (m) the Creditor applying any money received from the Debtor or any Security upon such part of the Debtor Liabilities as the Creditor may see fit or changing any such application in whole or in part from time to time as the Creditor may see fit; or

- (n) the Creditor otherwise dealing with the Debtor, the Debtor Liabilities, and all Security as the Creditor may see fit.

6. Settlement of Accounts. Any account settled or stated between the Creditor and the Debtor shall be accepted by the Guarantor as *prima facie* evidence that the amount thereby appearing due by the Debtor to the Creditor is so due.

7. Indemnity. If any or all of the Debtor Liabilities are not duly paid or performed by the Debtor and are not paid or performed by the Guarantor under Section 2 for any reason whatsoever, the Guarantor shall, as a separate and distinct obligation, indemnify and save the Creditor harmless from and against all losses, costs, damages, expenses, claims and liabilities that the Creditor may suffer or incur in connection with or in respect of any failure by the Debtor for any reason to pay or perform any of the Debtor Liabilities, and shall pay all such amounts to the Creditor after demand as herein provided.

8. Guarantor Liable as Principal Debtor. If, and to the extent that, any amount in respect of the Debtor Liabilities is not recoverable from the Guarantor under this Agreement on the basis of a guarantee or the Creditor is not indemnified under Section 7, in each case, for any reason whatsoever, then, notwithstanding any other provision of this Agreement, the Guarantor shall be liable under this Agreement as principal obligor in respect of the due payment of such amount and shall pay such amount to the Creditor after demand as herein provided.

9. Continuing Guarantee. This Agreement is a continuing guarantee and is binding as a continuing obligation of the Guarantor and the Debtor Liabilities shall be conclusively presumed to have been created in reliance on this Agreement. The Guarantor may not in any manner terminate this Agreement or the Guarantor Liabilities other than by the due and punctual payment in full of the Guarantor Liabilities.

10. Stay of Acceleration. If acceleration of the time for payment, or the liability of the Debtor to make payment, of any amount specified to be payable by the Debtor in respect of the Debtor Liabilities is stayed, prohibited or otherwise affected upon any Insolvency Proceeding or other event affecting the Debtor or payment of any of the Debtor Liabilities by the Debtor, all such amounts otherwise subject to acceleration or payment shall nonetheless be deemed for all purposes of this Agreement to be and to have become due and payable by the Debtor and shall be payable by the Guarantor under this Agreement immediately forthwith on demand by the Creditor.

11. Debtor Information. The Guarantor acknowledges and agrees that the Guarantor has not executed this Agreement as a result of, by reason of, or in reliance upon, any promise, representation, statement or information of any kind or nature whatsoever given, or offered to the Guarantor, by or on behalf of the Creditor or any other Person whether in answer to any enquiry by or on behalf of the Guarantor or not and the Creditor was not prior to the execution by the Guarantor of this Agreement, and is not thereafter, under any duty to disclose to the Guarantor or any other Person any information, matter or thing (material or otherwise) relating to the Debtor, its affairs or its transactions with the Creditor, including any information, matter or thing which puts or may put the Debtor in a position which the Guarantor would not naturally expect or any unexpected facts or unusual features which, whether known or unknown to the Guarantor, are present in any transaction between the Debtor and the Creditor, and the Creditor was not and is

not under any duty to do or execute any matter, thing or document relating to the Debtor, its affairs or its transactions with the Creditor. The Guarantor acknowledges and confirms that it has established its own adequate means of obtaining from the Debtor on a continuing basis all information desired by the Guarantor concerning the financial condition of the Debtor and that the Guarantor will look to the Debtor, and not to the Creditor, in order for the Guarantor to keep adequately informed of changes in the Debtor's financial condition.

12. Reinstatement. If, at any time, all or any part of any payment previously applied by the Creditor to any of the Debtor Liabilities is or must be rescinded or returned by the Creditor for any reason whatsoever (including any Insolvency Proceeding affecting the Debtor or any other Person), such Debtor Liabilities shall, for the purpose of this Agreement, to the extent that such payment is or must be rescinded or returned, be deemed to have continued in existence, notwithstanding such application by the Creditor, and this Agreement shall continue to be effective or be reinstated, as the case may be, as to such Debtor Liabilities, all as though such application by the Creditor had not been made.

13. Subrogation. Notwithstanding any payment made by the Guarantor under this Agreement or any setoff or application of funds of the Guarantor by the Creditor, the Guarantor shall have no right of subrogation to, and waives, any right to enforce any remedy which the Creditor now has or may hereafter have against the Debtor, until all of the Debtor Liabilities have been indefeasibly paid in full; and until that time, the Guarantor waives any benefit of, and any right to participate in, any Security now or hereafter held by the Creditor for the Debtor Liabilities.

14. Insolvency Proceedings. In any Insolvency Proceeding affecting the Debtor, the Creditor shall have the right, in priority to the Guarantor, to receive its full claim in respect of such Insolvency Proceeding for all of the Debtor Liabilities. The Creditor shall have the right to include in its claim in any Insolvency Proceeding affecting the Debtor all or any part of the payments made by the Guarantor under this Agreement and, to prove and rank for, and receive dividends in respect of, all such claims, all of which rights and privileges as they relate and apply to the Guarantor are hereby assigned by the Guarantor to the Creditor. The provisions of this Section shall be sufficient authority for any Person making payment of any such dividends to pay the same directly to the Creditor for the benefit of the Creditor. The Creditor shall be entitled to receive for its benefit all dividends or other payments in respect of all of the above referenced claims until all of the Debtor Liabilities are paid and satisfied in full and the Guarantor shall continue to be liable under this Agreement for any unpaid balance of the Debtor Liabilities. If any amount is paid to the Guarantor under any Insolvency Proceeding affecting the Debtor when any of the Debtor Liabilities remain outstanding, such amount shall be received and held in trust by the Guarantor for the benefit of the Creditor and shall be immediately paid to the Creditor to be credited and applied against the Guarantor Liabilities. In any Insolvency Proceeding affecting the Debtor the Creditor may in its discretion value as it sees fit, acting reasonably, or may refrain from valuing, any Security held by or for the benefit of it.

15. Marshalling. The Guarantor waives to the fullest extent permitted by applicable Law, any right or claim of right to cause a marshalling of the Debtor's assets, or to cause the Creditor to proceed against the Debtor or any other Person, or any Security, in any particular order. The Creditor shall not have any obligation to marshal any assets in favour of the Debtor or any other

Person or against or in payment of any of the Debtor Liabilities or any of the obligations of the Guarantor, the Debtor or any other Person owed to the Creditor.

16. Enforcing Rights Against Guarantor. This is a guarantee of payment and performance and not of collection. The Creditor shall not be required to take any action or to exhaust its recourse against the Debtor or any other Person, or to enforce or value any Security, before being entitled to payment from, and to enforce its rights and remedies against, the Guarantor under this Agreement. The Guarantor hereby renounces to the benefits of division and discussion.

17. Foreign Currency Guarantor Liabilities. The Guarantor shall make payment relative to any Debtor Liabilities in the currency (the "**Original Currency**") in which the Debtor is required to pay such Debtor Liabilities. If the Guarantor makes payment relative to any Debtor Liabilities in a currency (the "**Other Currency**") other than the Original Currency (whether voluntarily or pursuant to an order or judgment of a court or tribunal of any jurisdiction), such payment shall constitute a discharge of the Guarantor Liabilities only to the extent of the amount of the Original Currency which the Creditor is able to purchase at Toronto, Ontario with the amount it receives on the date of receipt. If the amount of the Original Currency which the Creditor is able to purchase is less than the amount of such currency originally due to it in respect to the relevant Debtor Liabilities, the Guarantor shall indemnify and save the Creditor harmless from and against any loss or damage arising as a result of such deficiency. This indemnity constitutes an obligation separate and independent from the other obligations contained in this Agreement, gives rise to a separate and independent cause of action, applies irrespective of any indulgence granted by the Creditor and continues in full force and effect notwithstanding any judgment or order in respect of any amount due hereunder or under any judgment or order.

18. Taxes and Set-Off. All payments to be made by the Guarantor hereunder shall be made without set-off, compensation, deduction or counterclaim and without deduction for any taxes, levies, duties, fees, deductions, withholdings, restrictions or conditions of any nature whatsoever. If at any time any applicable Law requires the Guarantor to make any such deduction or withholding from any such payment, the sum due from the Guarantor with respect to such payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Creditor receives a net sum equal to the sum which it would have received had no deduction or withholding been required.

19. Representations and Warranties. The Guarantor represents and warrants, upon each of which representations and warranties the Creditor relies, that each of the representations and warranties relative to the Guarantor in each of the other Transaction Documents is true and correct when made or deemed made.

20. Covenants. The Guarantor shall comply, and shall cause each of its subsidiaries to comply, with all of the provisions, covenants and agreements contained in each of the Transaction Documents to the extent that such provisions, covenants and agreements apply to the Guarantor or its subsidiaries and shall, and shall cause each of its subsidiaries to, take, or refrain from taking, as the case may be, all actions that are necessary to be taken or not taken so that no violation of any provision, covenant or agreement contained in any of the Transaction Documents, and so that no Default or Event of Default under any of the Transaction Documents, is caused by the actions or inactions of the Guarantor or any of its subsidiaries.

21. **Communication.** Any notice or other communication required or permitted to be given under this Agreement shall be made in accordance with the terms of the NPA.

22. **Expenses; Indemnity; Waiver.**

- (a) The Guarantor shall pay to the Creditor (i) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and all applicable taxes, in connection with the preparation and administration of this Agreement, (ii) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and applicable taxes, in connection with any amendments, modifications or waivers of the provisions hereof, and (iii) all out-of-pocket expenses incurred by the Creditor, including the fees, charges and disbursements of any counsel for the Creditor and all applicable taxes, in connection with the assessment, enforcement or protection of their rights in connection with this Agreement, including their rights under this Section, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of the Guarantor Liabilities.
- (b) The Guarantor shall indemnify the Creditor against, and hold the Creditor harmless from, any and all losses, claims, cost recovery actions, damages, expenses and liabilities of whatsoever nature or kind and all reasonable out-of-pocket expenses and all applicable taxes to which the Creditor may become subject arising out of or in connection with (i) the execution or delivery of this Agreement and the performance by the Guarantor of its obligations hereunder, (ii) any actual claim, litigation, investigation or proceeding relating to this Agreement or the Guarantor Liabilities, whether based on contract, tort, delict or any other theory and regardless of whether the Creditor is a party thereto, (iii) any other aspect of this Agreement, or (iv) the enforcement of the Creditor's rights hereunder and any related investigation, defence, preparation of defence, litigation and enquiries; provided that such indemnity shall not, as to the Creditor, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence (it being acknowledged that ordinary negligence does not necessarily constitute gross negligence) or wilful misconduct of or material breach of this Agreement by the Creditor.
- (c) The Guarantor shall not assert, and hereby waives, any claim against the Creditor (or any director, officer or employee thereof), on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement. The Guarantor irrevocably renounces any rights it may have to be released from this Agreement under Article 2362 of the *Civil Code of Québec* and agrees to renew its guarantee hereunder at the request of the Creditor by executing such documents as the Creditor may request from time to time.

- (d) All amounts due under this Section shall be payable to the Creditor for the benefit of the Creditor not later than three Business Days after written demand therefor.
- (e) The indemnifications set out in this Agreement shall survive the payout of the Debtor Liabilities and the Guarantor Liabilities.

23. Additional Security. This Agreement is in addition to, and not in substitution of, any and all other Security previously or concurrently delivered by the Guarantor or any other Person to the Creditor, all of which other Security shall remain in full force and effect.

24. Alteration. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Creditor.

25. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

26. Set-off. If an Event of Default shall have occurred and be continuing, the Creditor is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Law, to set-off, compensate against or combine and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by the Creditor or any of its Affiliates and other obligations at any time owing by the Creditor or any of its Affiliates to or for the credit or the account of the Guarantor against or with any or all of the Guarantor Liabilities, irrespective of whether or not the Creditor shall have made any demand under any Transaction Document and although such obligations may be unmatured. The rights of the Creditor under this Section are in addition to other rights and remedies (including other rights of set-off or combination) which the Creditor may have.

27. Governing Law; Attornment. This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario. Without prejudice to the ability of the Creditor to enforce this Agreement in any other proper jurisdiction, the Guarantor irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of Ontario. To the extent permitted by applicable Law, the Guarantor irrevocably waives any objection (including any claim of inconvenient forum) that it may now or hereafter have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of Ontario. The Guarantor hereby irrevocably consents to the service of any and all process in any such action or proceeding by the delivery of copies of such process to the Guarantor at the address as provided for pursuant to Section 21. Nothing in this Section affects the right of the Creditor to serve process in any manner permitted by applicable Law. In any legal proceeding relating to this Agreement, the Guarantor agrees not to assert that the Commodity Exchange Act applies to this Agreement or any Swap Obligation.

28. Time. Time is of the essence with respect to this Agreement and the time for performance of the obligations of the Guarantor under this Agreement may be strictly enforced by the Creditor. The limitation period applicable to any proceeding relating to a claim under, in connection with,

or with respect to this Agreement shall be solely as prescribed in sections 15-17 of the *Limitations Act, 2002 (Ontario)*, and any other limitation period in respect of such claim (including that provided for in section 4 of the *Limitations Act, 2002 (Ontario)*) is extended accordingly.

29. Interpretation. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “or” is disjunctive; the word “and” is conjunctive. The word “shall” is mandatory; the word “may” is permissive. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented, restated or otherwise modified (subject to any restrictions on such amendments, supplements, restatements or modifications set out herein), (b) any reference herein to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, replaced or re-enacted from time to time, (c) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (e) all references herein to Sections and Schedules shall be construed to refer to Sections and Schedules to, this Agreement. Section headings are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement. In accordance with the *Property Law Act (British Columbia)*, the doctrine of consolidation applies to this Agreement.

30. Successors and Assigns. This Agreement shall enure to the benefit of, and be binding on, the Guarantor and its successors and assigns, and shall enure to the benefit of, and be binding on, the Creditor and its successors and assigns. The Guarantor may not assign this Agreement, or any of its rights or obligations under this Agreement. The Creditor may assign this Agreement and any of their rights and obligations hereunder to any Person that replaces it in its capacity as such. If the Guarantor or the Creditor is an individual, then the term “Guarantor” or “Creditor”, as applicable, shall also include his or her heirs, administrators and executors.

31. Acknowledgment of Receipt. The Guarantor acknowledges receipt of an executed copy of this Agreement.

32. Paramountcy. In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the NPA then, notwithstanding anything contained in this Agreement, the provisions contained in the NPA shall prevail to the extent of such conflict or inconsistency and the provisions of this Agreement shall be deemed to be amended to the extent necessary to eliminate such conflict or inconsistency, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to the Creditor under the NPA. If any act or omission of the Guarantor is expressly permitted under the NPA but is expressly prohibited under this Agreement, such act or omission shall be permitted. If any act or omission is expressly prohibited under this Agreement, but the NPA does not expressly permit such act or omission, or if any act is expressly required to be performed under this Agreement but the NPA does not expressly relieve the Guarantor from such performance, such circumstance shall not

constitute a conflict or inconsistency between the applicable provisions of this Agreement and the provisions of the NPA.

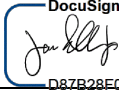
33. Transaction Document. The Guarantor acknowledges and agrees that this Agreement shall constitute a “Transaction Document”.

34. Electronic Signature. Delivery of an executed signature page to this Agreement by the Guarantor by facsimile or other electronic form of transmission shall be as effective as delivery by the Guarantor of a manually executed copy of this Agreement by the Guarantor.

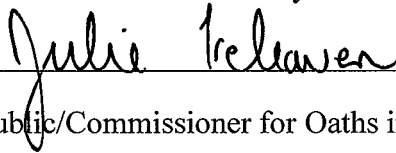
[signatures on the next following page]

IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

1263343 ALBERTA INC.

DocuSigned by:

By: _____
Name: Jim Sullivan
Title: Interim Chief Executive Officer

This is **Exhibit “36”** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barister & Solicitor

GENERAL SECURITY AGREEMENT

This General Security Agreement is made as of February 7, 2024.

TO: Indigo Northern Ventures LP

RECITALS:

- A. Lynx Air Holdings Corporation and 1263343 Alberta Inc. (doing business as Lynx Air) (each a “**Debtor**” and collectively, the “**Debtors**”) are, or may become, indebted or liable to Indigo Northern Ventures LP (and any Person to whom Indigo Northern Ventures LP has transferred any Notes (as defined in the NPA which, in turn, is defined below) in accordance with the NPA (collectively, the “**Creditor**”) pursuant to the terms of a fifth bridge note purchase agreement dated as of February 7, 2024 (as amended, supplemented, restated or replaced from time to time, the “**NPA**”) or otherwise.
- B. To secure the payment and performance of its Secured Liabilities, each Debtor has agreed to grant to the Creditor the Security Interests with respect to its Collateral in accordance with the terms of this Agreement.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by each Debtor, each Debtor severally (and not jointly or jointly and severally) agrees with and in favour of the Creditor as follows:

1. **Definitions.** In this Agreement capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in the NPA, and the following terms have the following meanings:

“**Accessions**”, “**Account**”, “**Certificated Security**”, “**Chattel Paper**”, “**Consumer Goods**”, “**Document of Title**”, “**Equipment**”, “**Futures Account**”, “**Futures Contract**”, “**Futures Intermediary**”, “**Goods**”, “**Instrument**”, “**Intangible**”, “**Inventory**”, “**Investment Property**”, “**Money**”, “**Proceeds**”, “**Securities Account**”, “**Securities Intermediary**”, “**Security**”, “**Security Certificate**”, “**Security Entitlement**”, and “**Uncertificated Security**” have the meanings given to them in the PPSA.

“**Agreement**” means this agreement, including the Exhibits and recitals to this agreement, the Supplements and the Schedules, as it or they may be amended, supplemented, restated or replaced from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement.

“**Books and Records**” means, with respect to any Debtor, all books, records, files, papers, disks, documents and other repositories of data recording in any form or medium, evidencing or relating to the Personal Property of such Debtor which are at any time owned by such Debtor or to which such Debtor (or any Person on such Debtor’s behalf) has access.

“Collateral” means, with respect to any Debtor, all of the present and future:

- (a) undertaking;
- (b) Personal Property (including the Boeing Order and any other Personal Property that may be described in any Schedule to this Agreement or any schedules, documents or listings that such Debtor may from time to time provide to the Creditor in connection with this Agreement); and
- (c) real property (including any real property that may be described in any Schedule to this Agreement or any schedules, documents or listings that such Debtor may from time to time provide to the Creditor in connection with this Agreement and including all fixtures, improvements, buildings and other structures placed, installed or erected from time to time on any such real property),

of such Debtor, including the Boeing Order, Books and Records, Contracts, Intellectual Property Rights and Permits, and including all such property in which such Debtor now or in the future has any right, title or interest whatsoever, whether owned, leased, licensed, possessed or otherwise held by such Debtor, and all Proceeds of any of the foregoing, wherever located.

“Contracts” means, with respect to any Debtor, all contracts and agreements to which such Debtor is at any time a party or pursuant to which such Debtor has at any time acquired rights, and includes (i) all rights of such Debtor to receive money due and to become due to it in connection with a contract or agreement, (ii) all rights of such Debtor to damages arising out of, or for breach or default with respect to, a contract or agreement, and (iii) all rights of such Debtor to perform and exercise all remedies in connection with a contract or agreement.

“Control” means, with respect to a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. **“Controlled”** has the corresponding meaning.

“Control Person” means a “control person”, as such term is defined under applicable Canadian securities laws.

“Creditor” has the meaning set out in the recitals hereto.

“Debtors” means the Persons delivering a signature page to this Agreement and any other Person which hereafter delivers a Supplement, and **“Debtor”** means any one of them.

“Event of Default” means any “Event of Default” as defined in the NPA.

“Exhibits” means the exhibits to this Agreement.

“Governmental Authority” means the government of Canada, any other nation or any political subdivision thereof, whether provincial, state, territorial or local, and any agency, authority, instrumentality, regulatory body, court, central bank, fiscal or monetary authority or other authority regulating financial institutions, and any other entity exercising executive, legislative,

judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, including the Bank Committee on Banking Regulation and Supervisory Practices of the Bank of International Settlements.

“Intellectual Property Rights” means, with respect to any Debtor, all industrial and intellectual property rights of such Debtor or in which such Debtor has any right, title or interest, including copyrights, patents, inventions (whether or not patented), trade-marks, get-up and trade dress, industrial designs, integrated circuit topographies, plant breeders’ rights, know how and trade secrets, registrations and applications for registration for any such industrial and intellectual property rights, and all Contracts related to any such industrial and intellectual property rights.

“Issuer” has the meaning given to that term in the STA.

“Laws” means all federal, provincial, municipal, foreign and international statutes, acts, codes, ordinances, decrees, treaties, rules, regulations, municipal by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards or any provisions of the foregoing, including general principles of common and civil law and equity, and all policies, practices and guidelines of any Governmental Authority binding on or affecting the Person referred to in the context in which such word is used (including, in the case of tax matters, any accepted practice or application or official interpretation of any relevant taxation authority); and **“Law”** means any one or more of the foregoing.

“Lien” means, (a) with respect to any asset, any mortgage, deed of trust, lien, pledge, hypothec (whether movable or immovable), hypothecation, encumbrance, charge, security interest, royalty interest, adverse claim, defect to title or right of set off in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, title retention agreement or consignment agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to any asset, (c) any purchase option, call or similar right of a third party with respect to such asset, (d) any netting arrangement, defeasance arrangement or reciprocal fee arrangement, and (e) any other arrangement having the effect of providing security.

“NPA” has the meaning set out in the recitals hereto.

“Organizational Documents” means, with respect to any Person, such Person’s articles or other charter documents, by-laws, unanimous shareholder agreement, partnership agreement or trust agreement, as applicable, and any and all other similar agreements, documents and instruments relative to such Person.

“Permits” means, with respect to any Debtor, all permits, licences, waivers, exemptions, consents, certificates, authorizations, approvals, franchises, rights-of-way, easements and entitlements that such Debtor has, requires or is required to have, to own, possess or operate any of its property or to operate and carry on any part of its business.

“Permitted Liens” means the Security Interests of all Debtors, all liens and other security contemplated by Section 3.3 of Schedule 13 to the NPA, and all other Liens permitted in writing by the Creditor.

“Personal Property” means personal property and includes Accounts, Chattel Paper, Documents of Title, Equipment, Goods, Instruments, Intangibles, Inventory, Investment Property and Money.

“Pledged Certificated Securities” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Certificated Security.

“Pledged Futures Contracts” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Futures Contract.

“Pledged Futures Accounts” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Futures Account.

“Pledged Futures Intermediary” means, at any time, any Person which is at such time a Futures Intermediary at which a Pledged Futures Account is maintained.

“Pledged Futures Intermediary’s Jurisdiction” means, with respect to any Pledged Futures Intermediary, its jurisdiction as determined under section 7.1(4) of the PPSA.

“Pledged Issuer” means, with respect to any Debtor at any time, any Person which is an Issuer of, or with respect to, any Pledged Shares of such Debtor at such time.

“Pledged Issuer’s Jurisdiction” means, with respect to any Pledged Issuer, its jurisdiction as determined under section 44 of the STA.

“Pledged Securities” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Security.

“Pledged Securities Accounts” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Securities Account.

“Pledged Securities Intermediary” means, at any time, any Person which is at such time a Securities Intermediary at which a Pledged Securities Account is maintained.

“Pledged Securities Intermediary’s Jurisdiction” means, with respect to any Securities Pledged Securities Intermediary, its jurisdiction as determined under section 45(2) of the STA.

“Pledged Security Certificates” means, with respect to any Debtor, any and all Security Certificates of such Debtor representing the Pledged Certificated Securities.

“Pledged Security Entitlements” means, with respect to any Debtor, any and all Collateral of such Debtor that is a Security Entitlement.

“Pledged Shares” means, with respect to any Debtor, all Pledged Securities and Pledged Security Entitlements of such Debtor.

“Pledged Uncertificated Securities” means, with respect to any Debtor, any and all Collateral of such Debtor that is an Uncertificated Security.

“**PPSA**” means the *Personal Property Security Act* (Ontario), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

“**Receiver**” means an interim receiver, a receiver, a manager or a receiver and manager.

“**Release Date**” means the date on which all the Secured Liabilities of each Debtor have been indefeasibly paid and discharged in full and the Creditor has no further obligations under the Transaction Documents pursuant to which further Secured Liabilities of any Debtor might arise.

“**Reporting Pledged Issuer**” means a Pledged Issuer that is a “reporting issuer”, as such term is defined under applicable Canadian securities laws.

“**Secured Liabilities**” means, with respect to any Debtor, all present and future indebtedness, liabilities and obligations of any and every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of such Debtor to the Creditor under, in connection with or with respect to the Transaction Documents, and any unpaid balance thereof.

“**Schedules**” means the schedules to this Agreement.

“**Security Interests**” means, with respect to any Debtor, the Liens created by such Debtor in favour of the Creditor under this Agreement.

“**STA**” means the *Securities Transfer Act, 2006* (Ontario), as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation.

“**Subsidiary**” means, with respect to any Person (the “**parent**”) at any date, any other Person (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more Subsidiaries of the parent or by the parent and one or more Subsidiaries of the parent.

“**Supplement**” has the meaning given to that term in Section 35.

“**ULC**” means an Issuer that is an unlimited company, unlimited liability corporation or unlimited liability company.

“**ULC Laws**” means the *Companies Act* (Nova Scotia), the *Business Corporations Act* (Alberta), the *Business Corporations Act* (British Columbia), and any other present or future Laws governing ULCs.

“**ULC Shares**” means shares or other equity interests in the capital stock of a ULC.

“**Voting or Equity Securities**” means (a) any “security” (as defined under applicable Canadian securities laws), other than a bond, debenture, note or similar instrument representing

indebtedness (whether secured or unsecured), of an issuer carrying a voting right either under all circumstances or under some circumstances that have occurred and are continuing or (b) a security of an issuer that carries a residual right to participate in the earnings of the issuer and, on liquidation or winding up of the issuer, in its assets.

2. **Grant of Security Interests.** As general and continuing collateral security for the due payment and performance of its Secured Liabilities, each Debtor pledges, mortgages, charges and assigns (by way of security) to the Creditor, and grants to the Creditor a security interest in, the Collateral of such Debtor.

3. **Limitations on Grant of Security Interests.** If the grant of the Security Interests with respect to any Contract, Intellectual Property Right or Permit under Section 2, other than the Boeing Order, would result in the termination or breach of such Contract, Intellectual Property Right or Permit, or is otherwise prohibited or ineffective (whether by the terms thereof or under applicable Law), then such Contract, Intellectual Property Right or Permit shall not be subject to the Security Interests but shall be held in trust by the applicable Debtor for the benefit of the Creditor and, on the exercise by the Creditor of any of its rights or remedies under this Agreement following an Event of Default shall be assigned by such Debtor as directed by the Creditor; provided that: (a) the Security Interests of such Debtor shall attach to such Contract, Intellectual Property Right or Permit, or applicable portion thereof, immediately at such time as the condition causing such termination or breach is remedied, and (b) if a term in a Contract that prohibits or restricts the grant of the Security Interests in the whole of an Account or Chattel Paper forming part of the Collateral is unenforceable against the Creditor under applicable Law, then the exclusion from the Security Interests set out above shall not apply to such Account or Chattel Paper. In addition, the Security Interests do not attach to Consumer Goods or extend to the last day of the term of any lease or agreement for lease of real property. Such last day shall be held by the applicable Debtor in trust for the Creditor and, on the exercise by the Creditor of any of its rights or remedies under this Agreement following an Event of Default, shall be assigned by such Debtor as directed by the Creditor. For greater certainty, no Intellectual Property Right in any trade-mark, get-up or trade dress is presently assigned to the Creditor by sole virtue of the grant of the Security Interests contained in Section 2.

4. **Attachment; No Obligation to Advance.** Each Debtor confirms that value has been given by the Creditor to such Debtor, that such Debtor has rights in its Collateral existing at the date of this Agreement or the date of any Supplement, as applicable, and that such Debtor and the Creditor have not agreed to postpone the time for attachment of the Security Interests to any of the Collateral of such Debtor. The Security Interests with respect to the Collateral of each Debtor created by this Agreement shall have effect and be deemed to be effective whether or not the Secured Liabilities of such Debtor or any part thereof are owing or in existence before or after or upon the date of this Agreement or the date of any Supplement, as applicable. Neither the execution and delivery of this Agreement or any Supplement nor the provision of any financial accommodation by the Creditor shall oblige the Creditor to make any financial accommodation or further financial accommodation available to any Debtor or any other Person.

5. **Representations and Warranties.** Each Debtor represents and warrants to the Creditor that, as of the date of this Agreement or the date of any Supplement, as applicable:

- (a) Debtor Information. All of the information set out in the Schedules and Supplements, as applicable, with respect to such Debtor is accurate and complete.
- (b) Title; No Other Security Interests. Except for Permitted Liens, such Debtor owns (or, with respect to any leased or licensed property forming part of the Collateral of such Debtor, holds a valid leasehold or licensed interest in) its Collateral free and clear of any Liens. Such Debtor is the record and beneficial owner of the Pledged Shares. No security agreement, financing statement or other notice with respect to any or all of the Collateral of such Debtor is on file or on record in any public office, except for filings with respect to Permitted Liens.
- (c) Amount of Accounts. The amount represented by such Debtor to the Creditor from time to time as owing by each account debtor or by all account debtors with respect to its Accounts of such Debtor will at such time be the correct amount so owing by such account debtor or debtors and, unless disclosed in writing by such Debtor to the Creditor at that time, will be owed free of any dispute, set-off or counterclaim. Except as disclosed in writing by such Debtor to the Creditor, neither such Debtor nor (to the best of such Debtor's knowledge) any other party to any Account of such Debtor or Contract of such Debtor is in default or is likely to become in default in the performance or observance of any of the terms of such Account or Contract where such default is or could reasonably be expected to be materially adverse to such Debtor or the Creditor.
- (d) Authority. Such Debtor has full power and authority to grant to the Creditor the Security Interests granted by such Debtor and to execute, deliver and perform its obligations under this Agreement, and such execution, delivery and performance does not contravene any of such Debtor's Organizational Documents or any agreement, instrument or restriction to which such Debtor is a party or by which such Debtor or any of its Collateral is bound.
- (e) Consents and Transfer Restrictions.
 - (i) Except for any consent that has been obtained and is in full force and effect, no consent of any Person (including any counterparty with respect to any Contract, any account debtor with respect to any Account, or any Governmental Authority with respect to any Permit) is required, or is purported to be required, for the execution, delivery, performance and enforcement of this Agreement (this representation being given without reference to the exclusions contained in Section 3). For the purposes of complying with any transfer restrictions contained in the Organizational Documents of any Pledged Issuer, such Debtor hereby irrevocably consents to any transfer of such Debtor's Pledged Securities of such Pledged Issuer.
 - (ii) (A) No order ceasing or suspending trading in, or prohibiting the transfer of the Pledged Shares has been issued and no proceedings for this purpose have been instituted, nor does such Debtor have any reason to

believe that any such proceedings are pending, contemplated or threatened and (B) the Pledged Shares are not subject to any escrow or other agreement, arrangement, commitment or understanding, prohibiting the transfer of the Pledged Shares, including pursuant to applicable Canadian securities laws or the rules, regulations or policies of any marketplace on which the Pledged Shares are listed, posted or traded.

- (f) Execution and Delivery. This Agreement has been duly authorized, executed and delivered by such Debtor and is a valid and binding obligation of such Debtor enforceable against such Debtor in accordance with its terms, subject only to bankruptcy, insolvency, liquidation, reorganization, moratorium and other similar Laws generally affecting the enforcement of creditors' rights, and to the fact that equitable remedies (such as specific performance and injunction) are discretionary remedies.
- (g) No Consumer Goods. Such Debtor does not own any Consumer Goods which are material in value or which are material to the business, operations, property, condition or prospects (financial or otherwise) of such Debtor.
- (h) Intellectual Property Rights. All registrations and applications for registration pertaining to any Intellectual Property Rights of such Debtor, all other material Intellectual Property Rights of such Debtor, and the nature of such Debtor's right, title or interest therein, are described in the Schedules and Supplements as applicable, with respect to such Debtor. Each Intellectual Property Right of such Debtor is valid, subsisting, unexpired, enforceable, and has not been abandoned. In the case of copyright works of such Debtor, such Debtor has obtained full and irrevocable waivers of all moral rights or similar rights pertaining to such works. Except as set out in the Schedules and Supplements, as applicable, none of the Intellectual Property Rights of such Debtor have been licensed or franchised by such Debtor to any Person or, to the best of such Debtor's knowledge, infringed or otherwise misused by any Person. Except as set out in the Schedules and Supplements, as applicable, the exercise of any Intellectual Property Right of such Debtor, or any licensee or franchisee thereof, has not infringed or otherwise misused any intellectual property right of any other Person, and such Debtor has not received and is not aware of any claim of such infringement or other misuse.
- (i) Partnerships, Limited Liability Companies. The terms of any interest in a partnership or limited liability company that is Collateral of such Debtor expressly provide that such interest is a "security" for the purposes of the STA.
- (j) Due Authorization. The Pledged Securities of such Debtor have been duly authorized and validly issued and are fully paid and non-assessable.
- (k) Warrants, Options, etc. There are no outstanding warrants, options or other rights to purchase, or other agreements outstanding with respect to, or property that is

now or hereafter convertible into, or that requires the issuance or sale of, any Pledged Shares of such Debtor.

- (l) **No Required Disposition**. There is no existing agreement, option, right or privilege capable of becoming an agreement or option pursuant to which such Debtor would be required to sell, redeem or otherwise dispose of any Pledged Shares of such Debtor or under which any Pledged Issuer has any obligation to issue any Securities of such Pledged Issuer to any Person.

6. **Survival of Representations and Warranties**. All representations and warranties made by each Debtor in this Agreement (a) are material, (b) shall be considered to have been relied on by the Creditor, and (c) shall survive the execution and delivery of this Agreement and any Supplement or any investigation made at any time by or on behalf of the Creditor and any disposition or payment of the Secured Liabilities until the Release Date.

7. **Covenants**. Each Debtor covenants and agrees with the Creditor that:

- (a) **Further Documentation**. Such Debtor shall from time to time, at the expense of such Debtor, promptly and duly authorize, execute and deliver such further instruments and documents, and take such further action, as the Creditor may reasonably request for the purpose of obtaining or preserving the full benefits of, and the rights and powers granted by, this Agreement (including the filing of any financing statements or financing change statements under any applicable legislation with respect to the Security Interests). In addition, upon the acquisition of interest in any airframe or engine, such Debtor shall notify the Creditor of such acquisition and shall, at the expense of such Debtor, promptly and duly authorize, execute and deliver an aircraft security agreement in respect of such interest in the airframe and engine, in favour of the Creditor, in form and substance acceptable to the Creditor, acting reasonably.¹

Such Debtor acknowledges that this Agreement has been prepared based on the existing Laws in the Province referred to in the “Governing Law” section of this Agreement and that a change in such Laws, or the Laws of other jurisdictions, may require the execution and delivery of different forms of security documentation. Accordingly, such Debtor agrees that the Creditor shall have the right to require that this Agreement be amended, supplemented, restated or replaced, and that such Debtor shall immediately on request by the Creditor authorize, execute and deliver any such amendment, supplement, restatement or replacement (i) to reflect any changes in such Laws, whether arising as a result of statutory amendments, court decisions or otherwise, (ii) to facilitate the creation and registration of appropriate security in all appropriate jurisdictions, or (iii) if such Debtor merges or amalgamates with any other Person or enters into any corporate reorganization, in each case in order to confer on the Creditor Liens similar to, and having the same effect as, the Security Interests.

¹ NTD: It is our understanding that neither the Company nor the Guarantor own any aircraft or engines.

- (b) Maintenance of Records. Such Debtor shall keep and maintain accurate and complete records of the Collateral of such Debtor, including a record of all payments received and all credits granted with respect to the Accounts and Contracts of such Debtor. At the written request of the Creditor, such Debtor shall mark any Collateral of such Debtor specified by the Creditor to evidence the existence of the Security Interests.
- (c) Right of Inspection. The Creditor may, at all times during normal business hours, without charge, examine and make copies of all Books and Records, and may discuss the affairs, finances and accounts of such Debtor with its officers and accountants. The Creditor may also, without charge, enter the premises of such Debtor where any of the Collateral of such Debtor is located for the purpose of inspecting such Collateral, observing its use or otherwise protecting its interests in such Collateral. Such Debtor, at its expense, shall provide the Creditor with such clerical and other assistance as may be reasonably requested by the Creditor to exercise any of its rights under this paragraph. Notwithstanding the foregoing, the Creditor shall conduct such examinations, inspections and attendance at the premises of the Debtor in such a manner as to reasonably minimize the interruptions of the ordinary business operation of the Debtor.
- (d) Limitations on Other Liens. Such Debtor shall not create, incur or permit to exist, and shall defend the Collateral of such Debtor against, and shall take such other action as is necessary to remove, any and all Liens in and other claims affecting the Collateral of such Debtor, other than the Permitted Liens, and such Debtor shall defend the right, title and interest of the Creditor in and to the Collateral of such Debtor against the claims and demands of all Persons.
- (e) Limitations on Dispositions of Collateral. Such Debtor shall not, without the Creditor's prior written consent, sell, lease or otherwise dispose of any of its Collateral with a value (or for a price) in excess of US\$5,000,000, except that Inventory of such Debtor may be sold, leased or otherwise disposed of and, subject to the terms of this Agreement, Accounts of such Debtor may be collected, in either case in the ordinary course of such Debtor's business. Following an Event of Default, all Proceeds of the Collateral of such Debtor (including all amounts received with respect to Accounts) received by or on behalf of such Debtor, whether or not arising in the ordinary course of such Debtor's business, shall be received by such Debtor as trustee for the Creditor and shall be immediately paid to the Creditor.
- (f) Limitations on Modifications, Waivers, Extensions. Other than as not prohibited by paragraph (g) below, such Debtor shall not (i) amend, modify, terminate, permit to expire or waive any provision of any of such Debtor's Permits, Contracts or any documents giving rise to an Account in any manner which is or could reasonably be expected to be materially adverse to such Debtor or the Creditor, or (ii) fail to exercise promptly and diligently its rights under each of such Debtor's Contracts and documents giving rise to an Account if such failure

is or could reasonably be expected to be materially adverse to such Debtor or the Creditor.

- (g) Limitations on Discounts, Compromises, Extensions of Accounts. Other than in the ordinary course of business of such Debtor consistent with previous practices, such Debtor shall not (i) grant any extension of the time for payment of any Account of such Debtor, (ii) compromise, compound or settle any Account of such Debtor for less than its full amount, (iii) release, wholly or partially, any Person liable for the payment of any Account of such Debtor, or (iv) allow any credit or discount of any Account of such Debtor.
- (h) Maintenance of Collateral. Such Debtor shall maintain all tangible Collateral of such Debtor in good operating condition, ordinary wear and tear excepted, and such Debtor shall provide all maintenance, service and repairs necessary for such purpose. Such Debtor shall maintain in good standing all registrations and applications with respect to the Intellectual Property Rights of such Debtor except to the extent that any failure to do so could not reasonably be expected to be materially adverse to such Debtor or the Creditor.
- (i) Insurance. Such Debtor shall keep the Collateral of such Debtor insured with financially sound and reputable companies to its full insurable value against loss or damage by fire, explosion, theft and such other risks as are customarily insured against by Persons carrying on similar businesses or owning similar property within the vicinity in which such Debtor's applicable business or property is located. The applicable insurance policies shall be in form and substance satisfactory to the Creditor, and shall (i) provide that no cancellation, material reduction in amount or material change in coverage will be effective until at least 30 days after receipt of written notice thereof by the Creditor, and (ii) name the Creditor as loss payee as its interest may appear. Such Debtor shall, from time to time at the Creditor's request, deliver the applicable insurance policies (or satisfactory evidence of such policies) to the Creditor. If such Debtor does not obtain or maintain such insurance, the Creditor may, but need not, do so, in which event such Debtor shall immediately on demand reimburse the Creditor for all payments made by the Creditor in connection with obtaining and maintaining such insurance, and until reimbursed any such payment shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests. Neither the Creditor nor its correspondents or its agents shall be responsible for the character, adequacy, validity or genuineness of any insurance, the solvency of any insurer, or any other risk connected with insurance.
- (j) Further Identification of Collateral. Such Debtor shall promptly furnish to the Creditor such statements and schedules further identifying and describing the Collateral of such Debtor, and such other reports in connection with the Collateral of such Debtor, as the Creditor may from time to time reasonably request, including an updated list of any motor vehicles or other "serial number" goods owned by such Debtor and classified as Equipment, including vehicle identification numbers.

- (k) Amalgamation, Merger or Consolidation. Such Debtor shall not permit any Pledged Issuer of such Debtor to amalgamate, merge or consolidate unless all of the outstanding capital stock of the surviving or resulting corporation is, upon such amalgamation, merger or consolidation, pledged under this Agreement, and no cash, securities or other property is distributed with respect to the outstanding shares of any other constituent corporation.
- (l) Agreements re Intellectual Property Rights. Promptly upon request from time to time by the Creditor, such Debtor shall authorize, execute and deliver any and all agreements, instruments, documents and papers that the Creditor may reasonably request to evidence the Security Interests in any Intellectual Property Rights of such Debtor and, where applicable, the goodwill of the business of such Debtor connected with the use of, and symbolized by, any such Intellectual Property Rights.
- (m) Instruments; Documents of Title; Chattel Paper. Where an Event of Default has occurred and is continuing, promptly upon request from time to time by the Creditor, such Debtor shall deliver to the Creditor, endorsed and/or accompanied by such instruments of assignment and transfer in such form and substance as the Creditor may reasonably request, any and all Instruments, Documents of Title and Chattel Paper of such Debtor included in or relating to the Collateral of such Debtor as the Creditor may specify in its request.
- (n) Pledged Certificated Securities. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all Pledged Security Certificates of such Debtor and other materials as may be required from time to time to provide the Creditor with control over all Pledged Certificated Securities of such Debtor in the manner provided under section 23 of the STA. Where an Event of Default has occurred and is continuing, promptly, at the request of the Creditor, such Debtor shall cause all Pledged Security Certificates of such Debtor to be registered in the name of the Creditor or its nominee.
- (o) Pledged Uncertificated Securities. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all such documents, agreements and other materials as may be required from time to time to provide the Creditor with control over all Pledged Uncertificated Securities of such Debtor in the manner provided under section 24 of the STA.
- (p) Pledged Security Entitlements. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all such documents, agreements and other materials as may be required from time to time to provide the Creditor with control over all Pledged Security Entitlements of such Debtor in the manner provided under section 25 or 26 of the STA.
- (q) Pledged Futures Contracts. Where an Event of Default has occurred and is continuing, such Debtor shall deliver to the Creditor any and all such documents, agreements and other materials as may be required from time to time to provide

the Creditor with control over all Pledged Futures Contracts of such Debtor in the manner provided under subsection 1(2) of the PPSA.

- (r) Partnerships, Limited Liability Companies. Such Debtor shall ensure that the terms of any interest in a partnership or limited liability company that is Collateral of such Debtor shall expressly provide that such interest is a “security” for the purposes of the STA.
- (s) Transfer Restrictions. If the constating documents of any Pledged Issuer (other than a ULC) restrict the transfer of the Securities of such Pledged Issuer, then such Debtor shall deliver to the Creditor a certified copy of a resolution of the directors, shareholders, unitholders or partners of such Pledged Issuer, as applicable, consenting to the transfer(s) contemplated by this Agreement, including any prospective transfer of the Collateral of such Debtor by the Creditor upon a realization on the Security Interests.
- (t) Notices. Such Debtor shall advise the Creditor promptly, in reasonable detail, of:
 - (i) any change to a Pledged Securities Intermediary’s Jurisdiction, Pledged Issuer’s Jurisdiction, or Pledged Future Intermediary’s Jurisdiction;
 - (ii) any change in the location of the jurisdiction of incorporation or amalgamation, chief executive office or domicile of such Debtor;
 - (iii) any change in the name of such Debtor;
 - (iv) any merger, consolidation or amalgamation of such Debtor with any other Person;
 - (v) any additional jurisdiction in which such Debtor has tangible Personal Property with a net book value, in the aggregate, of at least \$100,000;
 - (vi) any additional jurisdiction in which material account debtors of such Debtor are located;
 - (vii) any acquisition of any right, title or interest in real property by such Debtor;
 - (viii) any acquisition of any Intellectual Property Rights which are the subject of a registration or application with any governmental intellectual property or other governing body or registry, or which are material to such Debtor’s business;
 - (ix) any acquisition of any Instrument, Document of Title or Chattel Paper;
 - (x) any creation or acquisition of any Subsidiary of such Debtor;

- (xi) any Lien (other than Permitted Liens) on, or claim asserted against, any of the Collateral of such Debtor;
- (xii) the Debtor becoming (or if the Debtor could reasonably be determined to have become) a Control Person with respect to any Reporting Pledged Issuer;
- (xiii) the issuance of any order ceasing or suspending trading in, or prohibiting the transfer of any Pledged Shares or the institution of proceedings for such purpose, or if such Debtor has any reason to believe that any such proceedings are pending, contemplated or threatened;
- (xiv) any occurrence of any event, claim or occurrence that could reasonably be expected to have a material adverse effect on the value of the Collateral of such Debtor or on the Security Interests; or
- (xv) any additional jurisdiction in which such Debtor carries on business.

Such Debtor shall not effect or permit any of the changes referred to in clauses (ii) through (viii) above unless all filings have been made and all other actions taken that are required in order for the Creditor to continue at all times following such change to have a valid and perfected first priority Security Interest, subject to Permitted Liens, with respect to all of the Collateral of such Debtor.

8. **Voting Rights.** Unless an Event of Default has occurred and is continuing, each Debtor shall be entitled to exercise all voting power from time to time exercisable with respect to the Pledged Shares of such Debtor and give consents, waivers and ratifications with respect thereto; provided, however, that no vote shall be cast or consent, waiver or ratification given or action taken which would be, or would have a reasonable likelihood of being, prejudicial to the interests of the Creditor or which would have the effect of reducing the value of the Collateral of such Debtor as security for the Secured Liabilities of such Debtor or imposing any restriction on the transferability of any of the Collateral of such Debtor. Immediately upon the occurrence and during the continuance of any Event of Default, but at all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, all such rights of the applicable Debtor to vote and give consents, waivers and ratifications shall cease and the Creditor or its nominee shall be entitled to exercise all such voting rights and to give all such consents, waivers and ratifications.

9. **Dividends; Interest.** Unless an Event of Default has occurred and is continuing, each Debtor shall be entitled to receive any and all cash dividends, interest, principal payments and other forms of cash distribution on the Pledged Shares of such Debtor which it is otherwise entitled to receive, but any and all stock and/or liquidating dividends, distributions of property, returns of capital or other distributions made on or with respect to the Pledged Shares of such Debtor, whether resulting from a subdivision, combination or reclassification of the outstanding capital stock of any Pledged Issuer of such Debtor or received in exchange for such Pledged Shares or any part thereof or as a result of any amalgamation, merger, consolidation, acquisition or other exchange of property to which any Pledged Issuer of such Debtor may be a party or

otherwise, and any and all cash and other property received in exchange for any Pledged Shares of such Debtor shall be and become part of the Collateral of such Debtor subject to the Security Interests; and if any of the Pledged Security Certificates have been registered in the name of the Creditor or its nominee, the Creditor shall execute and deliver (or cause to be executed and delivered) to such Debtor all such dividend orders and other instruments as such Debtor may reasonably request for the purpose of enabling such Debtor to receive the dividends, distributions or other payments which such Debtor is authorized to receive and retain pursuant to this Section. If an Event of Default has occurred and is continuing, all rights of such Debtor pursuant to this Section shall cease and the Creditor shall have the sole and exclusive right and authority to receive and retain the cash dividends, interest, principal payments and other forms of cash distribution which such Debtor would otherwise be authorized to retain pursuant to this Section. Any money and other property paid over to or received by the Creditor pursuant to the provisions of this Section shall be retained by the Creditor as additional Collateral hereunder and be applied in accordance with the provisions of this Agreement.

10. **Rights on Event of Default.** If an Event of Default has occurred and is continuing, then and in every such case all of the Secured Liabilities of each Debtor shall, at the option of the Creditor, become immediately due and payable and the Security Interests of each Debtor shall become enforceable and the Creditor, in addition to any rights now or hereafter existing under applicable Law may, personally or by agent, at such time or times as the Creditor in its discretion may determine, do any one or more of the following:

- (a) **Rights under PPSA, etc.** Exercise against any or all Debtors all of the rights and remedies granted to secured parties under the PPSA and any other applicable statute, or otherwise available to the Creditor by contract, at law or in equity.
- (b) **Demand Possession.** Demand possession of any or all of the Collateral of any or all Debtors, in which event each such Debtor shall, at the expense of such Debtor, immediately cause the Collateral of such Debtor designated by the Creditor to be assembled and made available to the Creditor.
- (c) **Take Possession.** Enter on any premises where any Collateral of any or all Debtors is located and take possession of, disable or remove such Collateral.
- (d) **Deal with Collateral.** Hold, store and keep idle, or operate, lease or otherwise use or permit the use of, any or all of the Collateral of any or all Debtors for such time and on such terms as the Creditor may determine, and demand, collect and retain all earnings and other sums due or to become due from any Person with respect to any of the Collateral of any or all Debtors.
- (e) **Carry on Business.** At all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, carry on, or concur in the carrying on of, any or all of the business or undertaking of any or all Debtors and enter on, occupy and use (without charge by such Debtor) any of the premises, buildings, plant and undertaking of, or occupied or used by, any or all Debtors.

- (f) Enforce Collateral. Seize, collect, receive, enforce or otherwise deal with any Collateral of any or all Debtors in such manner, on such terms and conditions and at such times as the Creditor deems advisable. Notwithstanding the foregoing, the Creditor may only take such aforementioned action in respect of Collateral comprised of Pledged Securities if such Pledged Securities are promptly transferred to an entity permitted by the Ownership and Control Requirements.
- (g) Dispose of Collateral. Realize on any or all of the Collateral of any or all Debtors and sell, lease, assign, give options to purchase, or otherwise dispose of and deliver any or all of the Collateral of any or all Debtors (or contract to do any of the above), in one or more parcels at any public or private sale, at any exchange, broker's board or office of the Creditor or elsewhere, with or without advertising or other formality, except as required by applicable Law, on such terms and conditions as the Creditor may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery.
- (h) Court-Approved Disposition of Collateral. Obtain from any court of competent jurisdiction an order for the sale or foreclosure of any or all of the Collateral of any or all Debtors.
- (i) Purchase by Creditor. At any public sale, and to the extent permitted by Law on any private sale, bid for and purchase any or all of the Collateral of any or all Debtors offered for sale and, upon compliance with the terms of such sale, hold, retain, sell or otherwise dispose of such Collateral without any further accountability to any Debtor or any other Person with respect to such holding, retention, sale or other disposition, except as required by Law. In any such sale to the Creditor, the Creditor may, for the purpose of making payment for all or any part of the Collateral of any Debtor so purchased, use any claim for any or all of the Secured Liabilities of such Debtor then due and payable to it as a credit against the purchase price.
- (j) Collect Accounts. Notify (whether in its own name or in the name of any Debtor) the account debtors under any Accounts of any or all Debtors of the assignment of such Accounts to the Creditor and direct such account debtors to make payment of all amounts due or to become due to any or all Debtors with respect to such Accounts directly to the Creditor and, upon such notification and at the expense of any such Debtor, enforce collection of any such Accounts, and adjust, settle or compromise the amount or payment of such Accounts, in such manner and to such extent as the Creditor deems appropriate in the circumstances.
- (k) Transfer of Collateral. At all times subject to the Ownership and Control Requirements or as otherwise permitted by the CTA, transfer any Collateral of any or all Debtors that is Pledged Shares into the name of the Creditor or its nominee.
- (l) Voting. At all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, vote any or all of the Pledged Shares of any or

all Debtors (whether or not transferred to the Creditor or its nominee) and give or withhold all consents, waivers and ratifications with respect thereto and otherwise act with respect thereto as though it were the outright owner thereof.

- (m) Exercise Other Rights. At all times subject to Ownership and Control Requirements or as otherwise permitted by the CTA, exercise any and all rights, privileges, entitlements and options pertaining to any Collateral of any or all Debtors that is Pledged Shares as if the Creditor were the absolute owner of such Pledged Shares.
- (n) Dealing with Contracts and Permits. Deal with any and all Contracts and Permits of any or all Debtors to the same extent as any such Debtor might (including the enforcement, realization, sale, assignment, transfer, and requirement for continued performance), all on such terms and conditions and at such time or times as may seem advisable to the Creditor.
- (o) Payment of Liabilities. Pay any liability secured by any Lien against any Collateral of any or all Debtors. Each such Debtor shall immediately on demand reimburse the Creditor for all such payments and, until paid, any such reimbursement obligation shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.
- (p) Borrow and Grant Liens. Borrow money for the maintenance, preservation or protection of any Collateral of any or all Debtors or for carrying on any of the business or undertaking of any or all Debtors and grant Liens on any Collateral of any or all Debtors (in priority to the Security Interests of any or all Debtors or otherwise) as security for the money so borrowed. Each such Debtor shall immediately on demand reimburse the Creditor for all such borrowings and, until paid, any such reimbursement obligations shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.
- (q) Appoint Receiver. Appoint by instrument in writing one or more Receivers of any or all Debtors or any or all of the Collateral of any or all Debtors with such rights, powers and authority (including any or all of the rights, powers and authority of the Creditor under this Agreement) as may be provided for in the instrument of appointment or any supplemental instrument, and remove and replace any such Receiver from time to time. To the extent permitted by applicable Law, any Receiver appointed by the Creditor shall (for purposes relating to responsibility for the Receiver's acts or omissions) be considered to be the agent of any such Debtor and not of the Creditor.
- (r) Court-Appointed Receiver. Obtain from any court of competent jurisdiction an order for the appointment of a Receiver of any or all Debtors or of any or all of the Collateral of any or all Debtors.

The Creditor may exercise any or all of the foregoing rights and remedies without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except as required by applicable Law) to or on any Debtor or any other Person, and each Debtor hereby waives each such demand, presentment, protest, advertisement and notice to the extent permitted by applicable Law. None of the above rights or remedies shall be exclusive of or dependent on or merge in any other right or remedy, and one or more of such rights and remedies may be exercised independently or in combination from time to time. Each Debtor acknowledges and agrees that any action taken by the Creditor hereunder following the occurrence and during the continuance of an Event of Default shall not be rendered invalid or ineffective as a result of the curing of the Event of Default on which such action was based.

11. **Realization Standards.** To the extent that applicable Law imposes duties on the Creditor to exercise remedies in a commercially reasonable manner and without prejudice to the ability of the Creditor to dispose of the Collateral in any such manner, each Debtor acknowledges and agrees that it is not commercially unreasonable for the Creditor to (or not to) (a) incur expenses reasonably deemed significant by the Creditor to prepare the Collateral of such Debtor for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (b) fail to obtain third party consents for access to the Collateral of such Debtor to be disposed of, (c) fail to exercise collection remedies against account debtors or other Persons obligated on the Collateral of such Debtor or to remove Liens against the Collateral of such Debtor, (d) exercise collection remedies against account debtors and other Persons obligated on the Collateral of such Debtor directly or through the use of collection agencies and other collection specialists, (e) dispose of Collateral of such Debtor by way of public auction, public tender or private contract, with or without advertising and without any other formality, (f) contact other Persons, whether or not in the same business of such Debtor, for expressions of interest in acquiring all or any portion of the Collateral of such Debtor, (g) hire one or more professional auctioneers to assist in the disposition of the Collateral of such Debtor, whether or not such Collateral is of a specialized nature or an upset or reserve bid or price is established, (h) dispose of the Collateral of such Debtor by utilizing internet sites that provide for the auction of assets of the types included in such Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets, (i) dispose of assets in wholesale rather than retail markets, (j) disclaim disposition warranties, such as title, possession or quiet enjoyment, (k) purchase insurance or credit enhancements to insure the Creditor against risks of loss, collection or disposition of the Collateral of such Debtor or to provide to the Creditor a guaranteed return from the collection or disposition of such Collateral, (l) to the extent deemed appropriate by the Creditor, obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Creditor in the collection or disposition of any of the Collateral of such Debtor, (m) dispose of Collateral of such Debtor in whole or in part, (n) dispose of Collateral of such Debtor to a customer of the Creditor, and (o) establish an upset or reserve bid price with respect to Collateral of such Debtor.

12. **Grant of Licence.** For the purpose of enabling the Creditor to exercise its rights and remedies under this Agreement when the Creditor is entitled to exercise such rights and remedies, and for no other purpose, each Debtor grants to the Creditor an irrevocable, non-exclusive licence (exercisable without payment of royalty or other compensation to such Debtor) to use, assign or sublicense any or all of the Intellectual Property Rights of such Debtor, including in such licence reasonable access to all media in which any of the licensed items may

be recorded or stored and to all computer programs used for the compilation or printout of the same. For any trade-marks, get-up and trade dress and other business indicia, such licence includes an obligation on the part of the Creditor to maintain the standards of quality maintained by such Debtor or, in the case of trade-marks, get-up and trade dress or other business indicia licensed to such Debtor, the standards of quality imposed upon such Debtor by the relevant licence. For copyright works, such licence shall include the benefit of any waivers of moral rights and similar rights.

13. **Securities Laws.** The Creditor is authorized, in connection with any offer or sale of any Pledged Shares of any Debtor, to comply with any limitation or restriction as it may be advised by counsel is necessary to comply with applicable Law, including compliance with procedures that may restrict the number of prospective bidders and purchasers, requiring that prospective bidders and purchasers have certain qualifications, and restricting prospective bidders and purchasers to Persons who will represent and agree that they are purchasing for their own account or investment and not with a view to the distribution or resale of such Securities. In addition to and without limiting Section 11, each Debtor further agrees that compliance with any such limitation or restriction shall not result in a sale being considered or deemed not to have been made in a commercially reasonable manner, and the Creditor shall not be liable or accountable to such Debtor for any discount allowed by reason of the fact that such Pledged Shares are sold in compliance with any such limitation or restriction. If the Creditor chooses to exercise its right to sell any or all Pledged Shares of any Debtor, upon written request, such Debtor shall cause each applicable Pledged Issuer to furnish to the Creditor all such information as the Creditor may reasonably request in order to determine the number of shares and other instruments included in the Collateral of such Debtor which may be sold by the Creditor in exempt transactions under any Laws governing securities, and the rules and regulations of any applicable securities regulatory body thereunder, as the same are from time to time in effect.

14. **ULC Shares.** Each Debtor acknowledges that certain of the Collateral of such Debtor may now or in the future consist of ULC Shares, and that it is the intention of the Creditor and each Debtor that the Creditor should not under any circumstances prior to realization thereon be held to be a “member” or a “shareholder”, as applicable, of a ULC for the purposes of any ULC Laws. Therefore, notwithstanding any provisions to the contrary contained in this Agreement, the NPA or any other Transaction Document, where a Debtor is the registered owner of ULC Shares which are Collateral of such Debtor, such Debtor shall remain the sole registered owner of such ULC Shares until such time as such ULC Shares are effectively transferred into the name of the Creditor or any other Person on the books and records of the applicable ULC. Accordingly, each Debtor shall be entitled to receive and retain for its own account any dividend on or other distribution, if any, with respect to such ULC Shares (except for any dividend or distribution comprised of Pledged Security Certificates of such Debtor, which shall be delivered to the Creditor to hold hereunder) and shall have the right to vote such ULC Shares and to control the direction, management and policies of the applicable ULC to the same extent as such Debtor would if such ULC Shares were not pledged to the Creditor pursuant hereto. Nothing in this Agreement, the NPA or any other Transaction Document is intended to, and nothing in this Agreement, the NPA or any other Transaction Document shall, constitute the Creditor or any Person other than the applicable Debtor, a member or shareholder of a ULC for the purposes of any ULC Laws (whether listed or unlisted, registered or beneficial), until such time as notice is given to such Debtor and further steps are taken pursuant hereto or thereto so as to register the

Creditor or such other Person, as specified in such notice, as the holder of the ULC Shares. To the extent any provision hereof would have the effect of constituting the Creditor as a member or a shareholder, as applicable, of any ULC prior to such time, such provision shall be severed herefrom and shall be ineffective with respect to ULC Shares which are Collateral of any Debtor without otherwise invalidating or rendering unenforceable this Agreement or invalidating or rendering unenforceable such provision insofar as it relates to Collateral of any Debtor which is not ULC Shares. Except upon the exercise of rights of the Creditor to sell, transfer or otherwise dispose of ULC Shares in accordance with this Agreement, each Debtor shall not cause or permit, or enable a Pledged Issuer that is a ULC to cause or permit, the Creditor to: (a) be registered as a shareholder or member of such Pledged Issuer; (b) have any notation entered in their favour in the share register of such Pledged Issuer; (c) be held out as shareholders or members of such Pledged Issuer; (d) receive, directly or indirectly, any dividends, property or other distributions from such Pledged Issuer by reason of the Creditor holding the Security Interests over the ULC Shares; or (e) act as a shareholder of such Pledged Issuer, or exercise any rights of a shareholder including the right to attend a meeting of shareholders of such Pledged Issuer or to vote its ULC Shares.

15. **Application of Proceeds.** All Proceeds of Collateral of any Debtor received by the Creditor or a Receiver may be applied to discharge or satisfy any expenses (including the Receiver's remuneration and other expenses of enforcing the Creditor's rights against such Debtor under this Agreement), Liens on the Collateral of such Debtor in favour of Persons other than the Creditor, borrowings, taxes and other outgoings affecting the Collateral of such Debtor or which are considered advisable by the Creditor or the Receiver to protect, preserve, repair, process, maintain or enhance the Collateral of such Debtor or prepare it for sale, lease or other disposition, or to keep in good standing any Liens on the Collateral of such Debtor ranking in priority to any of the Security Interests, or to sell, lease or otherwise dispose of the Collateral of such Debtor. The balance of such Proceeds may, at the sole discretion of the Creditor, be held as collateral security for the Secured Liabilities of the applicable Debtor or be applied to such of the Secured Liabilities of the applicable Debtor (whether or not the same are due and payable) in such manner and at such times as the Creditor considers appropriate and thereafter shall be accounted for as required by Law.

16. **Continuing Liability of Debtor.** Each Debtor shall remain liable for any Secured Liabilities of such Debtor that are outstanding following realization of all or any part of the Collateral of such Debtor and the application of the Proceeds thereof.

17. **Creditor's Appointment as Attorney-in-Fact.** Effective upon the occurrence and during the continuance of an Event of Default, each Debtor constitutes and appoints the Creditor and any officer or agent of the Creditor, with full power of substitution, as such Debtor's true and lawful attorney-in-fact with full power and authority in the place of such Debtor and in the name of such Debtor or in its own name, from time to time in the Creditor's discretion, to take any and all appropriate action and to execute any and all documents and instruments as, in the opinion of such attorney, may be necessary or desirable to accomplish the purposes of this Agreement. Without limiting the effect of this Section, each Debtor grants the Creditor an irrevocable proxy to vote the Pledged Shares of such Debtor and to exercise all other rights, powers, privileges and remedies to which a holder thereof would be entitled (including giving or withholding written consents of shareholders, calling special meetings of shareholders and voting

at such meetings), which proxy shall be effective, automatically and without the necessity of any action (including any transfer of any Pledged Shares of such Debtor on the books and records of a Pledged Issuer or Pledged Securities Intermediary, as applicable), upon the occurrence of an Event of Default. These powers are coupled with an interest and are irrevocable until the Release Date. Nothing in this Section affects the right of the Creditor as secured party or any other Person on the Creditor's behalf, to sign and file or deliver (as applicable) all such financing statements, financing change statements, notices, verification statements and other documents relating to the Collateral and this Agreement as the Creditor or such other Person considers appropriate. Each Debtor hereby ratifies and confirms, and agrees to ratify and confirm, whatever lawful acts the Creditor or any of the Creditor's sub-agents, nominees or attorneys do or purport to do in exercise of the power of attorney granted to the Creditor pursuant to this Section.

18. **Performance by Creditor of Debtor's Obligations.** If any Debtor fails to perform or comply with any of the obligations of such Debtor under this Agreement, the Creditor may, but need not, perform or otherwise cause the performance or compliance of such obligation, provided that such performance or compliance shall not constitute a waiver, remedy or satisfaction of such failure. The expenses of the Creditor incurred in connection with any such performance or compliance shall be payable by such Debtor to the Creditor immediately on demand, and until paid, any such expenses shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.

19. **Interest.** If any amount payable by any Debtor to the Creditor under this Agreement is not paid when due, such Debtor shall pay to the Creditor, immediately on demand, interest on such amount from the date due until paid, at the Default Rate. All amounts payable by such Debtor to the Creditor under this Agreement, and all interest on all such amounts, compounded monthly on the last Business Day of each month, shall form part of the Secured Liabilities of such Debtor and shall be secured by the Security Interests of such Debtor.

20. **Severability.** Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

21. **Rights of Creditor; Limitations on Creditor's Obligations.**

- (a) **Limitations on Creditor's Liability.** The Creditor shall not be liable to any Debtor or any other Person for any failure or delay in exercising any of the rights of such Debtor under this Agreement (including any failure to take possession of, collect, sell, lease or otherwise dispose of any Collateral of such Debtor, or to preserve rights against prior parties). Neither the Creditor, a Receiver, nor any agent of the Creditor (including, in Alberta or British Columbia, any sheriff) is required to take, or shall have any liability for any failure to take or delay in taking, any steps necessary or advisable to preserve rights against other Persons under any Collateral of any Debtor in its possession. Neither the Creditor, any Receiver, nor any agent of the Creditor shall be liable for any, and each Debtor shall bear the

full risk of all, loss or damage to any and all of the Collateral of such Debtor (including any Collateral of such Debtor in the possession of the Creditor, any Receiver, or any agent of the Creditor) caused for any reason other than the gross negligence or wilful misconduct of the Creditor, such Receiver or such agent of the Creditor.

- (b) Debtors Remain Liable under Accounts and Contracts. Notwithstanding any provision of this Agreement, each Debtor shall remain liable under each of the documents giving rise to the Accounts of such Debtor and under each of the Contracts of such Debtor to observe and perform all the conditions and obligations to be observed and performed by such Debtor thereunder, all in accordance with the terms of each such document and Contract. The Creditor shall have no obligation or liability under any Account of any Debtor (or any document giving rise thereto) or Contract of any Debtor by reason of or arising out of this Agreement or the receipt by the Creditor of any payment relating to such Account or Contract pursuant hereto, and in particular (but without limitation), the Creditor shall not be obligated in any manner to perform any of the obligations of any Debtor under or pursuant to any Account of such Debtor (or any document giving rise thereto) or under or pursuant to any Contract of such Debtor, to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party under any Account of such Debtor (or any document giving rise thereto) or under any Contract of such Debtor, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time.
- (c) Collections on Accounts and Contracts. Each Debtor shall be authorized to, at any time that an Event of Default is not continuing, collect the Accounts of such Debtor and payments under the Contracts of such Debtor in the normal course of the business of such Debtor and for the purpose of carrying on the same. If required by the Creditor at any time an Event of Default has occurred and is continuing, any payments of Accounts of such Debtor or under Contracts of such Debtor, when collected by such Debtor, shall be forthwith (and, in any event, within two Business Days) deposited by such Debtor in the exact form received, duly endorsed by such Debtor to the Creditor if required, in a special collateral account maintained by the Creditor, and until so deposited, shall be held by such Debtor in trust for the Creditor, segregated from the other funds of such Debtor. All such amounts while held by the Creditor (or by such Debtor in trust for the Creditor) and all income with respect thereto shall continue to be collateral security for the Secured Liabilities and shall not constitute payment thereof until applied as hereinafter provided. If an Event of Default has occurred and is continuing, the Creditor may apply all or any part of the amounts on deposit with respect to such Debtor in said special collateral account on account of the Secured Liabilities of such Debtor in such order as the Creditor may elect. At the Creditor's request, such Debtor shall deliver to the Creditor any documents evidencing and relating to the agreements and transactions which gave rise to the

Accounts and the Contracts of such Debtor, including all original orders, invoices and shipping receipts.

- (d) Analysis of Accounts. At any time and from time to time, the Creditor shall have the right to analyze and verify the Accounts of any Debtor in any manner and through any medium that it reasonably considers advisable, and each Debtor shall furnish all such assistance and information as the Creditor may reasonably require in connection therewith. If an Event of Default has occurred and is continuing, at any time and from time to time, the Creditor may in its own name or in the name of others (including any Debtor) communicate with account debtors on the Accounts of any Debtor and parties to the Contracts of any Debtor to verify with them to its satisfaction the existence, status, amount and terms of any Account or any Contract of any Debtor. At any time and from time to time, but not more than once per calendar year provided that there is not an Event of Default that is continuing, upon the Creditor's reasonable request and at the expense of the applicable Debtor, such Debtor shall furnish to the Creditor reports showing reconciliations, aging and test verifications of, and trial balances for, the Accounts of such Debtor.
- (e) Use of Agents. The Creditor may perform any of its rights or duties under this Agreement by or through agents and is entitled to retain counsel and to act in reliance on the advice of such counsel concerning all matters pertaining to its rights and duties under this Agreement.

22. Dealings by Creditor. The Creditor shall not be obliged to exhaust its recourse against any Debtor or any other Person or against any other security it may hold with respect to the Secured Liabilities of such Debtor or any part thereof before realizing upon or otherwise dealing with the Collateral of such Debtor in such manner as the Creditor may consider desirable. The Creditor may grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with any Debtor and any other Person, and with any or all of the Collateral of any Debtor, and with other security and sureties, as the Creditor may see fit, all without prejudice to the Secured Liabilities of any Debtor or to the rights and remedies of the Creditor under this Agreement. The powers conferred on the Creditor under this Agreement are solely to protect the interests of the Creditor in the Collateral of each Debtor and shall not impose any duty upon the Creditor to exercise any such powers.

23. Communication. Any notice or other communication required or permitted to be given under this Agreement will be made in accordance with the terms of the NPA.

24. Release of Information. Each Debtor authorizes the Creditor to provide a copy of this Agreement and such other information as may be reasonably requested of the Creditor (i) to the extent necessary to enforce the Creditor's rights, remedies and entitlements under this Agreement, (ii) to any assignee or prospective assignee of all or any part of its Secured Liabilities, and (iii) as required by applicable Law.

25. **Expenses; Indemnity; Waiver.**

- (a) Each Debtor shall pay (i) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and all applicable taxes, in connection with the preparation and administration of this Agreement, (ii) all reasonable out-of-pocket expenses incurred by the Creditor, including the reasonable fees, charges and disbursements of counsel for the Creditor and applicable taxes, in connection with any amendments, modifications or waivers of the provisions hereof, and (iii) all reasonable out-of-pocket expenses incurred by the Creditor, including the fees, charges and disbursements of any counsel for the Creditor and all applicable taxes, in connection with the assessment, enforcement or protection of their rights in connection with this Agreement, including its rights under this Section, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations with respect to the Secured Liabilities of such Debtor.
- (b) Each Debtor shall indemnify the Creditor against, and hold the Creditor harmless from, any and all losses, claims, cost recovery actions, damages, expenses and liabilities of whatsoever nature or kind and all reasonable out-of-pocket expenses and all applicable taxes to which the Creditor may become subject arising out of or in connection with (i) the execution or delivery of this Agreement and the performance by such Debtor of its obligations hereunder, (ii) any actual claim, litigation, investigation or proceeding relating to this Agreement or the Secured Liabilities of such Debtor, whether based on contract, tort or any other theory and regardless of whether the Creditor is a party thereto, (iii) any other aspect of this Agreement, or (iv) the enforcement of the Creditor's rights hereunder and any related investigation, defence, preparation of defence, litigation and enquiries; provided that such indemnity shall not, as to the Creditor, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence (it being acknowledged that ordinary negligence does not necessarily constitute gross negligence) or wilful misconduct of or material breach of this Agreement by the Creditor.
- (c) No Debtor shall assert, and each Debtor hereby waives (to the fullest extent permitted by applicable Law), (i) any claim against the Creditor (or any director, officer or employee thereof), on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, and (ii) all of the rights, benefits and protections given by any present or future statute that imposes limitations on the rights, powers or remedies of a secured party or on the methods of, or procedures for, realization of security, including any "seize or sue" or "anti-deficiency" statute or any similar provision of any other statute.
- (d) All amounts due under this Section shall be payable not later than three Business Days after written demand therefor.

- (e) The indemnifications set out in this Section shall survive the Release Date and the release or extinguishment of the Security Interests.

26. **Release of Debtor.** Upon the written request of any Debtor given at any time on or after the Release Date, the Creditor shall at the expense of such Debtor (i) release such Debtor and the Collateral of such Debtor from the Security Interests and such release shall serve to terminate any licence granted in this Agreement and (ii) return, endorsed and/or accompanied by such instruments of assignment and transfer in such form and substance as the Debtor may reasonably request, any and all Collateral pledged by the Debtor to the Creditor pursuant to this Agreement. Upon such release, and at the request and expense of such Debtor, the Creditor shall execute and deliver to such Debtor such releases and discharges as such Debtor may reasonably request.

27. **Additional Security.** This Agreement is in addition to, and not in substitution of, any and all other security previously or concurrently delivered by any Debtor or any other Person to the Creditor, all of which other security shall remain in full force and effect.

28. **Alteration or Waiver.** None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Creditor. The Creditor shall not, by any act or delay, be deemed to have waived any right or remedy hereunder or to have acquiesced in any Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Creditor, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise 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. A waiver by the Creditor of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Creditor would otherwise have on any future occasion. Neither the taking of any judgment nor the exercise of any power of seizure or sale shall extinguish the liability of any Debtor to pay the Secured Liabilities of such Debtor, nor shall the same operate as a merger of any covenant contained in this Agreement or of any other liability, nor shall the acceptance of any payment or other security constitute or create any novation.

29. **Environmental Licence and Indemnity.** Each Debtor hereby grants to the Creditor and its employees and agents an irrevocable and non-exclusive licence, subject to the rights of tenants, upon not less than 48 hours prior written notice but not more than once per calendar year provided that there is not an Event of Default that is continuing or a known or reasonably suspected release of a hazardous substance in contravention of applicable environmental laws, to enter any of the premises of such Debtor to conduct audits, testing and monitoring with respect to hazardous substances and to remove and analyze any hazardous substance at the cost and expense of such Debtor (which cost and expense shall form part of the Secured Liabilities of such Debtor and shall be payable immediately on demand and secured by the Security Interests created by this Agreement). Each Debtor shall indemnify the Creditor and hold the Creditor harmless against and from all losses, costs, damages and expenses which the Creditor may sustain, incur or be or become liable at any time whatsoever for by reason of or arising from the past, present or future existence, clean-up, removal or disposal of any hazardous substance on or about any property owned or occupied by the Creditor or compliance with environmental Laws or environmental orders relating thereto, including any clean-up, decommissioning, restoration or remediation of any premises owned or occupied by such Debtor or other affected lands or

property. This indemnification shall survive the Release Date. Notwithstanding the foregoing, the Creditor shall conduct such audits, testing and monitoring at the premises of the Debtor in such a manner as to reasonably minimize the interruptions of the ordinary business operation of the Debtor.

30. **Amalgamation.** If any Debtor is a corporation, such Debtor acknowledges that if it amalgamates or merges with any other corporation or corporations, then (i) the Collateral and the Security Interests of such Debtor shall extend to and include all the property and assets of the amalgamated corporation and to any property or assets of the amalgamated corporation thereafter owned or acquired, (ii) the term “Debtor”, where used in this Agreement, shall extend to and include the amalgamated corporation, and (iii) the term “Secured Liabilities”, where used in this Agreement, shall extend to and include the Secured Liabilities of the amalgamated corporation.

31. **Governing Law; Attornment.** This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario. Without prejudice to the ability of the Creditor to enforce this Agreement in any other proper jurisdiction, each Debtor irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of Ontario. To the extent permitted by applicable Law, each Debtor irrevocably waives any objection (including any claim of inconvenient forum) that it may now or hereafter have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of Ontario.

32. **Interpretation.** The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “or” is disjunctive; the word “and” is conjunctive. The word “shall” is mandatory; the word “may” is permissive. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set out herein), (b) any reference herein to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time, (c) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (e) all references herein to Sections and Schedules shall be construed to refer to Sections and Schedules to, this Agreement, Section headings are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement. Any reference in this Agreement to a Permitted Lien is not intended to subordinate or postpone, and shall not be interpreted as subordinating or postponing, or as any agreement to subordinate or postpone, any Security Interest to any Permitted Lien.

33. **Paramountcy.** In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the NPA then, notwithstanding anything contained in this Agreement, the provisions contained in the NPA shall prevail to the extent of such conflict or inconsistency and the provisions of this Agreement shall be deemed to be amended to the extent

necessary to eliminate such conflict or inconsistency, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to the Creditor under the NPA. If any act or omission of any or all Debtors is expressly permitted under the NPA but is expressly prohibited under this Agreement, such act or omission shall be permitted. If any act or omission is expressly prohibited under this Agreement, but the NPA does not expressly permit such act or omission, or if any act is expressly required to be performed under this Agreement but the NPA does not expressly relieve any or all Debtors from such performance, such circumstance shall not constitute a conflict or inconsistency between the applicable provisions of this Agreement and the provisions of the NPA.

34. **Successors and Assigns**. This Agreement shall enure to the benefit of, and be binding on, each Debtor and its successors and permitted assigns, and shall enure to the benefit of, and be binding on, the Creditor and its successors and assigns. No Debtor may assign this Agreement, or any of its rights or obligations under this Agreement except to successors and assigns as permitted by the NPA. The Creditor may assign this Agreement and any of its rights and obligations hereunder to any Person. If any Debtor or the Creditor is an individual, then the term “Debtor” or “Creditor”, as applicable, shall also include his or her heirs, administrators and executors.

35. **Additional Debtors**. Additional Persons may from time to time after the date of this Agreement become Debtors under this Agreement by executing and delivering to the Creditor a supplemental agreement (together with all schedules thereto, a “**Supplement**”) to this Agreement, in substantially the form attached hereto as Exhibit A. Effective from and after the date of the execution and delivery by any Person to the Creditor of a Supplement:

- (a) such Person shall be, and shall be deemed for all purposes to be, a Debtor under this Agreement with the same force and effect, and subject to the same agreements, representations, indemnities, liabilities, obligations and Security Interests, as if such Person had been an original signatory to this Agreement as a Debtor; and
- (b) all Collateral of such Person shall be subject to the Security Interest from such Person as security for the due payment and performance of the “Liabilities” of such Person in accordance with the provisions of this Agreement.

The execution and delivery of a Supplement by any additional Person shall not require the consent of any Debtor and all of the Secured Liabilities of each Debtor and the Security Interests granted thereby shall remain in full force and effect, notwithstanding the addition of any new Debtor to this Agreement.

36. **Acknowledgment of Receipt/Waiver**. Each Debtor acknowledges receipt of an executed copy of this Agreement and, to the extent permitted by applicable Law, waives the right to receive a copy of any financing statement or financing change statement registered in connection with this Agreement or any verification statement issued with respect to any such financing statement or financing change statement.

37. **Transaction Document.** Each Debtor acknowledges and agrees that this Agreement shall constitute a “Transaction Document”.

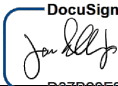
38. **Electronic Signature and Counterparts.** Delivery of an executed signature page to this Agreement by any Debtor by facsimile or other electronic form of transmission shall be as effective as delivery by such Debtor of a manually executed copy of this Agreement by such Debtor. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract.

[signatures on the next following pages]

S-1

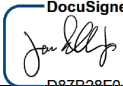
IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

1263343 ALBERTA INC.

By:  DocuSigned by:
Name: Jim Sullivan
Title: Interim Chief Executive Officer

IN WITNESS WHEREOF the undersigned has caused this Agreement to be duly executed as of the date first written above.

LYNX AIR HOLDINGS CORPORATION

By:  DocuSigned by:
D07D20F04A3B412...
Name: Jim Sullivan
Title: Interim Chief Executive Officer

SCHEDULE A-1

DEBTOR INFORMATION

Full legal name: Lynx Air Holdings Corporation

Prior names: Enerjet Holdco Inc.

Predecessor companies: N/A

Jurisdiction of incorporation or organization: Alberta

Address of chief executive office: 3215 12th Street NE, Calgary, Alberta T2E 7S9

Addresses of all places where business is carried on or tangible Personal Property is kept:
3215 12th Street NE, Calgary, Alberta T2E 7S9, and

217 Aero Court NE, Calgary, Alberta T2E 7C6

Jurisdictions in which all material account debtors are located: Alberta

Addresses of all owned real property: N/A

Addresses of all leased real property: N/A

Description of all “serial number” goods (i.e. motor vehicles, trailers, aircraft, boats and outboard motors for boats): N/A

Description of all material Permits: N/A

Subsidiaries of such Debtor: 1263343 Alberta Inc.

Instruments, Documents of Title and Chattel Paper of such Debtor: N/A

Pledged Certificated Securities:

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location
1263343 Alberta Inc.	1 Common Voting Share	100%	CVS - 002	Minute Book R.O. c/o Linmac LLP, 1400, 350 7 th Avenue SW, Calgary, Alberta, T2P 3N9
	985,660 Common Voting Shares		N/A	Minute Book R.O. c/o Linmac LLP, 1400, 350 7 th Avenue SW, Calgary, Alberta, T2P 3N9

Pledged Securities Accounts: Nil

Pledged Securities Intermediary	Securities Account Number	Pledged Securities Intermediary's Jurisdiction	Pledged Security Entitlements

Pledged Uncertificated Securities: Nil

Pledged Issuer	Pledged Issuer's Jurisdiction	Securities Owned	% of issued and outstanding Securities of Pledged Issuer

Pledged Futures Accounts: Nil.

Pledged Futures Intermediary	Futures Account Number	Pledged Futures Intermediary's Jurisdiction	Pledged Futures Contracts

Registered trade-marks and applications for trademark registrations: Nil.

<i>Country</i>	<i>Trade-mark</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Registration Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N] ²

Patents and patent applications: Nil.

<i>Country</i>	<i>Title</i>	<i>Patent No.</i>	<i>Application Date</i>	<i>Date of Grant</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Copyright registrations and applications for copyright registrations: Nil.

<i>Country</i>	<i>Work</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Industrial designs/registered designs and applications for registered designs: Nil.

<i>Country</i>	<i>Design</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Issue Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N]

² If the answer to this or any corresponding column is “yes”, describe the particulars of each such licence.

SCHEDULE A-2

DEBTOR INFORMATION

1263343 Alberta Inc.

Full legal name: 1263343 Alberta Inc.

Prior names: N/A

Predecessor companies: N/A

Jurisdiction of incorporation or organization: Alberta

Address of chief executive office: 3215 12th Street NE, Calgary, Alberta T2E 7S9

Addresses of all places where business is carried on or tangible Personal Property is kept:

3215 12th Street NE, Calgary, Alberta T2E 7S9, and

217 Aero Court NE, Calgary, Alberta T2E 7C6

Jurisdictions in which all material account debtors are located:

Alberta

Addresses of all owned real property: N/A

Addresses of all leased real property:

3215 12th Street NE, Calgary, Alberta T2E 7S9, and

217 Aero Court NE, Calgary, Alberta T2E 7C6

Description of all “serial number” goods (i.e. motor vehicles, trailers, aircraft, boats and outboard motors for boats):

Nil.

Description of all material Permits:

Issuing Authority	Title	'License' Number	Location of Issuance or Amendment	Date of Issuance or Amendment	Expiry Date	Description
Transport Canada	Air Operator Certificate	11035	Ottawa, Ontario	14 DEC 2022	N/A	Entitles the holder to operate within Canadian Aviation Regulations for Airline Operations for Boeing B38M –

						Boeing 737 8(8) aircraft
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Special Authorities Approved By Way of Air Operator Certificate:

- Types of Operation
 1. Cargo
 2. Passenger
- Types of Service
 1. Domestic
 2. Non-Scheduled International
 3. Scheduled International
- Areas of Operation
 1. Caribbean
 2. Europe
 3. North America
 4. North Atlantic
 5. South America
- Special Authorizations
 1. Dangerous Goods
 2. Category II Instrument Approaches
 3. Category IIIA Instrument Approaches
 4. Take-Off Minima – RVR 1200'
 5. Take-Off Minima – RVR 600'
 6. Standard Restricted Instrument Procedures
 7. Instrument Procedures – GNSS
 8. No Alternate IFR
 9. ILS / PRM / LDA / SOIA
 10. CMNPS
 11. NAT – MNPS
 12. Net Take-Off Flight Path Greater Bank Angle
 13. RNPC
 14. RVSM
 15. RNAV 1 & 2
 16. RNAV 5
 17. RNP 1
 18. RNP 10 Airspace
 19. En Route Fuel Reserve Reduction
 20. Flight Attendant Requirement - 1:50
 21. Increase In Flight Duty Time
 22. Controlled Rest on the Flight Deck

Issuing Authority	Title	'License' Number	Location of Issuance or Amendment	Date of Issuance or Amendment	Expiry Date	Description
Canadian Transportation Agency	Domestic License	080111	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate between points in Canada.
Canadian Transportation Agency	Non-Scheduled International License	080112	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate non-scheduled international service with large aircraft
Canadian Transportation Agency	Scheduled International License	090108	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate scheduled service to the United

						States with large aircraft
Canadian Transportation Agency	Scheduled International License	100127	Ottawa, Ontario	22 NOV 2021	N/A	Entitles the holder to operate scheduled service to the Republic of Guyana with large aircraft

Issuing Authority	Title	'License' Number	Location of Issuance or Amendment	Date of Issuance or Amendment	Expiry Date	Description
Federal Aviation Administration	Foreign Operations Specifications	As Per Canadian AOC - 11035	El Segundo, California	18 JAN 2023	N/A	Authorization granted as an extension of approved Canadian Air Operator Certificate
US Department of Transportation	Registration of trade name "Lynx Air"		Washington DC	17 FEB 2022	N/A	Acceptance of trade name "Lynx Air"

Special Authorities Approved By Way of Foreign Operations Specifications:

- Types of Operation
 1. Cargo
 2. Passenger
- Areas of Operation
 1. The 48 contiguous United States and District of Columbia
 2. The State of Alaska
- Special Authorizations
 1. Day
 2. Night
 3. RVSM
 4. Ground Deicing
 5. Class I navigation in the US airspace using area or long-range navigation systems
 6. Terminal flight operations under instrument flight rules
 7. Basic instrument approach procedures
 8. Specific IFR take-off minimums, and alternate airports for departure
 9. Category II Instrument Approaches
 10. Category III Instrument Approaches
 11. Circle to land approach maneuvers or contact approach procedures
 12. Terminal area operations with large and turbojet airplanes

Subsidiaries of such Debtor: N/A

Instruments, Documents of Title and Chattel Paper of such Debtor: N/A

Pledged Certificated Securities: Nil.

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location

Pledged Securities Accounts: Nil.

Pledged Securities Intermediary	Securities Account Number	Pledged Securities Intermediary's Jurisdiction	Pledged Security Entitlements

Pledged Uncertificated Securities: Nil.

Pledged Issuer	Pledged Issuer's Jurisdiction	Securities Owned	% of issued and outstanding Securities of Pledged Issuer

Pledged Futures Accounts: Nil.

Pledged Futures Intermediary	Futures Account Number	Pledged Futures Intermediary's Jurisdiction	Pledged Futures Contracts

Registered trade-marks and applications for trademark registrations:

<i>Country</i>	<i>Trade-mark</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Formalized Date</i>	<i>Licensed to or by Debtor</i>
Canada	ALTISAIR	1987955	2019-10-01	Pending	2019-10-16	N ³
United States	ALTISAIR	88651312	2019-10-11	Pending		N ²
Canada	LYNX	2122427	2021-07-21	Pending	2021-07-21	N ²
United States	LYNX	90887511	2021-08-17	Pending		N ²
Canada	SKYLINE AIR	1954540	2019-03-29	Pending	2019-04-03	N ²
Canada	FLYTOO	2004841	2020-01-07	Pending	2020-01-28	N ²
United States	FLYTOO	88753242	2020-01-09	Pending		N ²
Canada	LYNX AIR	2127063	2021-08-12	Pending	2021-08-12	N ²
United States	LYNX AIR	90887531	2021-08-17	Pending		N ²
Canada	LYNX AIRLINE	2127066	2021-08-12	Pending	2021-08-12	N ²
United States	LYNX AIRLINE	90887540	2021-08-17	Pending		N ²

Patents and patent applications: Nil.

<i>Country</i>	<i>Title</i>	<i>Patent No.</i>	<i>Application Date</i>	<i>Date of Grant</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Copyright registrations and applications for copyright registrations: Nil.

<i>Country</i>	<i>Work</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

³ If the answer to this or any corresponding column is “yes”, describe the particulars of each such licence.

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Industrial designs/registered designs and applications for registered designs: Nil.

<i>Country</i>	<i>Design</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Issue Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N]

EXHIBIT A
FORM OF SUPPLEMENT
TO
GENERAL SECURITY AGREEMENT

TO: Indigo Northern Ventures LP

RECITALS:

- A. Reference is made to the General Security Agreement (the “**Security Agreement**”) dated as of February 7, 2024 entered into by Lynx Air Holdings Corporation and 1263343 Alberta Inc. (doing business as Lynx Air) and certain of their affiliates which thereafter signs a Supplement, in favour of the Creditor.
- B. Capitalized terms used but not otherwise defined in this Supplement have the respective meanings given to such terms in the Security Agreement, including the definitions of terms incorporated in the Security Agreement by reference to other agreements.
- C. Section 35 of the Security Agreement provides that additional Persons may from time to time after the date of the Security Agreement become Debtors under the Security Agreement by executing and delivering to the Creditor a supplemental agreement to the Security Agreement in the form of this Supplement.
- D. The undersigned (the “**New Debtor**”) has agreed to become a Debtor under the Security Agreement by executing and delivering this Supplement to the Creditor.

For good and valuable consideration, the receipt and adequacy of which are acknowledged by the New Debtor, the New Debtor agrees with and in favour of the Creditor as follows:

1. The New Debtor has received a copy of, and has reviewed, the Security Agreement and is executing and delivering this Supplement to the Creditor pursuant to Section 35 of the Security Agreement.
2. Effective from and after the date this Supplement is executed and delivered to the Creditor by the New Debtor:
 - (a) the New Debtor shall be, and shall be deemed for all purposes to be, a Debtor under the Security Agreement with the same force and effect, and subject to the same agreements, representations, indemnities, liabilities, obligations and Security Interests, as if the New Debtor had been, as of the date of this Supplement, an original signatory to the Security Agreement as a Debtor; and
 - (b) all Collateral of the New Debtor shall be subject to the Security Interests granted by the New Debtor as security for the due payment and performance of the Liabilities of the New Debtor in accordance with the provisions of the Security Agreement.

In furtherance of the foregoing, the New Debtor, as general and continuing collateral security for the due payment and performance of its Secured Liabilities, pledges, mortgages, charges and assigns (by way of security) to the Creditor, and grants to the Creditor a security interest in, the Collateral of the New Debtor. The terms and provisions of the Security Agreement are incorporated by reference in this Supplement.

3. The New Debtor represents and warrants to the Creditor that each of the representations and warranties made or deemed to have been made by it under the Security Agreement as a Debtor are true and correct on the date of this Supplement.

4. All of the information set out in Schedule A to this Supplement with respect to the New Debtor is accurate and complete as of the date of this Supplement.

5. Upon this Supplement bearing the signature of any Person claiming to have authority to bind the New Debtor coming into the possession of the Creditor, this Supplement and the Security Agreement shall be deemed to be finally and irrevocably executed and delivered by, and be effective and binding on, and enforceable against, the New Debtor free from any promise or condition affecting or limiting the liabilities of the New Debtor. No statement, representation, agreement or promise by any officer, employee or agent of the Creditor, unless expressly set forth in this Supplement, forms any part of this Supplement or has induced the New Debtor to enter into this Supplement and the Security Agreement or in any way affects any of the agreements, obligations or liabilities of the New Debtor under this Supplement and the Security Agreement.

6. Delivery of an executed signature page to this Supplement by the New Debtor by facsimile or other electronic transmission shall be as effective as delivery by the New Debtor of a manually executed copy of this Supplement by the New Debtor.

7. This Supplement shall be governed by and construed in accordance with the laws of the Province of Ontario, and the laws of Canada applicable therein.

8. This Supplement and the Security Agreement shall be binding upon the New Debtor and its successors. The New Debtor shall not assign its rights and obligations under this Supplement or the Security Agreement, or any of its rights or obligations in this Supplement or the Security Agreement.

Dated: [MONTH] [DAY], [YEAR]

[NEW DEBTOR]

By: _____
Name:
Title:

SCHEDULE A
DEBTOR INFORMATION

Full legal name:

Prior names:

Predecessor companies:

Jurisdiction of incorporation or organization:

Address of chief executive office:

Addresses of all places where business is carried on or tangible Personal Property is kept:

Jurisdictions in which all material account debtors are located:

Addresses of all owned real property:

Addresses of all leased real property:

Description of all “serial number” goods (i.e. motor vehicles, trailers, aircraft, boats and outboard motors for boats):

Description of all material Permits:

Subsidiaries of the New Debtor:

Instruments, Documents of Title and Chattel Paper of the New Debtor:

Pledged Certificated Securities:

Pledged Issuer	Securities Owned	% of issued and outstanding Securities of Pledged Issuer	Security Certificate Numbers	Security Certificate Location
[SUBCO]	[100 common shares]	[100%]	[C-1]	[Toronto]

Pledged Securities Accounts:

Pledged Securities Intermediary	Securities Account Number	Pledged Securities Intermediary's Jurisdiction	Pledged Security Entitlements
[BROKERAGE HOUSE]	[NUMBER]	[Ontario]	[100 common shares of [COMPANY]]

Pledged Uncertificated Securities:

Pledged Issuer	Pledged Issuer's Jurisdiction	Securities Owned	% of issued and outstanding Securities of Pledged Issuer
[LIMITED PARTNERSHIP]	[Ontario]	[100 limited partnership units]	[50% of all limited partnership interests]

Pledged Futures Accounts:

Pledged Futures Intermediary	Futures Account Number	Pledged Futures Intermediary's Jurisdiction	Pledged Futures Contracts
[BROKERAGE HOUSE]	[NUMBER]	[Ontario]	[Brief description of Contract]

Registered trade-marks and applications for trademark registrations:

<i>Country</i>	<i>Trade-mark</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Registration Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N] ⁴

Patents and patent applications:

<i>Country</i>	<i>Title</i>	<i>Patent No.</i>	<i>Application Date</i>	<i>Date of Grant</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Copyright registrations and applications for copyright registrations:

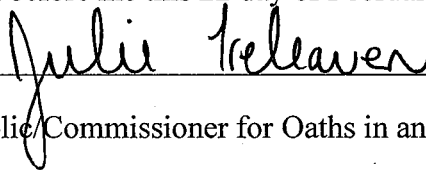
<i>Country</i>	<i>Work</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Licensed to or by Debtor</i>
					[Y/N]

Industrial designs/registered designs and applications for registered designs:

<i>Country</i>	<i>Design</i>	<i>Application No.</i>	<i>Application Date</i>	<i>Registration No.</i>	<i>Issue Date</i>	<i>Licensed to or by Debtor</i>
						[Y/N]

⁴ If the answer to this or any corresponding column is “yes”, describe the particulars of each such licence.

This is **Exhibit “37”** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barister & Solicitor

Dated: December 20, 2018

ENERJET HOLDCO INC.

1263343 ALBERTA INC.

INDIGO NORTHERN VENTURES LP

ENERJET SPV INC.

TORQUEST PARTNERS FUND IV, L.P.

TORQUEST CAPITAL FUND IV, L.P.

TORQUEST PARTNERS FUND (U.S.) IV, L.P.

STEPHENSON MANAGEMENT INC.

STEPWORTH HOLDINGS INC.

TIM DATTELS

GARY TORHJELM

and

T.W. MORGAN

**NOTEHOLDERS' AND SHAREHOLDERS'
AGREEMENT**

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THIS NOTEHOLDERS' AND SHAREHOLDERS' AGREEMENT is executed as of December 20, 2018 and made

BETWEEN

ENERJET HOLDCO INC. (the "**Company**"), a company registered under the laws of Alberta whose registered office is at 123-1440 Aviation Park NE, Calgary, Alberta, T2E 7E2;

1263343 ALBERTA INC., doing business as Enerjet (the "**Guarantor**"), a company registered under the laws of Alberta whose registered office is at 123-1440 Aviation Park NE, Calgary, Alberta, T2E 7E2;

INDIGO NORTHERN VENTURES LP ("**Indigo**", "**Noteholder**" or "**Noteholders**"), an exempted limited partnership registered under the laws of the Cayman Islands whose registered office is at c/o Maples Corporate Services Limited, PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands;

ENERJET SPV INC. (the "**Enerjet Shareholder**"), a company registered under the laws of Alberta whose registered office is at 123-1440 Aviation Park NE, Calgary, Alberta, T2E 7E2;

TORQUEST PARTNERS FUND IV, L.P. a limited partnership formed under the laws of the Province of Ontario whose registered office is at 161 Bay Street, Suite 4240, Toronto, Ontario, M5J 2S1;

TORQUEST CAPITAL FUND IV, L.P. a limited partnership formed under the laws of the Province of Ontario whose registered office is at 161 Bay Street, Suite 4240, Toronto, Ontario, M5J 2S1;

TORQUEST PARTNERS FUND (U.S.) IV, L.P. (collectively with Torquest Partners Fund IV, L.P. and Torquest Capital Fund IV, L.P., the "**Torquest Investor**") a limited partnership formed under the laws of the Province of Ontario whose registered office is at 161 Bay Street, Suite 4240, Toronto, Ontario, M5J 2S1;

STEPHENSON MANAGEMENT INC. a company registered under the laws of Québec whose registered office is at 5 Place Ville Marie, Suite 1203, Montreal, Québec, Canada H3B 2G2;

STEPWORTH HOLDINGS INC. a company registered under the laws of Canada whose registered office is at 1170 Peel Street, 8th Floor, Montreal, Québec, Canada H3B 4P2;

TIM DATTELS of the City of Whistler in the Province of British Columbia;

GARY TORHJELM of the City of Calgary in the Province of Alberta; and

T.W. MORGAN of the City of Calgary in the Province of Alberta;

BACKGROUND:

- A. The Note Purchase Agreement was executed by the parties thereto on the date of this Agreement.
- B. The Parties wish to enter into this Agreement to regulate the affairs of the Company in the manner set out in this Agreement.
- C. Indigo confirms that as at the date of this Agreement it is Non-Canadian.

IN CONSIDERATION OF THE PREMISES AND THE COVENANTS AND AGREEMENTS HEREIN SET FORTH, THE PARTIES AGREE AS FOLLOWS:

1. Definitions and interpretation

1.1 In this Agreement:

“Adherence Agreement” means a joinder to this Agreement substantially in the form set out in Schedule 1;

“Affiliate” means, in relation to any Person, a Subsidiary of that Person or any direct or indirect Holding Company of that Person or any other direct or indirect Subsidiary of any such Holding Company, provided that a portfolio company of the Torquest Investor or any of its Affiliates shall be deemed not to be an Affiliate of Torquest or Torquest Investor;

“Agency” means the Canadian Transportation Agency, or any successor agency thereto;

“Agreement” means this agreement, as amended, modified or restated from time to time;

“Auditors” means the auditors of the Company;

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

“Breaching Party” shall have the meaning ascribed to such term in clause 2.8.2;

“Business Day” means any day (other than Saturday or Sunday) which is not a public holiday and on which banks are open for normal banking business in Toronto, Ontario, Calgary, Alberta and New York, New York;

“Canadian” shall have the meaning ascribed to such term in the CTA, as supplemented by the Exemption;

“Canadian Directors” means, collectively, the Existing Canadian Director and the New Canadian Directors;

“Canadian Dollar” or **“\$”** means the lawful currency of Canada;

“Canadian Investors” means, collectively, Torquest Investor, Stephenson Management Inc, Stepworth Holdings Inc., Tim Dattels, Gary Torhjem and T.W. Morgan, with each Canadian Investor being a Shareholder of the Company;

“**CEO**” means, at any time, the person holding the office of Chief Executive Officer of the Company;

“**CEO Director**” means the person appointed as CEO and holding office as a Director from time to time pursuant to clause 2.2;

“**Class A Common Shares**” means the common voting shares in the Company permitted to be held by Canadians, as set forth in the Corporate Articles;

“**Class B Common Shares**” means the variable voting shares in the Company to be held by Non-Canadians, as set forth in the Corporate Articles;

“**Common Shares**” means, collectively, the Class A Common Shares and the Class B Common Shares in the Company;

“**Company Sale**” means (i) the sale of the entire issued share capital of the Company to a buyer or one or more buyers as part of a single transaction, or two or more interdependent transactions (or a sale of the entire issued share capital of the Company to a buyer or one or more buyers as part of a single transaction, or two or more interdependent transactions where such sale does not include the shares resulting from the conversion of the outstanding Notes but, instead, includes an offer to acquire such Notes prior to their conversion on terms that provide the holders of such Notes with an economic return that is equivalent to the economic return that they would have received had they converted all of the Notes sold pursuant to such sale, and the completion of such sale of Notes occurs at the same time as the completion of the sale of the issued shares) or (ii) the sale of all or substantially all of the assets of the Company to a buyer or one or more buyers as part of a single transaction, or two or more interdependent transactions;

“**Completion Date**” means December 20, 2018;

“**Compulsory Purchase Notice**” shall have the meaning ascribed to such term in clause 9.5.1;

“**Conditions**” shall have the meaning ascribed to such term in the Note Purchase Agreement;

“**Confidential Information**” means any information, whether acquired before or after the date of this Agreement, that relates to:

- (a) this Agreement;
- (b) any member of the Group or their respective businesses;
- (c) any of the Group’s customers, businesses, assets, contracts, employees or affairs (including without limitation, any information provided pursuant to clause 12); and
- (d) any Noteholder or Shareholder or any of their Affiliates, in each case, in respect of their identity, their being a Party to this Agreement and their holdings of Notes and/or Shares and making an investment in the Group or any other information relating to any of the foregoing that has been obtained pursuant to the negotiation of this Agreement or any of the documents referred to herein,

save for, in each case:

- (i) information that is independently developed by the relevant Person from information that was neither: (A) provided pursuant to this Agreement; (B) provided by any member of the Group, any Noteholder or Shareholder; nor (C) provided by a third party to the extent that it was provided with any limitation on disclosure or obligation of confidence; or
- (ii) information which is at the date of disclosure within the public domain (otherwise than as a result of a breach of this Agreement);

“Control” shall have the meaning ascribed to such term in the definition of “Affiliation” in the CTA. **“Controlling”** and **“Controlled”** have meanings correlative thereto;

“Controlling Interest” shall have the meaning ascribed to such term in the Note Purchase Agreement;

“Conversion Shares” means, in respect of any Notes, the Class B Common Shares that would result from the conversion of such Notes in accordance with their terms and the relevant provisions of the Note Purchase Agreement (or, to the extent that such Notes have already been converted into shares, the Class B Common Shares that were actually issued by the Company in connection with the conversion of such Notes);

“Corporate Articles” means the articles of incorporation of the Company in the form set out in Schedule 2;

“Covenants” means the Covenants, as such term is defined in the Note Purchase Agreement;

“CTA” means the *Canada Transportation Act*, as such legislation may be amended, renamed or replaced from time to time, and includes all regulations from time to time made under such legislation;

“Default” means shall have the meaning ascribed to such term in the Note Purchase Agreement;

“Defaulting Notified Party” shall have the meaning ascribed to such term in clause 9.4.3;

“Director” means a member of the Board;

“Drag-Along Conditions” means each of the following:

- (a) the proposed transfer in respect of which the drag along right is initiated is in relation to one hundred percent (100%) of the Shares owned by each of the selling Shareholder and the dragged-along Shareholder;
- (b) the dragged-along Shareholder or Noteholder would, upon completion of the transfer, realize a per annum Internal Rate of Return of not less than thirty five percent (35%) on its investment in its Shares or Notes so transferred;

- (c) the liability for the dragged-along Shareholder or Noteholder in connection with the proposed transfer must be several and not joint and several and shall not exceed the lesser of his, her or its (i) pro rata share of any claim and (ii) the purchase price actually payable to him, her or it; and
- (d) the dragged-along Shareholder or Noteholder shall not be required to accept any securities with a lock-up or hold period in excess of six months.

“Drag-Along Notice” shall have the meaning ascribed to such term in clause 9.4.1;

“Exemption” means the exemption order issued by the Minister of Transport to the Guarantor on December 2, 2016 relating to the CTA;

“Existing Canadian Director” means the person appointed by the Enerjet Shareholder and holding office as a Director from time to time pursuant to clause 2.5;

“Financial Indebtedness” shall have the meaning ascribed to such term in the Note Purchase Agreement;

“Financial Shareholders” means Indigo and the Canadian Investors;

“Fully Diluted Share Capital” means, at any time, the aggregate number of Common Shares outstanding, including those issued assuming the conversion (in full) of all Notes (whether or not, on their terms, the same are actually convertible into Common Shares at such time);

“GAAP” means, in relation to any Person, the generally accepted accounting principles in Canada as in effect from time to time;

“Governmental Entity” means any (a) multinational, federal, provincial, territorial, state, municipal, local or other governmental or public department, central bank, court, minister, governor-in-council, cabinet, commission, board, arbitrator, tribunal, bureau or agency, domestic or foreign, (b) any subdivision or authority of any of the above, (c) any stock exchange, or (d) any quasi-governmental or private body exercising any regulatory, expropriation or tax authority under or for the account of any of the above;

“Guarantor” has the meaning set out in the Recitals;

“Group” means the Company and its Subsidiaries from time to time;

“Group Company” means a member of the Group;

“Holding Company” means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary;

“Indigo Directors” means the persons appointed by Indigo and holding office as a Director from time to time pursuant to clause 2.4.1(a) and the term **“Indigo Director”** means any one of them;

“Internal Rate of Return” means, with respect to a Qualifying Offer to a Shareholder or a Noteholder, the annual percentage rate, which when utilized to calculate the present value

of all distributions received by such Shareholder or a Noteholder, as the case may be, from the Company, shall cause such present value to equal the present value of all contributions (i.e., cash outflows) made by such Shareholder or Noteholder, as the case may be, to the Company. In order for a Shareholder or Noteholder to receive a positive Internal Rate of Return, a Shareholder must receive an aggregate amount equal to (a) its aggregate contributions to the Company, plus (b) an annually compounded return thereon. For purposes of computing such Internal Rate of Return all contributions made by such Shareholder or Noteholder to fund expenses that are attributable to an investment previously made by the Company or the transaction contemplated by the Qualifying Offer, as determined by the Company, acting reasonably, shall be treated as contributions;

“Investors” means, collectively, the Shareholders and the Noteholders and **“Investor”** means any one of them;

“IPO” means an initial public offering, whether on a treasury or secondary basis, resulting in the holding of equity of the Company, directly or indirectly, by the public, or a transaction giving rise to a stock market listing on any Recognised Securities Exchange or over-the-counter quotation of equity of the Company, directly or indirectly, and includes an amalgamation, securities exchange take-over bid or other transaction having a similar result, and an offering of units of an income trust or similar offering where the trust, directly or indirectly, owns equity of the Company;

“Management Fee” means the management fee payable to the Canadian Investors as more particularly described in the Management Services Agreement;

“Management Services Agreement” means the management services agreement entered into between the Company and the Canadian Investors dated December 20, 2018;

“Material Adverse Effect” shall have the meaning ascribed to such term in the Note Purchase Agreement;

“Majority Noteholders” means the majority of Noteholders, provided that such majority includes Indigo;

“New Canadian Directors” means the persons appointed by the Canadian Investors and holding office as a Director from time to time pursuant to clause 2.3.1(a) and the term **“New Canadian Director”** means any one of them;

“Non-Canadian” means any Person that does not qualify as Canadian;

“Note Purchase Agreement” means the note purchase agreement entered into on December 20, 2018 between the Company, Indigo and the Guarantor;

“Noteholder” means any holder of Notes;

“Notes” means the notes issued by the Company from time to time pursuant to the Note Purchase Agreement (or pursuant to any other note purchase agreement provided that the relevant notes are expressed to be Notes for the purpose of this Agreement);

“Notified Parties” shall have the meaning ascribed to such term in clause 9.4.1 for the purposes of clause 9.4 and shall have the meaning ascribed to such term in clause 9.5.1 for the purposes of clause 9.5;

“Obligor” means the Company or the Guarantor, and the term **“Obligors”** means the Company and Guarantor;

“Offeror” means a Person making a Qualifying Offer;

“Ordinary Course of Business” means any transaction which constitutes an ordinary day to day business activity of the Company, conducted in a commercially reasonable and business-like manner, having no unusual or special features, and being such as a Person of a similar nature and size engaged in a similar business might be reasonably be expected to carry on from time to time;

“Ownership and Control Requirements” shall have the meaning ascribed to such term in the Note Purchase Agreement;

“Party” means a party to this Agreement;

“Permitted Transfer” means a Transfer by a Shareholder of all, but not less than all, of the Company’s Shares held by it at such time:

- (a) to any Affiliate of the Shareholder (including, with respect to the Torquest Investor, any investment vehicle controlled by an Affiliate of the general partner of the Torquest Investor);
- (b) to its limited partners, in the case of a limited partnership;
- (c) to any Person in connection with the sale of all or substantially all of the assets of the Shareholder;
- (d) to any Person or Persons in connection with the dissolution or Winding-up of the Shareholder, or the liquidation of its assets;
- (e) to a financial institution which carries on the business of providing equity financing as part of a sale of a portfolio of equity interests; or
- (f) to any Person if it is required by law to do so;

“Permitted Transferee” means a Person to whom a Permitted Transfer can be made;

“Person” includes any natural person, corporation, company, limited liability company, trust, joint venture, association, incorporated organization, partnership, governmental authority or other entity;

“Proceedings” shall have the meaning ascribed to such term in clause 33.2;

“Qualified IPO” means an IPO, underwritten by an internationally recognised investment bank, with a pre-money valuation of the Company’s issued share capital (inclusive of the as converted share equivalents related to the Notes) of not less than \$250,000,000;

“Qualifying Offer” shall have the meaning ascribed to such term in clause 9.2;

“Quoted Shares” means Common Shares in the capital of the Company listed on any Recognised Securities Exchange or in respect of which permission has been granted to be dealt in on any Recognised Securities Exchange;

“Quorum” means (i) a majority of those Directors present being Canadian and (ii) at least one (1) Indigo Director being present;

“Recognised Securities Exchange” means the Toronto Stock Exchange or any other recognized securities exchange in Canada or the United States of America or any exchange or market replacing any of the same in Canada or the United States of America;

“Security Documents” shall have the meaning ascribed to such term in the Note Purchase Agreement;

“Sellers” shall have the meaning ascribed to such term in clause 9.4;

“Senior Employee” means any employee of the Group whose annual salary exceeds \$200,000;

“Shareholder” means a holder of Shares for the time being;

“Share Purchase Agreement” means share purchase agreement dated December 20, 2018 between the Company and the Enerjet Shareholder;

“Shares” means Common Shares;

“Significant Shareholder” means a Shareholder who is the registered owner of at least 15% of the Shares;

“Subscription Agreements” means the subscription agreements entered into on December 20, 2018 between the Company and the Shareholders;

“Subsidiary” means any Person (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, Controlled or held, or (b) that is, as of such date, otherwise Controlled, by the Company or one or more subsidiaries of the Company or by the Company and one or more subsidiaries of the Company;

“Tax” means all taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, harmonized sales, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, real property and personal property taxes, and any other taxes, customs duties, fees, assessments, or similar charges in the nature of a tax, including Canada Pension Plan and provincial pension plan contributions, employment insurance payments and workers' compensation premiums, together with any instalments with respect thereto, and any interest, fines and penalties with respect thereto, imposed by any governmental authority (including federal, state, provincial, municipal and foreign governmental authorities), and whether disputed or not;

“Torquest” means, collectively, the Torquest Investor and any of its Permitted Transferees;

“Torquest Investor” means, collectively, Torquest Partners Fund IV, L.P., Torquest Capital Fund IV, L.P. and Torquest Partners Fund (U.S.) IV, L.P.;

“Transaction Documents” means this Agreement, the Note Purchase Agreement, the Security Documents, the Subscription Agreements, the Management Services Agreement and each other agreement or document entered into or executed pursuant to any of the foregoing;

“Transfer” includes any sale, exchange, assignment, gift, bequest, disposition, mortgage, charge, pledge, encumbrance, grant of security interest or other arrangement by which possession, legal title or beneficial ownership passes, directly or indirectly, from one person to another, or to the same person in a different capacity, whether or not voluntary and whether or not for value, and any agreement to effect any of the foregoing; and the words **“Transferred”**, **“Transferring”** and similar words have corresponding meanings; and

“Warrant” means the warrant dated December 20, 2018 between the Company and Enerjet Shareholder pursuant to which Enerjet Shareholder is entitled to receive Class A Common Shares necessary to bring the aggregate equity ownership of Enerjet Shareholder in the Company equal to 4.422% of the outstanding equity of the Company subject to the provisions and upon the terms and conditions set forth in such warrant;

“Winding-Up” shall have the meaning ascribed to such term in the Note Purchase Agreement.

1.2 In this Agreement, unless a contrary indication appears:

- (a) references to “clauses” and “Schedules” are references to clauses of and schedules to this Agreement, references to “paragraphs” are references to paragraphs of the Schedule (or clause) in which the reference appears and references to this Agreement include the Schedules;
- (b) reference to any gender shall include every other gender;
- (c) the singular shall include the plural and vice versa;
- (d) the headings and sub-headings are inserted for convenience only and shall not affect the construction of this Agreement;
- (e) references to dollars are to mean Canadian Dollars unless an explicit reference is made to Canadian or other currency;
- (f) references to “indebtedness” include any obligation (whether incurred as principal, as guarantor or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (g) references to a “regulation” include any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental,

intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

- (h) references to “**Indigo**”, any “**Noteholder**”, any “**Shareholder**” and/or any “**Party**” shall be construed so as to include its successors, permitted assigns and Permitted Transferees;
- (i) references to “pro rata” are to mean, with respect to a Shareholder or a Noteholder, in accordance with the percentage obtained by dividing (a) the aggregate number of Common Shares, including those issued assuming the conversion (in full) of all Notes (whether or not, on their terms, the same are actually convertible into Common Shares at such time) held by such Shareholder or a Noteholder by (b) the Fully Diluted Share Capital;
- (j) references to “assets” include present and future properties, revenues and rights of every description;
- (k) references to any agreement or instrument is a reference to that agreement or instrument as amended, varied, supplemented or novated (however fundamentally) from time to time but excluding for these purposes any amendment, variations, supplement or novation which is contrary to the provisions of any such agreement or instrument; and
- (l) references to a provision of law are references to that provision as amended or re-enacted and include any subordinate legislation.

2. Board appointment rights

2.1 Number of Directors and Board Composition

2.1.1 Subject to clauses 2.8 and 2.9 below, the Parties each hereby acknowledge and agree that the Board shall, at all times, comprise a maximum of seven (7) Directors, as follows:

- (a) the CEO Director;
- (b) three (3) New Canadian Directors;
- (c) two (2) Indigo Directors; and
- (d) one (1) Existing Canadian Director.

2.1.2 Each of the Directors shall be appointed and hold office (and may be removed and replaced) pursuant to and in accordance with the provisions of this clause 2.

2.2 CEO Director

2.2.1 Subject to clauses 2.8 and 2.9 below, the CEO (for so long as he or she remains employed by the Company in such capacity) shall have the right to hold office as a Director (such person being referred to herein as the “**CEO Director**”).

2.2.2 In the event that the CEO ceases to be employed by the Company in such capacity:

- (a) the CEO's rights of appointment under clause 2.2.1 shall terminate forthwith; and
- (b) the CEO Director shall be deemed to have resigned as a Director of the Company with effect from the date of such cessation.

2.2.3 From such time (if any) as the CEO ceases to be employed by any Group Company and has voluntarily resigned from that employment or has been removed from office, then:

- (a) the CEO's rights of appointment under clause 2.2.1 shall terminate forthwith; and
- (b) the CEO Director shall be deemed to have resigned as a Director of the Group Company with effect from the date of such cessation.

If the CEO loses his or her right to be the CEO Director (pursuant to clause 2.2.2 or 2.2.3), the Board shall as soon as reasonably practicable appoint a replacement director from the management of the Company in his or her stead.

2.3 **New Canadian Directors**

2.3.1 Subject to clauses 2.8 and 2.9 below, for so long as Indigo (together with their Permitted Transferees) continues to hold at least 15% of the Fully Diluted Share Capital, the majority of Canadian Investors shall have the right and shall be entitled (but not obliged) from time to time:

- (a) to designate three (3) persons to hold office at any one time as Directors (each such person being referred to herein as the "**New Canadian Director**");
- (b) to remove, with or without cause, any New Canadian Director from office;
- (c) in the case that any New Canadian Director ceases to hold office as a New Canadian Director (pursuant to clause 2.3.1(b) above, or otherwise), to designate a substitute New Canadian Director in his or her stead; and
- (d) to have such New Canadian Directors designate, together with each other Director, any Director (including, for the avoidance of doubt, any Indigo Director) as the Chairman of the Board (and to remove any person from such role at any time and designate any other Director as the Chairman of the Board). The Parties acknowledge that the initial Chairman to be designated by the Directors shall be a Canadian. The Parties acknowledge that (x) if all of the Directors cannot agree on a Chairman appointment, then the Chairman shall be appointed by the majority of the Directors, and (y) any Director may nominate the Chairman.

2.3.2 Each appointment or removal of a New Canadian Director shall be effected by written notice in writing to the Company (in accordance with the provisions of clause 2.7) signed by or on behalf of majority of Canadian Investors.

2.4 **Indigo Directors**

2.4.1 Subject to clause 2.8 below, for so long as Indigo (together with its Permitted Transferees) continues to hold at least 15% of the Fully Diluted Share Capital, Indigo shall have the right and shall be entitled (but not obliged) from time to time:

- (a) to designate two (2) persons to hold office at any one time as Directors (each such person being referred to herein as an “**Indigo Director**”);
- (b) to remove, with or without cause, any Indigo Director from office;
- (c) in the case that any Indigo Director ceases to hold office as a Director (pursuant to clause 2.4.1(b) above, or otherwise), to designate a substitute Indigo Director in his or her stead; and
- (d) to have such Indigo Directors designate, together with each other Director, any Director (including, for the avoidance of doubt, any Indigo Director) as the Chairman of the Board (and to remove any person from such role at any time and designate any other Director as the Chairman of the Board). The Parties acknowledge that the initial Chairman to be designated by the Directors shall be a Canadian. The Parties acknowledge that (x) if all of the Directors cannot agree on a Chairman appointment, then the Chairman shall be appointed by the majority of the Directors, and (y) any Director may nominate the Chairman.

2.4.2 Each appointment or removal of a Indigo Director shall be effected by written notice in writing to the Company (in accordance with the provisions of clause 2.7) signed by or on behalf of Indigo.

2.5 Existing Canadian Directors

2.5.1 Subject to clauses 2.8 and 2.9 below, for so long as Indigo (together with their Permitted Transferees) continues to hold at least 15% of the Fully Diluted Share Capital, Enerjet Shareholder shall have the right and shall be entitled (but not obliged) from time to time:

- (a) to designate one (1) person to hold office at any one time as Director (such person being referred to herein as the “**Existing Canadian Director**”);
- (b) to remove, with or without cause, the Existing Canadian Director from office;
- (c) in the case that the Existing Canadian Director ceases to hold office as an Existing Canadian Director (pursuant to clause 2.5.1(b) above, or otherwise), to designate a substitute Existing Canadian Director in his or her stead; and
- (d) to have such Enerjet Shareholder designate, together with each other Director, any Director (including, for the avoidance of doubt, any Indigo Director) as the Chairman of the Board (and to remove any person from such role at any time and designate any other Director as the Chairman of the Board). The Parties acknowledge that the initial Chairman to be designated by the Directors shall be a Canadian. The Parties acknowledge that (x) if all of the Directors cannot agree on a Chairman appointment, then the Chairman shall be appointed by the majority of the Directors, and (y) any Director may nominate the Chairman.

2.5.2 Each appointment or removal of an Existing Canadian Director shall be effected by written notice in writing to the Company (in accordance with the provisions of clause 2.7) signed by or on behalf of Enerjet Shareholder.

2.6 Board Committees and Boards of Subsidiaries

The Company shall provide that:

- (a) the number of directors holding office on the board of directors of each Subsidiary does not exceed the number of Directors appointed and holding office (pursuant to this clause 2);
- (b) upon written request by an Indigo Director (or the entity who designated the relevant Indigo Director pursuant to this clause 2), such Indigo Director is appointed to any committee of the Board that may exist from time to time (and the Company shall provide that, subject as hereinafter set forth, such appointment is effected as soon as reasonably practicable following the receipt by the Company of the aforementioned written request and that no material business is transacted or approved by such committee of the Board during the period from receipt of the written request referred to in this clause 2.6(b) and the appointment of such Indigo Director to the relevant committee);
- (c) upon written request by an Indigo Director (or the entity who designated the relevant Indigo Director pursuant to this clause 2), such Indigo Director is appointed to any board of directors of any Subsidiary (and the Company shall provide that, subject as hereinafter set forth, such appointment is effected as soon as reasonably practicable following the receipt by the Subsidiary of the aforementioned written request and that no material business is transacted or approved by the board of directors of such Subsidiary during the period from receipt of the written request referred to in this clause 2.6(c) and the appointment of such Indigo Director to the board of directors of the relevant Subsidiary);
- (d) the Parties acknowledge that only one Indigo Director at any one time has the right to submit such a written request and be appointed to a committee of the Board; and
- (e) initially, the Board shall have an audit committee, a safety, health and environment committee, a compensation and human resources committee, and a corporate governance and nominating committee. In order for business to be carried out by a committee, a majority of those Directors in attendance must be Canadian.

For greater certainty, the minimum number of Directors required to be in attendance for a committee is three (3), of which two (2) must be Canadian and one (1) must be the Indigo Director. In no event, does a Director sitting on a committee hold any veto rights in respect of such committee.

2.7 Notice of Appointment

Any notice of appointment or replacement pursuant to the terms of clauses 2.2, 2.3, 2.4, 2.5 or 2.6 shall be made by notice in writing to the Company, signed by or on behalf of the relevant Party or Parties and delivered to the Company at its registered office.

2.8 Loss of Board Appointment Rights

- 2.8.1 Any Party that loses its rights of appointment and removal under this clause 2 shall ensure that each of the Directors appointed by it (or in the case of the CEO Director, the CEO himself or herself) shall promptly resign their office as Director (and shall also promptly resign any position on any committee of the Board and any position as a director of any Subsidiary).
- 2.8.2 All reasonable costs and expenses incurred by the Company or any Subsidiary in connection with the removal of any Director whose resignation a Party (the “**Breaching Party**”) was required to procure (or effect), shall promptly be reimbursed to the Company by such Breaching Party.

2.9 Change of Control and the Ownership and Control Requirements

- 2.9.1 In the event that any Party other than Indigo does not take up its Board appointment rights pursuant to clause 2.1, or a Party loses such rights pursuant to this clause 2 (or otherwise), Indigo shall procure that the number of Indigo Directors holding office is reduced a corresponding number (until such time, if any, as such unexercised appointment rights is/are exercised).
- 2.9.2 To the extent necessary to comply with the Ownership and Control Requirements, in the event the CEO Director or any Canadian Director or any Party appointing any of them shall cease to be Canadian, then the relevant Party shall procure the resignation of its appointed Director and such Party shall cease to be able to exercise its Board appointment rights pursuant to this clause 2 for so long as it remains Non-Canadian and such cessation is required to comply with the Ownership and Control Requirements.
- 2.9.3 To the extent that any Party does not exercise its Board appointment rights pursuant to this clause 2 in full (but remains entitled to appoint a Director pursuant to this clause 2), such Party shall also be entitled to appoint one (1) person to act as an observer at all meetings of the Board. Such observer shall be entitled to receive all information and documentation received by Directors and to attend, but must sign a confidentiality agreement in advance, be subject to recusal for sensitive or legally privileged matters, and not to speak or vote at, all meetings of the Board. For the avoidance of doubt, a Party shall immediately cease to be entitled to appoint a Board observer under this clause 2.9.3 (and any observer previously appointed shall immediately cease to act in such capacity) upon such Party ceasing to be entitled to appoint a Director pursuant to this clause 2.

2.10 Board Meetings

- 2.10.1 The Company undertakes to the Noteholders that:
- (a) meetings of the Board shall be held at least quarterly and shall be convened by giving to the Directors not less than twenty (20) Business Days’ notice and enclosing an agenda and copies of any appropriate supporting papers (provided that meetings of the Board may be held on shorter notice with the consent of the Majority Noteholders);

- (b) the Company shall make copies of the minutes of all of those meetings available to the Majority Noteholders holding the majority of the Notes not later than five (5) Business Days after the relevant meeting; and
- (c) no meeting shall be convened if Quorum is not met. If the Quorum is not present, the meeting of the Board shall be adjourned to a later date or a second meeting of Directors for which the Quorum shall be constituted by the Directors present at such second meeting.

2.11 Directors' fees

- 2.11.1 The CEO Director shall not be entitled to the payment of any directors' fees, unless otherwise determined by the Board.
- 2.11.2 The Indigo Directors and the Canadian Directors shall be entitled to the payment of reasonable and equal directors' fees as determined by the Board. In respect of the services of Indigo Directors and the Canadian Directors, the Company shall pay monthly in arrears, such fees and out-of-pocket expenses properly incurred by them in connection with the performance of their duties as Directors (together with Tax on those amounts where appropriate).

2.12 Procuring undertakings

- 2.12.1 The Company undertakes to each of the Noteholders that it will take such actions and do such things as are necessary to procure compliance with the provisions of this clause 2 (and any reasonable requests that the Majority Noteholders may make in writing to the Company in connection with the implementation of, or the exercise of rights under, this clause 2).
- 2.12.2 Each Party (other than the Company) severally undertakes in favour of each of the other Parties (other than the Company) that they shall join with each other in exercising their voting and other rights, and procure that their respective nominees and any Directors nominated by them shall join in exercising their voting and other rights as shareholders of the Company and as Directors, to procure (insofar as they are thereby able to procure) compliance with the provisions of this clause 2 (and any reasonable requests that the Majority Noteholders may make in writing to the Company in connection with the implementation of, or the exercise of rights under, this clause 2).
- 2.12.3 Notwithstanding any other provision of this Agreement or the Note Purchase Agreement, the Company undertakes that it will take all such actions, and each of the Parties undertakes to use their powers as Noteholders and Shareholders to procure that the Company takes all such actions, to ensure that the composition of the Board, each Committee of the Board existing from time to time and the board of directors of each Subsidiary shall at all times comply with the Ownership and Control Requirements.
- 2.12.4 Each of the Shareholders severally undertakes in favour of the Company and each of the Noteholders that they shall join with each other in exercising their voting rights as shareholders of the Company to procure (insofar as they are thereby able to procure through the exercise of such rights) that:

- (a) T.W. Morgan (who holds office as a Director and is employed by the Company as the CEO as at the date of this Agreement) is designated as the CEO Director pursuant to clause 2.2.1;
- (b) Anne-Marie Boucher, Matt Chapman and Jonathan Tarshis Neil are each appointed as a New Canadian Director, and being the persons nominated by the Canadian Investors, are designated as New Canadian Directors pursuant to clause 2.3;
- (c) William A. Franke and John R. Wilson, are each appointed as a Director, and being the persons nominated by Indigo, are designated as Indigo Directors pursuant to clause 2.4; and
- (d) Greg Melchin is appointed as an Existing Canadian Director, and being the person nominated by the Enerjet Shareholder, is designated as the Existing Canadian Director pursuant to clause 2.5.

3. Company undertakings

3.1 The Company undertakes to each of the Noteholders and Shareholders that it shall:

- (a) as soon as reasonably practicable following the Completion Date, take out, and thereafter maintain at all times whilst this Agreement remains in force, a directors and officers liability insurance policy with reputable insurers, which policy shall be in the amounts and against the risks which a prudent comparable company carrying on a business of the same kind as the Group would insure;
- (b) as soon as reasonably practicable following the Completion Date, take out, and thereafter maintain at all times whilst this Agreement remains in force a key man policy or policies of insurance on the lives of such individuals and in such amounts as Indigo may require by notice in writing to the Company and with reputable insurers and so that there shall be no obligation to continue the policy in force where the person who is the subject of the policy has permanently ceased to be employed by or to provide any services to the Company or any Subsidiary (provided that in the event that Indigo ceases to be entitled to appoint an Indigo Director, the appropriate level of coverage and the persons whose lives are to be insured under this clause 3.1(b) shall be reasonably determined by the persons then holding office as the Canadian Director, or if no person holds office as the Canadian Director, the same shall be determined by the Board acting reasonably);
- (c) procure that each Subsidiary shall insure and keep insured with reputable insurers their respective insurable assets and undertakings to the extent, in the amounts and against the risks which a prudent comparable company carrying on a business of the same kind as the Group would insure, as reasonably determined by the Company and notified to the Shareholders in writing from time to time;
- (d) procure that each Subsidiary shall:
 - (i) at all times comply with all laws and regulations applicable to it in respect of the conduct of its business (including, without limitation, the Ownership and Control Requirements); and

- (ii) obtain and maintain in full force and effect all governmental and other regulatory consents, licences or approvals required for the conduct of the whole or any part of its business; and
- (e) not, and shall procure that no Subsidiary shall, do anything or, as far as practicable, suffer anything to be done whereby any of the insurance policies effected in accordance with clause 3.1(a), clause 3.1(b) or clause 3.1(c) shall become void or voidable or an increased premium shall become payable.

4. Shareholder undertakings

4.1 Each of the Shareholders severally undertakes in favour of the Company and each of the Noteholders and other Shareholders that they shall join with each other in exercising their voting rights as shareholders of the Company, and procure that their respective nominees and any Directors nominated by them shall join in exercising their voting and other rights as shareholders and (subject to their fiduciary duties) as directors, in each case, to procure (insofar as they are thereby able to procure through the exercise of such rights) that the Company and the Guarantor:

- (a) complies, at all times, with each of the Covenants;
- (b) does not take or approve any action that is contrary to, or which would result in any breach of, any of the Covenants;
- (c) complies, at all times, with the provisions of (once executed) each of the Security Documents;
- (d) does not take or approve any action that is contrary to, or which would result in any breach of, (once executed) any of the Security Documents;
- (e) complies, at all times, with the provisions of this Agreement and each document entered into pursuant to or in connection with this Agreement; and
- (f) does not take or approve any action that is contrary to, or which would result in any breach of, this Agreement (or any provision thereof) or any document entered into pursuant to or in connection with this Agreement.

4.2 Each of the Shareholders severally undertakes in favour of Indigo and the Noteholders that they shall waive any pre-emption rights they may have (whether pursuant to the articles of incorporation of the Company or otherwise) in respect of any issue(s) of Class B Common Shares issued by the Company pursuant to the conversion of any Notes.

5. Note transfers and Adherence Agreement requirements

5.1 All transfers of Notes shall be regulated in accordance with Conditions 6 to 9 (inclusive) of the Conditions.

5.2 The Company shall not issue any new Notes without first obtaining the consent of the Majority Noteholders.

- 5.3 Any Party proposing to transfer any Notes in accordance with Conditions 6 or 7 of the Conditions or to direct its nominees to do so, shall procure that the transferee (together with the Person who will become the beneficial owner of the Notes, if different from the transferee) shall enter into an Adherence Agreement before the completion of the transfer, provided that no Adherence Agreement need be executed where the transferee is already a Party in the same capacity.
- 5.4 Provided that the provisions of clause 5.1 and clause 5.3 are complied with, in the event of any transfer of Notes effected in accordance with Conditions 6 or 7 of the Conditions, each of the Parties (other than the proposing transferor of the relevant Notes, who is referred to as the “**Transferor**” in this clause 5), hereby agrees to:
- (a) release and discharge the Transferor from all the provisions of, and all claims and demands in respect of: (i) the Note Purchase Agreement; and (ii) this Agreement (other than in respect of the period prior to the effective date of the Adherence Agreement executed by the Transferor); and
 - (b) agree to accept the liability of the transferee under: (i) the Note Purchase Agreement; and (ii) this Agreement instead of the liability of the Transferor.
- 5.5 The Company undertakes, and each of the Parties severally undertakes with each of the other Parties to procure insofar as they are able to procure by the exercise of the voting rights of themselves and their nominees as shareholders of the Company and of their appointed Directors (subject to the fiduciary duties of such Directors), that
- (a) no transfer of any Notes shall be registered unless any Adherence Agreement required by this clause 5 has been duly executed and delivered; and
 - (b) all necessary resolutions required to be passed to effect transfer of any Notes are duly passed.
- 5.6 The obligations contained in this Agreement will enure to the benefit of and be binding upon the Parties, their legal personal representatives, respective successors and permitted assigns but none of them shall be entitled to the benefit of this Agreement unless and until they have entered into an Adherence Agreement. A Person who has entered into an Adherence Agreement pursuant to this Agreement shall have the benefit of and be subject to the burden of all the provisions of this Agreement as if it, he or she were party to it in the capacity designated in the Adherence Agreement, and this Agreement shall be interpreted accordingly.
- 5.7 A Person who enters into an Adherence Agreement because they acquire Notes from a Noteholder shall be designated by the Adherence Agreement as a Noteholder (holding the class of Notes acquired from the Transferor).

6. Share transfers and Adherence Agreement requirements

- 6.1 All transfers of Shares shall be regulated in accordance with this Agreement.
- 6.2 No new Shares shall be allotted or issued by the Company other than in accordance with this Agreement.

- 6.3 Notwithstanding any other provision contained in this Agreement:
- (a) no transfer of any Share shall be made by any Person unless the transferee (together with the Person who will become the beneficial owner of the Shares, if different from the transferee) shall have executed an Adherence Agreement; and
 - (b) no allotment or issue of any Share shall be made by the Company unless the allottee (together with the Person who will become the beneficial owner of the Shares, if different from the allottee) shall have executed an Adherence Agreement, provided that no Adherence Agreement need be executed where the transferee or allottee (as applicable) is already a Party in the same capacity.
- 6.4 Any Party proposing to transfer any Shares in accordance with Section 3 of the Corporate Articles or to direct its nominees to do so, shall procure that the transferee (together with the Person who will become the beneficial owner of the Shares, if different from the transferee) shall enter into an Adherence Agreement before the completion of the transfer.
- 6.5 Provided that the provisions of clause 6.1 to 6.4 are complied with, in the event of any transfer of Shares effected in accordance with Section 3 of the Corporate Articles, each of the Parties (other than the proposing transferor of the relevant Shares, who is referred to as the “**Transferor**” in this clause 6), hereby agrees to:
- (a) release and discharge the Transferor from all the provisions of, and all claims and demands in respect of: (i) the Subscription Agreement to which the Transferor is a party; and (ii) this Agreement (other than in respect of the period prior to the effective date of the Adherence Agreement executed by the Transferor); and
 - (b) agree to accept the liability of the transferee under: (i) the Subscription Agreement to which the Transferor is a party; and (ii) this Agreement instead of the liability of the Transferor.
- 6.6 The Company undertakes, and each of the Parties severally undertakes with each of the other Parties to procure insofar as they are able to procure by the exercise of the voting rights of themselves and their nominees as shareholders of the Company and of their appointed Directors (subject to the fiduciary duties of such Directors), that:
- (a) no transfer of any Shares shall be registered; and
 - (b) no new Shares shall be issued by the Company,
- unless any Adherence Agreement required by this clause 6 has been duly executed and delivered.
- 6.7 The obligations contained in this Agreement will enure to the benefit of and be binding upon the Parties, their legal personal representatives, respective successors and permitted assigns but none of them shall be entitled to the benefit of this Agreement unless and until they have entered into an Adherence Agreement.
- 6.8 A Person who has entered into an Adherence Agreement pursuant to this Agreement shall have the benefit of and be subject to the burden of all the provisions of this Agreement as

if it, he or she were party to it in the capacity designated in the Adherence Agreement, and this Agreement shall be interpreted accordingly.

- 6.9 All share certificates representing Shares shall have the following statement conspicuously noted thereon:

“No securities of the Corporation, other than non-convertible debt securities, shall be transferred (a) without the consent of either (i) a majority of the directors of the Corporation expressed by a resolution passed at a meeting of the board of directors or by an instrument or instruments in writing signed by a majority of the directors or (ii) the holders of a majority of the outstanding shares of the Corporation entitling the holders thereof to vote in all circumstances (other than a separate class vote of the holders of another class of shares of the Corporation) expressed by a resolution passed at a meeting of such shareholders or by an instrument or instruments in writing signed by the holders of a majority of such shares; and (b) unless such transfer complies with the terms and conditions, if any, regarding the transfer of shares in the capital of the Corporation contained in any applicable unanimous shareholders’ agreement.”

“There are restrictions on the right to transfer the shares represented by this certificate. In addition, such shares are subject to a noteholders’ and shareholders’ agreement dated the ___ day of December, 2018 which governs the Corporation as the same may be amended from time to time, and may not be pledged, sold or otherwise transferred except in accordance with the provisions thereof.”

“The transfer of shares of the Corporation are subject certain restrictions surrounding foreign ownership, as more particularly described in Schedule “C” of the Articles of Incorporation of the Corporation.”

7. Governance rights

- 7.1 With effect from the execution of this Agreement and for so long as Indigo (together with its Permitted Transferees) continues to hold at least 15% of the Fully Diluted Share Capital, each of the Obligors undertakes to Indigo that it will not take any of the actions set out in Schedule 3 (Reserved Matters) without obtaining the prior written consent of Indigo. Notwithstanding anything else to the contrary contained herein, each of the Obligors may take any of the actions set out in Schedule 3 (Reserved Matters) without obtaining the prior written consent of Indigo as long as (a)(i) such action is not outside of the Ordinary Course of Business, and (ii) such action does not have a Material Adverse Effect, or (b) Indigo (together with their Permitted Transferees) holds less than 15% of the Fully Diluted Share Capital. Provided that no Event of Default has occurred, the Parties further acknowledge that any expenditures approved by the Board in an amount not greater than \$1,000,000, in the aggregate, in any 12 month period, shall be deemed to be made in the Ordinary Course of Business, and not have a Material Adverse Effect.
- 7.2 Each Indigo Director shall be authorised by Indigo to communicate the consent of Indigo to any of the matters requiring such consent as referred to in clause 7.1 and such consent may be given in writing by Indigo or an Indigo Director, or orally by an Indigo Director at a board meeting of the Company (or any Subsidiary) if recorded in the minutes of such meeting (and such minutes are approved by such Indigo Director).

- 7.3 The provisions of clause 7.1 are each qualified to the extent necessary to exclude the relevant requirement to obtain consent (as applicable) in respect of any matter specifically contemplated, specifically permitted or specifically required by any of the Transaction Documents.
- 7.4 With effect from the execution of this Agreement, each of the Obligors undertakes to Torquest Investor that it will not take any of the actions set out in paragraph 3 of Schedule 3 (Reserved Matters) without obtaining the prior written consent of Torquest Investor unless such action both (a) is not outside of the Ordinary Course of Business and (b) does not have a Material Adverse Effect.

8. Pre-Emptive Right

The Company may issue securities at any time after the date hereof only upon compliance with the following provisions as well as compliance with all applicable laws including, for greater certainty, the Ownership and Control Requirements:

- 8.1 If the Company or any of its Subsidiaries proposes to issue any securities (the “**Affected Securities**”), the Company shall first offer the Affected Securities for subscription pro rata to Indigo and the Canadian Investors at the date of the offer (the “**Eligible Shareholders**”) at the subscription price as determined by the Board. Such offer shall be made in writing by the Company to the Eligible Shareholders. The offer shall (a) contain a description of the terms and conditions relating to the Affected Securities, (b) state the price at which the Affected Securities are offered and the date on which the purchase of Affected Securities is to be completed, (c) state that if any Eligible Shareholder wishes to subscribe for Affected Securities, it may do so only by giving notice (the “**Subscription Notice**”) of the exercise of the subscription right to the CEO of the Company within 20 days after the date of the offer, and (d) state that if any Eligible Shareholder wishes to subscribe for a number of Affected Securities less than or in excess of its pro rata interest, such Eligible Shareholder shall, in its Subscription Notice, specify the number (“**Specified Number**”) of Affected Securities less than or in excess of such pro rata interest that it wishes to purchase. Subject to Section 8.2, the Affected Securities will be allotted among the Eligible Shareholders who have elected to exercise the subscription right for Affected Securities in accordance with the following: (i) each Eligible Shareholder who has delivered a Subscription Notice will be allotted and will purchase the Affected Securities subscribed for; and (ii) if there are any unsubscribed Affected Securities remaining after the allotment specified in (i), each Eligible Shareholder who has delivered a Subscription Notice to purchase Affected Securities in excess of its pro rata interest shall purchase the lesser of (a) the number of excess Affected Securities in respect of which such Eligible Investor has delivered a Subscription Notice, and (b) a fraction of the unsubscribed Affected Securities remaining the numerator of which is the number of excess Affected Securities in respect of which such Eligible Investor has delivered a Subscription Notice and the denominator of which is the number of excess Affected Securities in respect of which all of such Eligible Shareholders have delivered a Subscription Notice. If the Affected Securities shall not be capable, without division into fractions, of being offered to or being allocated among such Eligible Shareholders in the proportions referred to above, they shall be offered to or allocated among such Eligible Shareholders as nearly as may be in the proportions referred to above and any balance shall be offered to or allocated among such Eligible Shareholders or some of them in such manner as the Board determines to be equitable. No Eligible Shareholder shall be obliged to purchase any Affected Securities in excess of the number indicated in its subscription.

8.2 If any of the Affected Securities are not subscribed for within the period of 20 days after they are offered to the Eligible Shareholders, the Company may offer such unsubscribed Affected Securities within the period of 90 days after the expiration of such 20 day period to any Person, but the price at which such Affected Securities may be issued shall not be less than the subscription price offered to the Eligible Shareholders and the terms of payment for such Affected Securities shall not be more favourable to such Person than the terms of payment offered to the Eligible Shareholders. Such offer shall also be conditional on such Person executing and delivering an Adherence Agreement in which they agree to be bound by all the terms of this Agreement as if such Person were an original signatory hereto.

8.3 Clauses 8.1 and 8.2 shall not be applicable in respect of:

- (a) the issuance of Conversion Shares upon any conversion of the Notes;
- (b) the issuance of Shares under any equity incentive plan adopted by the Company;
- (c) the issuance of Shares to a Subsidiary;
- (d) the issuance of Shares pursuant to the Warrant;
- (e) an IPO; or
- (f) the issuance of Shares:
 - (i) upon the conversion or exchange of Shares of one class of securities into Shares of another class, provided that such change has been approved in accordance with the terms of this Agreement;
 - (ii) in connection with a stock dividend or any share split or other subdivision or combination of the outstanding Shares, provided that such change has been approved in accordance with the terms of this Agreement;
 - (iii) as consideration in connection with a business acquisition, provided that such acquisition has been approved in accordance with the terms of this Agreement; or
 - (iv) pursuant to a debt financing from a bank, institutional lender or other similar financial institution, provided that such financing has been approved in accordance with the terms of this Agreement;

8.4 Any rights exercised under clauses 8.1 and 8.2 hereto are subject to the Ownership and Control Requirements.

9. Change of control and Exit Provisions

9.1 It is acknowledged and agreed by the Parties that:

- (a) it is their present intention that the businesses of the Company and its Subsidiaries are managed in such a way so that within five (5) years of the Completion Date:
 - (i) a Company Sale occurs; or

- (ii) the Company conducts a Qualified IPO,

however, it is also acknowledged and agreed by all Parties that no undertaking is given by any Party that a Company Sale or Qualified IPO will occur within such period or at all; and

- (b) in the event of an IPO:

- (i) such IPO shall extend to the Conversion Shares held by the Noteholders as a result of the conversion of their Notes (unless any Noteholder agrees to waive such requirement in respect of either all or a portion of the Notes held by it); and

- (ii) thereafter, the Noteholders shall be entitled to deal freely in any Quoted Shares held by them subject to any legally required lock-up arrangements or orderly marketing arrangements recommended by the financial adviser appointed to act for the Company in relation to the IPO.

9.2 General Restriction

Other than a Permitted Transfer, no sale or transfer of the legal or beneficial interests in any Common Shares, or any issue of Common Shares, may be made or validly registered, unless and until all the conditions set out in clause 9.3 are, and each continues to be, satisfied. An offer meeting all of the conditions set out in clause 9.3 is referred to herein as a “**Qualifying Offer**”).

9.3 Conditions

The conditions referred to in clause 9.2 are:

- (a) the Offeror makes:

- (i) a bona fide offer on arm’s length terms in writing to the holders of the entire issued and to be issued share capital of the Company to acquire the whole of the issued and to be issued share capital and such offer extends to or includes all of the Conversion Shares; or

- (ii) bona fide parallel offers on arm’s length terms in writing:

- (A) to the holders of the entire issued and to be issued share capital of the Company, to acquire the whole of the issued share capital; and

- (B) to the holders of all outstanding Notes, to acquire all of such outstanding Notes,

(in either case, an “**Offer**”);

- (b) the consideration set out in the Offer is payable in cash or in securities traded on a Recognised Securities Exchange and is on terms that the aggregate consideration receivable by the Shareholders and Noteholders is apportioned between them (pro-rata as between themselves) according to the number of Fully

Diluted Shares deemed to be held by each of them, and the Offer is otherwise made to all Shareholders and Noteholders on the same terms and for these purposes an Offer shall be treated as being made to all Shareholders and Noteholders on the same terms notwithstanding that:

- (i) some Shareholders and Noteholders are required to undertake not to dispose of shares or securities for a period after the sale, and others are not, or are required to do so on different terms; and/or
 - (ii) some Shareholders and Noteholders are entering into restrictive covenants or confidentiality obligations and some are not, or are entering into them on different terms; provided that unless such Financial Shareholders consents otherwise, no Financial Shareholder shall be required to enter into any restrictive covenants; and/or
 - (iii) some Shareholders and Noteholders and not others are to receive remuneration for services to be rendered by them or such remuneration is to be on different terms provided that in each case such remuneration represents a market consideration for the provision of such services;
- (c) the Offer has been open for acceptance for at least 15 Business Days and the terms of the Offer allow all Noteholders a reasonable opportunity of exercising their conversion rights prior to the completion of the sale and extends to the Class B Common Shares arising upon such conversions and copies of all documents required to be executed by the Shareholders in order to accept the Offer have been made available to them for that period (or any shorter period they may consent to); and
- (d) the Offeror completes the purchase of all the Shares in respect of which the Offer is accepted at the same time or, if the Offer is comprised of one or more parallel offers for the issued Shares and a separate parallel offer for the outstanding Notes, the Offeror completes the purchase of all the Shares and Notes at the same time.

9.4 Drag Along

9.4.1 After the fourth (4th) anniversary of the Completion Date, if:

- (a) a Qualifying Offer is accepted by any Shareholders who have an economic interest equal to at least five percent (5%) of the Company (such Shareholders being referred to herein as the “**Sellers**”), and
- (b) each of the Drag-Along Conditions are met,

then any one or more of the Sellers shall be entitled to give notice that provides for the Drag-Along Conditions (a “**Drag-Along Notice**”) to all other Shareholders and Noteholders (together, the “**Notified Parties**”) of such acceptance. The Notified Parties shall then become bound to accept the Qualifying Offer, to execute the applicable definitive documentation related thereto, and to transfer all of the Shares and Notes held by them to the Offeror (or its nominee) with full title guarantee on the date specified in the Drag-Along Notice.

- 9.4.2 If any Person shall become a Shareholder following the giving of a Drag-Along Notice pursuant to the conversion of a Note, a Drag-Along Notice shall be deemed to have been served upon that Person on the same terms as the Drag-Along Notice previously given.
- 9.4.3 If any Notified Party served or deemed to have been served with a Drag-Along Notice does not, within ten (10) Business Days of being requested to do so (including pursuant to a Drag-Along Notice that is deemed to have been served on such Shareholder), execute transfers and other applicable definitive documentation related thereto in respect of all the Shares and Notes held by him and deliver to such Person as is specified in the Drag-Along Notice the transfers and other applicable definitive documentation related thereto and the certificates (and/or other documents of title) for such Shares and/or Notes (or a suitable indemnity in place of any such certificate or other document of title), then that Notified Party (a “**Defaulting Notified Party**”) shall be deemed to have irrevocably appointed any Person nominated for the purpose by the Sellers to be his or her agent and attorney with authority:
- (a) to execute and deliver such transfer(s) and other applicable definitive documentation related thereto on behalf of the Defaulting Notified Party; and
 - (b) (against receipt by such Person of the consideration receivable by the Defaulting Notified Party under the Qualifying Offer) to deliver such transfer(s) and other applicable definitive documentation related thereto to the Offeror (or its nominee) and to hold that consideration in trust for the Defaulting Notified Party.
- 9.4.4 The Directors shall forthwith register the relevant transfers and once the Offeror or its nominee has been registered as the holder of the relevant Shares and/or Notes the validity of the proceedings shall not be questioned by any Person.
- 9.4.5 It shall be no impediment to registration that no share certificate has been produced for the Shares transferred or no Note certificate has been produced for the Notes transferred.
- 9.4.6 A Drag-Along Notice shall be irrevocable but will lapse if the sale of all the Shares and Notes held by the Sellers is not completed within 60 days after the service of such notice, but without prejudice to the service of further Drag-Along Notices in respect of the same or another Qualifying Offer.
- 9.4.7 If any Person shall, pursuant to the conversion of any Note become a Shareholder holding Shares to which a Drag-Along Notice relates, that Shareholder shall be bound by the Drag-Along Notice and shall be required to transfer the relevant Conversion Shares accordingly.

9.5 **Tag Along**

- 9.5.1 If, following the making of a Qualifying Offer (as defined in clause 9.2 above):
- (a) such Qualifying Offer is accepted by a Seller (within the meaning of clause 9.4.1 above) with respect to all of its securities in the Company;
 - (b) no Drag-Along Notice is served by the Sellers; and

- (c) the Offeror acquires (or would acquire based upon the acceptances received from the Sellers) an interest in the Company pursuant to the acceptance of the Qualifying Offer by the Sellers,

then, prior to such transfers from the Sellers to the Offeror being made and registered by the Company, the Company shall forthwith notify all Shareholders and Noteholders (also "**Notified Parties**") accordingly and any such Notified Party who did not accept the Qualifying Offer may, by written notice to the Company served within 30 days after the date of such notification, require the Company as agent for such Notified Party to serve a notice (in this clause a "**Compulsory Purchase Notice**") on the Offeror requiring it to buy all (but not some only) of the Shares and Notes held by such Notified Party for the consideration applicable to the Qualifying Offer. The Company shall serve the Compulsory Purchase Notice on the Offeror forthwith upon receipt of any such written notice by a Notified Party.

- 9.5.2 The Offeror shall complete the purchase of all Shares and Notes in respect of which a Compulsory Purchase Notice has been given and no later than 21 days from the date of the serving of such Compulsory Purchase Notice on it, subject to the satisfaction of regulatory requirements. The consideration shall be payable in full without any set off.
- 9.5.3 The Directors shall not register any transfer of Shares or Notes to the Offeror and the Offeror shall not be entitled to exercise or direct the exercise of any rights in respect of any Shares or Notes to be transferred to the Offeror until, in each case, the Offeror has fulfilled all its obligations pursuant to this clause 9.5.
- 9.5.4 If and for so long as the Offeror fails to comply with the provisions of this clause 9.5, the Shares held by the Offeror shall confer on the Offeror no right to receive notice of, attend or vote at any general meeting (or any other meeting) of the Company until the Offeror has complied in full with all its obligations under this clause 9.5.

9.6 **Qualifying Offer may be Conditional**

A Qualifying Offer and its acceptance shall be valid notwithstanding that the Qualifying Offer and/or the acceptance is subject to conditions or not legally binding provided that all the conditions are satisfied and the Qualifying Offer and its acceptances become legally binding not later than the execution and delivery of the last transfer to be executed and delivered pursuant to clause 9.4 (Drag Along) and clause 10.5 (Tag Along).

9.7 **Termination upon an IPO**

The provisions of this clause 10 shall automatically cease to apply upon an IPO occurring.

10. **Information rights: Noteholders and Shareholder**

- 10.1 The Company undertakes to deliver to each Noteholder (for so long as such Noteholder continues to hold Shares and/or Notes) and Significant Shareholder, (upon request), and each of the Parties severally undertakes with each of the other Parties to procure insofar as they are able to procure by the exercise of the voting rights of themselves and their nominees as shareholders of the Company and of their appointed Directors (subject to the fiduciary duties of such Directors), that the Company delivers to such Noteholder and Significant Shareholder (upon request):

- (a) within 20 Business Days after the end of each calendar month, an information package containing:
 - (i) the financial statements for the Group for such month and each preceding month in the relevant financial year (such financial statements to contain trading and profit and loss accounts, balance sheets, cash flow forecasts and variances from the budget); and
 - (ii) such clarification of or further information with respect to the aforementioned financial statements as the Noteholders and Significant Shareholders may reasonably request;
 - (b) as soon as the same become available, but in any event within 180 days after the end of each of its financial years:
 - (i) its audited financial statement for that financial year (if prepared); and
 - (ii) the audited financial statements of each of its Subsidiaries for that financial year (if prepared);
 - (iii) its audited consolidated financial statements for that financial year;
 - (c) the annual business plan and budget for each financial year, once such business plan and budget has been approved by the Board;
 - (d) at the same time as they are dispatched, copies of all documents dispatched by the Company to its shareholders generally (or any class of them) or its creditors generally (or any class of them); and
 - (e) promptly upon becoming aware of them, the details of any dispute, litigation, arbitration, expert determination, alternative dispute resolution, regulatory or administrative proceedings or investigations of, or before, any court, arbitral body or agency which are current, threatened or pending against any member of the Group, and which might, if adversely determined, have a Material Adverse Effect or which involves a potential liability of any member of the Group exceeding \$2,000,000.
- 10.2 Each Group Company shall notify each of the Noteholders of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Group Company is aware that a notification has already been provided by another Group Company).
- 10.3 Promptly upon a request from a Noteholder, the Company shall supply to such Noteholder a certificate signed by two (2) Directors or senior officers on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).
- 10.4 Each set of financial statements delivered by the Company pursuant to clause 10.1 shall be certified by both the Chief Executive Officer and the Chief Financial Officer of the relevant Group Company to the board of directors of that Group Company, and by the Company to the relevant Noteholder, as giving a true and fair view of (in the case of annual

financial statements) or fairly representing (in all other cases) its financial condition and operations as at the date as at which those financial statements were drawn up and, in the case of the annual financial statements, shall be accompanied by any letter addressed to the management of the relevant Group Company by the Auditors and accompanying those annual financial statements.

- 10.5 The Company shall procure that each set of financial statements delivered pursuant to clause 10.1 is prepared using GAAP.
- 10.6 The Company shall procure that each set of annual financial statements delivered pursuant to clause 10.1 which is required to be audited is audited by the Auditors, which shall be one of the “big four” accounting firms.
- 10.7 Upon providing the information set out in this clause 10 to a Noteholder, the Company shall also provide such information to each Director.

11. Access rights: Noteholders

- 11.1 The Company undertakes to each of the Noteholders that it shall and shall procure that each of its Subsidiaries shall permit, subject always to the Noteholders’ obligations of confidentiality pursuant to clause 13 (Confidentiality), each Noteholder to have, at all times during normal business hours, reasonable access to their premises, books and records for, *inter alia*, the purpose of an audit of such books and records, and at its own expense to take copies of its books and records and, following prior consent of the Company, to discuss any matter relating to the Company and the Subsidiaries with any of their Senior Employees and make such investigations and raise such enquiries as each Noteholder may reasonably require from time to time, provided that such inspections and investigations shall not cause unreasonable disruption to the normal business operation of the Company and its Subsidiaries.
- 11.2 The Company undertakes to each of the Noteholders that it will maintain effective and appropriate control systems in relation to the financial, accounting and record keeping functions of the Group.

12. Information and access rights: Noteholders and Shareholders

12.1 Inspection and information

Each Noteholder and Significant Shareholder may examine the books, records and accounts to be kept by the Company and each member of the Group during normal business hours, provided that such inspections shall not cause unreasonable disruption to the normal business operation of the Company and its Subsidiaries. Subject to any legal or regulatory restrictions applicable to the Company, each Noteholder and Significant Shareholder shall be entitled to receive any information held by the Company which the relevant Noteholder or Significant Shareholder reasonably requires to keep it properly informed about the business and affairs of the Group and generally to protect its interests as a Noteholder or Significant Shareholder (as applicable) in such form as the Board determines.

12.2 Accounts, Business Plan, Budgets and other Material Information

Without prejudice to the generality of clause 12.1, the Company shall (upon request) supply each Noteholder and Shareholder with:

- (a) a copy of the audited consolidated financial statements of the Group in respect of each financial period of the Company commencing on 1 April (or the accounting reference date of the Company for the time being) as soon as possible and in any event not later than one hundred and eighty (180) days after the end of such financial period; and
- (b) a copy of the business plan and budget within fifteen (15) days of being approved by the Board.

13. Pari Passu

- 13.1 Except for payments made on the Redemption Date (as defined in the Note Purchase Agreement), no payments, whether in cash or in kind, in respect of the interest earned on any Notes in accordance with clause 3 of the Note Purchase Agreement shall be made to the Noteholders unless there is a concurrent *pro rata* payment, whether in cash or in kind, of the Management Fee owing to the Canadian Investors.
- 13.2 No payment of the Management Fee owing to the Canadian Investors shall be made to the Canadian Investors unless there is a concurrent *pro rata* payment of the interest earned on any Notes in accordance with clause 3 of the Note Purchase Agreement to the Noteholders.
- 13.3 No payments by way of repurchase, redemption or purchase for cancellation shall be made on any Notes unless there is made concurrently *pro rata* repurchase, redemption or purchase for cancellation in respect of all Common Shares.
- 13.4 No payments in respect of the principal amount of any Notes shall be made unless there is a concurrent *pro rata* repurchase, redemption or purchase for cancellation in respect of the Common Shares.
- 13.5 No payments by way of return of capital or dividends shall be made on any Class A Common Shares or Class B Common Shares unless there is made concurrently a proportionate payment to all the holders of Common Shares.
- 13.6 Any payments received by an Investor in violation of this clause 13 shall be (i) returned to the Company or, (ii) any amount that should have been paid to the other Investors (as the case may be) shall held in trust for such other Investors and such recipient shall forthwith remit such payment to such other Investors, with the balance of such payment, if any, being held by the recipient.
- 13.7 Any proceeds received by any Party hereto as a result of claims made pursuant to a Transaction Document shall, in all respects, rank *pari passu*, equally and ratably between the Parties, to the effect that all funds received by any such Party shall be distributed between the Parties on a *pro rata* basis.

14. Confidentiality

14.1 Obligations of Confidentiality

14.1.1 Each Noteholder and each Shareholder shall keep all Confidential Information strictly confidential and secret (and to ensure that each of its Affiliates, and its and their officers, employees, agents and professional and other advisers shall keep all Confidential Information strictly confidential and secret).

14.1.2 Without limitation to its general obligation of confidentiality:

- (a) no Noteholder or Shareholder shall disclose to any third party any Confidential Information;
- (b) no Noteholder or Shareholder shall use or permit the use of any Confidential Information for any purpose other than assessing its investment in the Group and making decisions in relation to that investment;
- (c) each Noteholder and each Shareholder shall use its reasonable endeavours to alert the Company and, in the case of the Shareholder, each Noteholder as soon as is reasonably practical after it becomes aware of any request from a third party for disclosure of any Confidential Information and upon the Company's reasonable request will join it in asserting against any third party that the Confidential Information and its contents are protected by privilege and that, as against such third party, that privilege has not been waived; and
- (d) each Noteholder and Shareholder undertakes to take all reasonable steps to minimize the risk of disclosure of Confidential Information by its directors, employees and advisors and shall take all reasonable steps to prevent them from divulging or disclosing any Confidential Information to any third party.

14.2 **General Exceptions from Confidentiality Obligations**

14.2.1 The obligations of confidentiality under clauses 14.1.1 and 14.1.2 do not apply to:

- (a) the disclosure of information solely to the extent required to be disclosed by law, legal process, regulation or any regulatory authority provided always that prior to such disclosure, the Party proposing to disclose information pursuant to this clause 14.2.1 shall immediately inform each of the Noteholders and Torquest and shall co-operate in good faith with the Noteholders and Torquest about the timing and content of such disclosure to the extent reasonably practicable;
- (b) the disclosure in confidence to professional advisers, or any Affiliate of a Shareholder or Noteholder, as the case may be, or their respective professional advisers, in each case where the disclosure is for a purpose reasonably incidental to this Agreement or for the purpose of assessing such Person's investment in the Group or any member of it (and only to the extent the disclosed information is reasonably required for such purpose);
- (c) any announcement made in accordance with the terms of clause 22;
- (d) any bone fide potential purchaser of any Note or Shares from any Noteholder or Torquest provided such purchaser shall have entered into a confidentiality undertaking in favour of the seller respecting the confidential terms of this Agreement;

- (e) any shareholder or investor (or potential shareholder or investor) in or of any of the Noteholders or Torquest;
- (f) any present or future financier of any of the Noteholders or Torquest (provided that such financier enters into a confidentiality agreement with such Noteholder or Torquest substantially on the same terms as provided under Section 15.1);
- (g) the disclosure of information to any tax authority to the extent reasonably required for the purposes of the tax affairs of the Person disclosing the information or any Affiliate of such Person, as the case may be;
- (h) the disclosure by any Director, officer, employee, representative or consultant to the Group in the proper performance of his or her duties or by any employee of the Group making a protected disclosure relating to employment in accordance with applicable law; and
- (i) the disclosure by any Noteholder or Torquest of Confidential Information to any Affiliate of such Noteholder or Torquest.

14.2.2 Other than in respect of disclosure pursuant to clause 14.2.1(c) or 14.2.1(h), each Party shall inform (and shall ensure that any Affiliates shall inform) any Person to whom it provides Confidential Information pursuant to clause 14.2.1, that such information is confidential and, in the case of disclosure pursuant to clauses 14.2.1(b) shall only provide such Confidential Information to such Person if they agree:

- (a) to keep it confidential on the terms of and otherwise to comply with, this clause 13; and
- (b) not to disclose it to any third party (other than those Persons to whom it has already been disclosed in accordance with the terms of this Agreement).

14.2.3 The disclosing party shall at the request of the Company enforce this clause 15 against any Person to whom it has disclosed the Confidential Information.

14.3 Breaches of Confidentiality restrictions

Each Party shall procure that promptly upon becoming aware of any breach (by any Person) of this clause 15, such Party shall promptly notify each of the Noteholders and Torquest of such fact and shall provide such information relating to the breach as any Noteholder or Torquest may reasonably request.

15. Duration

15.1 Without prejudice to the accrued rights of any Party and save in respect of the provisions of this clause and clauses 1 (Definitions and Interpretation), 13 (Confidentiality), 22 (Announcements), 25 (Notices) and 33 (Governing Law and Jurisdiction) this Agreement shall cease and determine upon:

15.1.1 the earlier of the completion of a Company Sale or an IPO; and

15.1.2 with respect only to the rights and obligations of any Party (and so that this Agreement shall continue as between the remaining Parties), upon that Party (and, in the case of a Noteholder, each of the Permitted Transferees to whom such Noteholder has transferred Notes and/or Shares) ceasing to hold or to be the beneficial owner of any Shares or Note, provided that:

- (a) that Party shall have first complied with its obligations (if any) under clauses 5 and 6 (and the transferee shall, if appropriate, have entered into an Adherence Agreement); and
- (b) this clause 15.1.2 shall not apply to any Shareholder or Noteholder for so long as any Permitted Transferee to which that Shareholder transferred Shares and/or Notes continues to hold any Shares and/or Notes or for as long as that Shareholder or Noteholder remains an employee or consultant of, or is under contract to provide his or her services to, any Group Company or continues in his or her office as a director of any Group Company.

16. Winding-up

16.1 In the event of any disposal of the whole or a substantial part of the undertaking and assets of the Company, then (provided that the Company is solvent immediately following such disposal) each Party undertakes to each other Party that it will take such steps (in so far as each has the power to do so in its capacity as a Shareholder or Noteholder) as are necessary for the Winding-Up of the Company and distribute the surplus assets of the Company to the Shareholders and Noteholders pro-rata (as between themselves) according to the number of Fully Diluted Share Capital deemed to be held by each of them. The Parties agree to take such actions as soon as reasonably practicable following completion of such disposal.

16.2 In the event of any disposal of the whole or a substantial part of the undertaking and assets of a Subsidiary, then (provided that the Company is solvent immediately following such disposal) each Party undertakes to each other Party that it will take such steps (in so far as each has the power to do so in its capacity as a Shareholder or Noteholder) as are necessary to wind up each member of the Group (or sell the Subsidiaries, as the Board may deem appropriate but provided that the terms of any sale of any Subsidiary is approved by the Noteholders) and distribute the surplus assets of the Company to the Shareholders and Noteholders pro-rata (as between themselves) according to the number of Fully Diluted Share Capital deemed to be held by each of them. The Parties and the Company agree to take such actions as soon as reasonably practicable following completion of the initial disposal that triggered the application of this clause 16.2.

17. Maintenance of ownership by Canadians

17.1 The Parties agree and acknowledge that Ownership and Control Requirements require that the Group be Controlled, including, be controlled in fact, by Canadians and that a failure to comply with any Ownership and Control Requirements would have a Material Adverse Effect on the Group's ability to carry on its business. For purposes of this clause 17, "controlled in fact" shall have the meaning given to it in the CTA and interpreted, in practice, by the Agency.

- 17.2 Accordingly, no Non-Canadian Party (including, without limitation, any Party who ceases to be Canadian following a change of control of such Party) shall acquire or exercise Control, including, control in fact, over the Company, either alone or in combination with others. If at any time it is determined by the Agency, a court or a competent regulatory authority that a Non-Canadian Party (including, without limitation, any Party who ceases to be Canadian following a change of control of such Party) may exercise control in fact over the Company, such Party will take immediate steps to ensure that such control is no longer effective (provided that this clause 17.2 shall not require any such Non-Canadian Party to convert any Notes or divest itself of Shares, other than on the basis set out in Section 3 of the Corporate Articles, or Notes).
- 17.3 The Parties agree that the Board shall be permitted and are hereby authorised to take the following actions from time to time as they may reasonably require in connection with ensuring that the Group complies with any Ownership and Control Requirements:
- (a) set a permitted maximum on the number of Shares that may be owned by Non-Canadians at such level as they reasonably believe will comply with any Ownership and Control Requirements;
 - (b) require Shareholders to provide information to enable a determination to be made by the Board (acting reasonably) as to whether Shares are, or are to be treated as, being owned by Non-Canadians and, if such information is not available or forthcoming or is unsatisfactory then the Board may determine that Shares held by any Shareholder are to be treated as not being owned by Non-Canadians;
 - (c) require Shareholders to notify the Company if they are aware that any Share which they hold ought to be treated as not being owned by a Canadian for purposes of any Ownership and Control Requirements; and
 - (d) require Persons who subscribe for or otherwise acquire Shares to provide a declaration as to the citizenship and country of residence of Persons having interests in those Shares.
- 17.4 The Parties acknowledge and agree that the Directors shall be able to refuse to register any transfer of Shares to the extent that (and for so long as) such transfer would result in a breach of the Ownership and Control Requirements.
- 17.5 The provisions of this Agreement take effect subject always to this clause 17.5. This Agreement shall not confer on Indigo any rights, and Indigo shall not do or omit to do anything, which, would result in Indigo acquiring or exercising control, or being deemed to acquire or exercise Control or control in fact of the Company. References in this Agreement to “complying with”, “not breaching”, “acting in accordance with” and “for the purposes of” the Ownership and Control Requirements, or any wording similar to or deriving from such phrases, shall include an obligation on Indigo to ensure that Indigo is not required to file a submission under: (i) any regulations governing the ownership and control of Canadian airlines; or (ii) the *Competition Act* (Canada).
- 18. No assignment**
- 18.1 Save as otherwise provided in this Agreement (including Section 19.3), no Party shall assign, transfer, charge or otherwise deal with all or any of its rights and/or obligations

under this Agreement nor grant, declare, create or dispose of any right or interest in it, or sub-contract the performance of any of its obligations under this Agreement in whole or in part.

18.2 Any purported assignment, transfer, charge or dealing in contravention of this clause 18 shall be void.

18.3 Any Party may assign its rights hereunder to one or more of its Affiliates at any time (provided that any such assignment may only be made on the basis that immediately upon any assignee under this clause 18.3 ceasing to be an Affiliate of the assignor Party, such assignee shall assign back all such rights to the original assignor Party).

19. Amendments

19.1 A variation of this Agreement is valid only if it is in writing and signed by or on behalf of Shareholders and Majority Noteholders who, together, hold not less than eighty five percent (85%) of the Fully Diluted Share Capital, which group of approving Shareholders and Noteholders must include (but only for so long as such entity or its Permitted Transferees continues to hold Shares and/or Notes) Indigo. To the extent that any variation of this Agreement disproportionately adversely affects a Party, or increases existing obligations or creates additional obligations on a Party, such variation is valid only if signed in writing by such Party.

19.2 Any variation which has been approved in accordance with clause 19.1 shall be binding upon each Party whether or not that Party has agreed to it.

20. Invalidity

20.1 If, at any time, any provision of this Agreement is or is held to be (or becomes) invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

20.2 The Parties shall use all reasonable endeavours to replace any invalid or unenforceable provision by a valid provision the effect of which is as close as possible to the intended effect of the invalid or unenforceable provision.

21. No partnership or agency

Nothing in this Agreement (or any of the arrangements contemplated by it) is or shall be deemed to constitute a partnership or any similar arrangement between the Parties or any of them nor, except as may be expressly set out in it, constitute any Party the agent of any other for any purpose.

22. Announcements

22.1 No public announcement of any kind in connection with the signature or subject matter of this Agreement shall (subject to clause 22.3) be made or issued by or on behalf of any Party without the consent of the Majority Noteholders and Torquest (in each case, such consent not to be unreasonably withheld, delayed or conditioned).

- 22.2 The contents and timing of the initial statement relating to the subject matter of this Agreement shall be agreed between the Majority Noteholders and Torquest. The contents of and the manner of presentation and publication of any subsequent press release, public statement or other such communication to be issued or made or permitted to be made by the Company or any Party in respect of any of the matters contained in this Agreement or any document referred to in this Agreement shall require the consent of the Majority Noteholders and Torquest (in each case, such consent not to be unreasonably withheld, delayed or conditioned).
- 22.3 If any Noteholder or any Shareholder is required by law or by any stock exchange or by any governmental or regulatory authority to make any announcement in connection with the signature or subject matter of this Agreement, the relevant Noteholder or Shareholder shall give the Company and each of the other Noteholders and Torquest reasonable opportunity (if such an opportunity exists) to comment on such announcement before it is made (provided that this shall not have the effect of preventing the Party making the announcement from complying with its legal, regulatory and/or stock exchange obligations).

23. Costs

- 23.1 The Parties agree that all costs, charges and expenses (including taxation) incurred in connection with negotiating, preparing, implementing and documenting the Transaction Documents and all ancillary documents connected thereto and the transactions contemplated by it shall be accounted for in a manner agreed to between the Parties, including but not limited to, all costs, charges and expenses owed to Stikeman Elliott LLP and Deloitte LLP.
- 23.2 During the term of this Agreement:
- 23.2.1 Enerjet Shareholder covenants and agrees with the Company that it shall not be engaged in any business activities other than those related to its ownership of shares of the Company.
- 23.2.2 The Company covenants and agrees with Enerjet Shareholder that the Company shall lend up to \$32,500 on an annual basis to Enerjet Shareholder to enable it to pay all commercially reasonable costs and expenses (but specifically not including any income taxes payable by the Enerjet Shareholder) associated with preparing, delivering and filing required documents and retaining qualified service providers where necessary, as may be required to ensure that it complies with all of:
- (i) its statutory legal compliance obligations including but, not limited to, those arising pursuant to or in connection with this contract, the Alberta Business Corporations Act, the Income Tax Act (Canada) or any provincial tax legislation (i.e. tax returns, corporate filings, shareholders meetings, financial statements, etc.)
 - (ii) its legal obligations arising pursuant to its constating documents; and
 - (iii) its contractual obligations arising pursuant to this Agreement.

24. Conflict with Articles

If the provisions of this Agreement conflict with the Company's constituting documents or those of any other member of the Group, the provisions of this Agreement shall prevail as between the Parties. The Parties shall, so far as they are legally able:

- (a) exercise all voting and other rights and powers available to them to give effect to the provisions of this Agreement; and
- (b) procure that any amendment required to give effect to the provisions of this Agreement is made to the and/or the constitutional documents of any member of the Group.

25. Notices

25.1 Notices

25.1.1 Any notice or other formal communication to be given under this Agreement shall be in writing and signed by or on behalf of the Party giving it. It shall be:

- (a) sent by email to the relevant email address set out in clause 25.2; or
- (b) delivered by hand or sent by prepaid recorded delivery, special delivery or registered post to the relevant address in clause 25.2.

In each case it shall be marked for the attention of the relevant Party set out in clause 25.2 (or as otherwise notified from time to time under this Agreement).

25.1.2 Any notice given by hand delivery, email or post shall be deemed to have been duly given:

- (a) if hand delivered, when delivered;
- (b) if sent by email, at the time of delivery; or
- (c) if sent by recorded delivery, special delivery or registered post, at 10 a.m. on the second Business Day from the date of posting

unless there is evidence that it was received earlier than this and provided that, where (in the case of delivery by hand or by email) the delivery or transmission occurs after 6 p.m. on a Business Day or on a day which is not a Business Day, service shall be deemed to occur at 9 a.m. on the next following Business Day. References to time in this clause are to local time in the country of the addressee.

25.2 Notice details

The addresses and email addresses of the Parties for the purpose of clause 25.1.1 are:

(A) The Company

Address: 123-1440 Aviation Park NE
Calgary, Alberta, T2E 7E2

Email: tmorgan@enerjet.ca

For the attention of: T.W. Morgan

(B) **Indigo**

Address: 2525 E. Camelback Road
Suite 900
Phoenix
Arizona, USA

Email: wfranke@indigopartners.net
jwilson@indigopartners.net

For the attention of: William Franke / John Wilson

(C) **Enerjet Shareholder**

Address: 123-1440 Aviation Park NE
Calgary, Alberta, T2E 7E2

Email: tmorgan@enerjet.ca

For the attention of: T.W. Morgan

(D) **The Shareholders**

Torquest Investor

Address: Brookfield Place
161 Bay Street, Suite 4240
Toronto, Ontario, M5J 2S1

Email: chapman@torquest.com
galbraith@torquest.com

For the attention of: Matt Chapman and Jason R. Galbraith

Stephenson Management Inc.

Address: 30 Sunnyside Ave
Montréal Québec
H3Y1C2

Email: mitchgarber@gmail.com

For the attention of: Mitch Garber

Stepworth Holdings Inc.

Address: 800-1170 Peel Street

Montreal, Quebec H2B 4P2

Email: ZenoSantache@claridgeinc.com

For the attention of: Zeno Santache

Tim Dattels

Address: 2584 Snowridge Crescent
Whistler, British Columbia
V0N 1B2

Email: TDattels@tpg.com

Gary Torhjem

Address: 216-18 Royal Vista Link NW
Calgary, Alberta, T3R 0K4

Email: gary@paxcora.com

T.W. Morgan

Address: 149 Hamptons Link NW
Calgary, AB T3A 5V9

Email: tmorgan@enerjet.ca

26. Counterparts

This Agreement may be executed in any number of counterparts and by the Parties on separate counterparts, each of which, when so executed and delivered, shall be an original, but all the counterparts shall together be deemed to constitute one and the same document.

27. No rights under Contracts

This Agreement is solely for the benefit of the Parties hereto and their permitted successors and assigns hereunder. No term of this Agreement will be deemed to confer upon other third parties any claim, remedy, reimbursement or other right.

28. Successors

The provisions of this Agreement shall be enforceable by and enure for the benefit of any successor to the Parties.

29. Release and waiver

29.1 Any release, waiver or compromise or any other arrangement of any kind by any Party shall not affect the rights and remedies of the Party concerned as regards any other Party or its rights and remedies against the Party in whose favour the release, waiver, compromise or other arrangement is granted or made, except (in any event) to the express

extent of the release, waiver, compromise or other arrangement, and no such release, waiver, compromise or other arrangement shall have effect unless granted or made in writing.

- 29.2 No failure to exercise, nor any delay in exercising, on the part of a Party, any right or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy.
- 29.3 No waiver by a Party in respect of any failure by any other Party to perform any provision of this Agreement operates or is to be construed as a waiver in respect of any other failure whether of a like or different character.

The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

30. Withholding Taxes

The Company shall be entitled to deduct and withhold from any amounts payable to any Noteholder or Shareholder any Tax required by applicable law to be so deducted and withheld therefrom. Any amounts so deducted and withheld shall be treated for all purposes of this Agreement as having been paid to such Noteholder or Shareholder in respect of which such withholding was made, provided that such amount is remitted to the relevant Governmental Entity. If the Company is at any time audited or re-assessed by a Governmental Entity and such Governmental Entity informs the Company that it was required to deduct or withhold from any amounts previously paid to any Noteholder or Shareholder any Tax, such Noteholder or Shareholder shall be responsible for paying such Tax to the Governmental Entity or reimbursing the Company for any such Tax paid by the Company (including, in each case, any penalties or interest, thereon).

31. Entire agreement

- 31.1 This Agreement, the Corporate Articles, the Note Purchase Agreement, the Management Services Agreement, the Subscription Agreements and the Security Documents constitute the entire agreement of and understanding between the Parties with respect to the subject matter of this Agreement.
- 31.2 No Party has relied or has been induced to enter into this Agreement in reliance on any representation, warranty or undertaking which is not expressly set out or referred to in this Agreement.
- 31.3 No provision of this Agreement excludes liability for fraud including, without limitation, fraudulent misrepresentation.

32. Further assurances

The Parties shall (and shall procure that their respective nominees shall) do and execute and perform all further agreements, deeds, documents, assurances, acts and things that may reasonably be required to give effect to the terms of this Agreement and the Parties (other than the Company) shall at all times use and exercise the votes that they control (which shall be deemed to include all votes held by their respective nominees and Board

appointees) at both general meetings and/or Board meetings and/or any meetings of any committee of the Company to ensure, in so far as each is reasonably able to, the maintenance and observance of the terms of this Agreement and the Corporate Articles.

33. Governing law and Jurisdiction

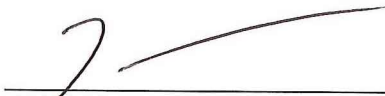
33.1 This Agreement is governed by, and to be construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.

33.2 In relation to any legal action or proceedings arising out of or in connection with this Agreement (“**Proceedings**”) each of the Parties irrevocably submits to the exclusive jurisdiction of the Ontario courts and waives any objection to Proceedings in those courts on the grounds of venue or on the grounds that the proceedings have been brought in an inappropriate forum.


[Signature blocks follow on the next page]

IN WITNESS WHEREOF the Parties hereto have executed this Agreement as of the date first set forth above.

ENERJET HOLDCO INC.

By: 
Name: T.W. Morgan
Title: President

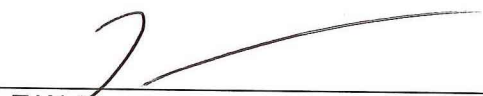
1263343 ALBERTA INC.

By: 
Name: T.W. Morgan
Title: Chief Executive Officer

INDIGO NORTHERN VENTURES LP by its
general partner **INDIGO NORTHERN
VENTURES GP, LLC**

By: _____
Name: William A. Franke
Title: President

ENERJET SPV INC.

By: 
Name: T.W. Morgan
Title: President

TORQUEST PARTNERS FUND IV, L.P., by its
general partner **TORQUEST FUND IV GP INC.**

By: _____
Name: Brent Belzberg
Title: Director and President

By: _____
Name: Eric Berke
Title: Director and Vice President

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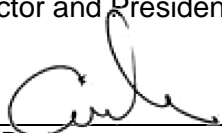
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ENERJET SPV INC.

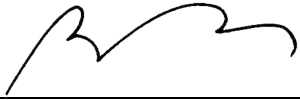
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Name: Brent Belzberg
Title: Director and President


By:  _____
Name: Eric Berke
Title: Director and Vice President

**TORQUEST CAPITAL FUND IV, L.P., by its
general partner TORQUEST CAPITAL FUND
IV GP INC.**

By: 
Name: Brent Belzberg
Title: Director and President

By: 
Name: Eric Berke
Title: Director and Vice President

**TORQUEST PARTNERS FUND (U.S.) IV, L.P.,
by its general partner TORQUEST FUND IV GP
INC.**

By: 
Name: Brent Belzberg
Title: Director and President

By: 
Name: Eric Berke
Title: Director and Vice President

STEPHENSON MANAGEMENT INC.

By: _____
Name: Mitchell Garber
Title: Director and President and Secretary

STEPWORTH HOLDINGS INC.

By: _____
Name: Zeno Santache
Title: Director and Vice President

TORQUEST CAPITAL FUND IV, L.P., by its
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By: _____
Name: Mitchell Garber
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STEPWORTH HOLDINGS INC.

By: 
Name: Zeno Santache
Title: Director and Vice President

Kimberly A. Drury
Witness

Witness

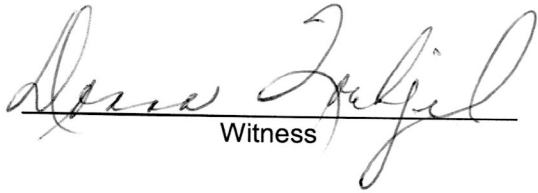
Witness

Tim Dattels
TIM DATTELS
TIMOTHY DATTELS

GARY TORHJELM

T.W. MORGAN

Witness



Witness

Witness

TIM DATTELS



GARY TORHJELM

T.W. MORGAN

Witness

TIM DATTELS

Witness

GARY TORHJELM



Witness

T.W. MORGAN

Schedule 1 Form of Adherence Agreement

THIS ADHERENCE AGREEMENT is made on the ____ of ____ 20__ by [•] (the [Subscriber/Transferee]).

THE PARTIES AGREE as follows:

1. The Subscriber confirms that it has read a copy of an agreement dated •, 2018 made between: (1) the Company; and (2) certain persons (therein referred to as the Noteholders); and (3) certain persons (therein referred to as the Shareholders) (which agreement is herein referred to as the Noteholders' and Shareholders' Agreement) and the services agreement dated December 20, 2018 made between the Company, Indigo and the Shareholders (other than Enerjet SPV Inc.) (the "**Management Services Agreement**") and hereby covenants to each of the persons referred to in clause 2(a) and clause 2(b) to be bound by the Noteholders' and Shareholders' Agreement and the Management Services Agreement in all respects as if the [Subscriber/Transferee] were a party to the Noteholders' and Shareholders' Agreement and the Management Services Agreement as one of the [delete as appropriate] Noteholders/Shareholders and to perform all the obligations imposed on such a party to the Noteholders' and Shareholders' Agreement and the Management Services Agreement, to be performed on, as on, or after the date hereof.
2. This Agreement is made for the benefit of:
 - (a) the parties to the Noteholders' and Shareholders' Agreement and the Management Services Agreement, as the case may be, as at the date of the Noteholders' and Shareholders' Agreement and the Management Services Agreement, as the case may be; and
 - (b) any other person or persons who may after the date of the Noteholders' and Shareholders' Agreement (and whether prior to or after the date hereof) assume any rights or obligations under the Noteholders' and Shareholders' Agreement and the Management Services Agreement, as the case may be, and be permitted to do so by the terms thereof.
3. Save as expressly set out in the Noteholders' and Shareholders' Agreement in favour in the Subscriber, none of the Company, the Noteholders or the Shareholders:
 - (a) makes any representations or warranty or assumes any responsibility with respect to the legality, validity, effectiveness, adequacy or enforceability of the Noteholders' and Shareholders' Agreement and the Management Services Agreement or any agreement entered into pursuant thereto;
 - (b) makes any representation or warranty or assumes any responsibility with respect to the content of any information regarding the Company or any member of the Group or otherwise related to the acquisition of shares in the Company; or
 - (c) assumes any responsibility for the financial condition of the Company or any member of the Group or any other party to the Noteholders' and Shareholders' Agreement and the Management Services Agreement or any other document; or

(d) assumes any responsibility for the performance and observance by the Company or any other party to the Noteholders' and Shareholders' Agreement and the Management Services Agreement or any other document (save as expressly provided therein) of the Noteholders' and Shareholders' Agreement or any other document,

and any and all conditions and warranties, whether express or implied by law or otherwise, are to the extent legally possible excluded.

For the purposes of the Noteholders' and Shareholders' Agreement and the Management Services Agreement, the [Subscriber's/ Transferee's] address and other details for notices shall be:

Address:

Fax number:

For the attention of:

- 4. Words and expressions defined in the Noteholders' and Shareholders' Agreement shall bear the same meanings herein.
- 5. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereon.

DULY DELIVERED as of the date and year first above written.

EXECUTED)
 and **DELIVERED** by)
[Insert name of Subscriber])
 acting by two directors/a director and the secretary)

Schedule 2 Corporate Articles

See attached.

CORPORATE ACCESS NUMBER: 2021617945

**Government
of Alberta ■**

BUSINESS CORPORATIONS ACT

**CERTIFICATE
OF
INCORPORATION**

ENERJET HOLDCO INC.
WAS INCORPORATED IN ALBERTA ON 2018/12/17.



**Articles of Incorporation
For
ENERJET HOLDCO INC.**

Share Structure: SEE SCHEDULE A ATTACHED
Share Transfers Restrictions: SEE SCHEDULES C AND D ATTACHED
Number of Directors:
Min Number of Directors: 1
Max Number of Directors: 11
Business Restricted To: NONE
Business Restricted From: NONE
Other Provisions: SEE SCHEDULE B ATTACHED

**Registration Authorized By: JOE BRENNAN
INCORPORATOR**

SCHEDULE "A"
attached to and forming part
of Section 2 of the Articles Incorporation of
Enerjet Holdco Inc. (the "Corporation")

AUTHORIZED CAPITAL OF THE CORPORATION

1. Classes of Shares. The authorized capital of the Corporation consists of the following:

- (a) An unlimited number of Common Voting Shares, issuable in series, which class of shares shall have attached thereto the rights, privileges, restrictions and conditions set forth under the heading "Common Voting Shares" hereto;
- (b) An unlimited number of Variable Voting Shares, issuable in series, which class of shares shall have attached thereto the rights, privileges, restrictions and conditions set forth under the heading "Variable Voting Shares" hereto;
- (c) An unlimited number of Non-Voting Shares, issuable in series, which class of shares shall have attached thereto the rights, privileges, restrictions and conditions set forth under the heading "Non-Voting Shares" hereto; and
- (d) An unlimited number of Preferred Shares, issuable in series, which class of shares shall have attached thereto the rights, privileges, restrictions and conditions set forth under the heading "Preferred Shares" hereto.

2. Interpretation. For purposes of the Articles, the following terms have the following meanings:

- (a) "ABCA" means the Business Corporations Act (Alberta), R.S.A. (2000), c. B-9, as amended from time to time;
- (b) "ABCA Regulations" means any regulations promulgated from time to time under the ABCA;
- (c) "Aggregate Votes" means the aggregate of the votes attached to all Voting Shares of the Corporation that may ordinarily be cast to elect directors of the Corporation;
- (d) "Articles" means these articles of the Corporation;
- (e) "Board of Directors" means the board of directors of the Corporation;
- (f) "Canadian" shall have the meaning set forth in Subsection 55(1) of the CTA or as specified in any regulation made thereunder, as the same may be amended, supplemented or replaced, from time to time;
- (g) "Common Voting Share" means a common voting share in the share capital of the Corporation;
- (h) "Corporation" means Enerjet Holdco Inc., a corporation subsisting under the laws of the Province of Alberta;
- (i) "corporation" includes a body corporate, partnership and unincorporated organization;
- (j) "CTA" means the Canada Transportation Act, S.C. 1996, Ch. 10, as amended, supplemented or replaced, from time to time;
- (k) "Non-Voting Share" means a non-voting share in the share capital of the Corporation;

- (l) "Offeror" means a person purchasing shares of the Corporation;
- (m) "person" includes an individual, corporation, association, entity, government or agency thereof, trustee, executor, administrator and other legal representative;
- (n) "Preferred Share" means a preferred share in the share capital of the Corporation;
- (o) "Transfer Agent" means the transfer agent and the registrar of the Voting Shares of the Corporation;
- (p) "Variable Voting Share" means a variable voting share in the share capital of the Corporation; and
- (q) "Voting Share" means a Variable Voting Share or a Common Voting Share in the share capital of the Corporation and includes a security currently convertible into such a share and currently exercisable options and rights to acquire such shares or such a convertible security.

3. Control. For purposes of these Articles:

- (a) A body corporate is controlled by a person if:
 - i. securities of the body corporate to which are attached more than fifty percent (50%) of the votes that may be cast to elect directors of the body corporate are held, otherwise than by way of security only, by or for the benefit of that person; and
 - ii. the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate; and
- (b) a partnership or unincorporated organization is controlled by a person if an ownership interest therein representing more than fifty percent (50%) of the assets of the partnership or organization is held, otherwise than by way of security only, by or for the benefit of that person.

4. Undefined Terms. All terms used herein that are not defined herein shall have the meanings ascribed thereto in the ABCA. Any provision herein shall be read so as to be consistent with the ABCA.

5. Variable Voting Shares. Subject to the rights, privileges, restrictions and conditions which attach to any other class of shares, the Variable Voting Shares shall, as a class, have the following rights, privileges, restrictions and conditions:

- (a) Series:
 - i. Creation: For the purpose of accurately tracking the stated capital of investments in the Corporation made at different times, the Variable Voting Shares may be issued from time to time in one or more series of such number of shares as shall be fixed by the Board of Directors prior to their first issuance and declared by articles of amendment, with each series having the identical rights, privileges, restrictions and conditions set forth herein (and no other additional rights, privileges, restrictions and conditions).
 - ii. Priority: No rights, privileges, restrictions or conditions attached to any series of Variable Voting Shares shall confer upon the shares of such series a priority in respect of dividends or distribution of

assets or return of capital in the event of the liquidation, dissolution or winding up of the Corporation over the shares of any other series of Variable Voting Shares. The Variable Voting Shares of each series shall, with respect to the payment of dividends and the distribution of assets or return of capital in the event of liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, rank on a parity with the Variable Voting Shares of every other series and be entitled to a preference and priority over any other shares of the Corporation ranking junior to the Variable Voting Shares.

- (b) Voting: The holders of the Variable Voting Shares shall be entitled to receive notice of, and to attend and vote at, all meetings of the shareholders of the Corporation, except where the holders of a specified class or series are entitled to vote separately as a class as provided in the ABCA. Each share of a series of Variable Voting Shares shall carry one vote per Variable Voting Share, unless:
- i. the number of issued and outstanding Variable Voting Shares exceeds 25% of the total number of all issued and outstanding Voting Shares (or any higher percentage permitted by the CTA, specified by the Governor in Council pursuant to the CTA or that any other governmental authority may specify from time to time); or
 - ii. the total number of votes cast by or on behalf of holders of Variable Voting Shares at any meeting exceeds 25% (or any higher percentage permitted by the CTA, specified by the Governor in Council pursuant to the CTA or that any other governmental authority may specify from time to time) of the total number of votes that may be cast at such meeting.

If either of the above-noted thresholds is surpassed at any time, the vote attached to each Variable Voting Share will decrease automatically and without further act or formality to equal the maximum permitted vote per Variable Voting Share. Under the circumstance described in subparagraph 5(b)(i) above, the Variable Voting Shares as a class cannot carry more than 25% (or any higher percentage that the Governor in Council may specify pursuant to the CTA or that any other governmental authority may specify from time to time) of the Aggregate Votes attached to all issued and outstanding Voting Shares of the Corporation. Under the circumstance described in subparagraph 5(b)(ii) above, the Variable Voting Shares as a class cannot, for a given shareholder's meeting, carry more than 25% (or any higher percentage that the Governor in Council may specify pursuant to the CTA) of the total number of votes that may be cast at such meeting.

- (c) Dividends: Subject to the rights, privileges, restrictions and conditions attached to any other class of shares of the Corporation ranking prior to the Variable Voting Shares, the holders of Variable Voting Shares shall be entitled to receive any dividend declared by the directors of the Corporation at the times and for the amounts that the Board of Directors may, from time to time, determine. The Variable Voting Shares, the Common Voting Shares and the Non-Voting Shares shall rank equally as to dividends on a share-for-share basis, and all dividends declared in any fiscal year of the Corporation shall be declared in equal or equivalent amounts per share on all Variable Voting Shares, Common Voting Shares and Non-Voting Shares then outstanding, without preference or distinction.
- (d) Subdivision or Consolidation: No subdivision or consolidation

of the Variable Voting Shares shall occur unless, simultaneously, the Variable Voting Shares, the Common Voting Shares and the Non-Voting Shares are subdivided or consolidated in the same manner, so as to maintain and preserve the relative rights of the holders of the shares of each of the said classes.

- (e) Liquidation, Dissolution or Winding-up: Subject to the rights, privileges, restrictions and conditions attaching to any other class of shares of the Corporation ranking prior to the Variable Voting Shares, in the case of liquidation, dissolution or winding-up of the Corporation or other distribution of the Corporation's assets among its shareholders for the purposes of winding-up its affairs, the holders of Variable Voting Shares, Common Voting Shares and Non-Voting Shares shall be entitled to receive the remaining property of the Corporation and shall be entitled to share equally, share for share, in all distributions of such assets.
- (f) Conversion:
- i. Automatic - Subject to the foreign ownership restrictions of the CTA, each issued and outstanding Variable Voting Share shall be automatically converted into one Common Voting Share without any further act on the part of the Corporation or of the holder, if:
 - A. such Variable Voting Share is or becomes beneficially owned and controlled, directly or indirectly, by a Canadian; or
 - B. the provisions contained in the CTA relating to foreign ownership restrictions are repealed and not replaced with other similar provisions.
 - ii. Upon an Offer - In the event that an offer is made to purchase Common Voting Shares and the offer is one which is required, pursuant to applicable securities legislation or the rules of a stock exchange on which the Common Voting Shares are then listed, to be made to all or substantially all the holders of Common Voting Shares in a province or territory of Canada to which the requirement applies, each Variable Voting Share shall become convertible at the option of the holder into one Common Voting Share at any time while the offer is in effect until one day after the time prescribed by applicable securities legislation for the Offeror to take up and pay for such shares as are to be acquired pursuant to the offer. The conversion right may only be exercised in respect of Variable Voting Shares for the purpose of depositing the resulting Common Voting Shares pursuant to the offer, and for no other reason, including notably with respect to voting rights attached thereto, which are deemed to remain subject to section 5(b), immediately above, notwithstanding their conversion. The Transfer Agent shall deposit the resulting Common Voting Shares on behalf of the holder. To exercise such conversion right, the holder or his attorney duly authorized in writing shall:
 - A. give written notice to the Transfer Agent of the exercise of such right and of the number of Variable Voting Shares in respect of which the right is being exercised;
 - B. deliver to the Transfer Agent the share certificate or certificates representing the Variable Voting Shares in respect of which the right is being

exercised; and

- C. pay any applicable stamp tax or similar duty on or in respect of such conversion.

No share certificates representing the Common Voting Shares resulting from the conversion of the Variable Voting Shares shall be delivered to the holders on whose behalf such deposit is being made.

If Common Voting Shares resulting from the conversion and deposited pursuant to the offer are withdrawn by the holder or are not taken up by the Offeror, or the offer is abandoned or withdrawn by the Offeror or the offer otherwise expires without such Common Voting Shares being taken up and paid for, the Common Voting Shares resulting from the conversion will be reconverted into Variable Voting Shares and a share certificate representing the Variable Voting Shares will be sent to the holder by the Transfer Agent. Common Voting Shares resulting from the conversion and taken up and paid for by the Offeror shall be re-converted into Variable Voting Shares at the time the Offeror is required under the applicable securities legislation to take up and pay for such shares if the Offeror is not a Canadian.

In the event that the Offeror takes up and pays for the Common Voting Shares resulting from conversion, the Transfer Agent shall deliver to the holders thereof the consideration paid for such shares by the Offeror.

There will be no right to convert the Variable Voting Shares into Common Voting Shares in the following cases:

- A. the offer to purchase Common Voting Shares is not required under applicable securities legislation or the rules of a stock exchange on which the Common Voting Shares are then listed to be made to all or substantially all of the holders of Common Voting Shares in a province or territory of Canada to which the requirement applies, that is, the offer is an "exempt take-over bid" within the meaning of the foregoing securities legislation; or
- B. an offer to purchase Variable Voting Shares is made concurrently with the offer to purchase Common Voting Shares and the two offers are identical in respect of price per share, percentage of outstanding shares for which the offer is made, and in all other material respects, including in respect of the conditions attaching thereto. The offer to purchase the Variable Voting Shares must be unconditional, subject to the exception that the offer for the Variable Voting Shares may contain a condition to the effect that the Offeror is not required to take up and pay for Variable Voting Shares deposited to the offer if no shares are purchased pursuant to the contemporaneous offer for the Common Voting Shares.

6. Common Voting Shares. Subject to the rights, privileges, restrictions and conditions which attach to any other class of shares, the Common Voting Shares shall, as a class, have the following rights, privileges, restrictions and conditions:

(a) Series:

- i. Creation: For the purpose of accurately tracking the

stated capital of investments in the Corporation made at different times, the Common Voting Shares may be issued from time to time in one or more series of such number of shares as shall be fixed by the Board of Directors prior to their first issuance and declared by articles of amendment, with each series having the identical rights, privileges, restrictions and conditions set forth herein (and no other additional rights, privileges, restrictions and conditions).

- ii. Priority: No rights, privileges, restrictions or conditions attached to any series of Common Voting Shares shall confer upon the shares of such series a priority in respect of dividends or distribution of assets or return of capital in the event of the liquidation, dissolution or winding up of the Corporation over the shares of any other series of Common Voting Shares. The Common Voting Shares of each series shall, with respect to the payment of dividends and the distribution of assets or return of capital in the event of liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, rank on a parity with the Common Voting Shares of every other series and be entitled to a preference and priority over any other shares of the Corporation ranking junior to the Common Voting Shares.

- (b) Voting: The holders of Common Voting Shares shall be entitled to receive notice of, and to attend and vote at, all meetings of the shareholders of the Corporation, except where the holders of a specified class or series are entitled to vote separately as a class as provided in the ABCA. Each share of a series of Common Voting Share shall confer the right to one vote at all meetings of shareholders of the Corporation.

- (c) Dividends: Subject to the rights, privileges, restrictions and conditions attached to any other class of shares of the Corporation ranking prior to the Common Voting Shares, holders of Common Voting Shares shall be entitled to receive any dividend declared by the directors of the Corporation at the times and for the amounts that the Board of Directors may, from time to time, determine. The Common Voting Shares, Variable Voting Shares and Non-Voting Shares shall rank equally as to dividends on a share for share basis and all dividends declared in any fiscal year of the Corporation shall be declared in equal or equivalent amounts per share on all Common Voting Shares, Variable Voting Shares and Non-Voting Shares then outstanding, without preference or distinction.

- (d) Subdivision or Consolidation: No subdivision or consolidation of the Common Voting Shares shall occur unless, simultaneously, the Common Voting Shares, the Variable Voting Shares and the Non-Voting Shares are subdivided or consolidated in the same manner, so as to maintain and preserve the respective rights of the holders of the shares of each of the said classes.

- (e) Liquidation, Dissolution or Winding-up: Subject to the rights, privileges, restrictions and conditions attaching to any other class of shares ranking prior to the Common Voting Shares, in the case of liquidation, dissolution or winding-up of the Corporation or other distribution of the Corporation's assets among its shareholders for the purposes of winding-up its affairs, the holders of Common Voting Shares, Variable Voting Shares and Non-Voting Shares shall be entitled to receive the remaining property of the Corporation and shall be entitled to share equally, share for share, in all distributions of such assets.

(f) Conversion:

- i. Automatic - Subject to the foreign ownership restrictions of the CTA, each issued and outstanding Common Voting Share shall be automatically converted into one Variable Voting Share, without any further act on the part of the Corporation or the holder, if such Common Voting Share is or becomes beneficially owned or controlled, directly or indirectly, by a person who is not a Canadian.
- ii. Upon an Offer - In the event that an offer is made to purchase Variable Voting Shares, and the offer is one which is required, pursuant to applicable securities legislation or the rules of a stock exchange on which the Variable Voting Shares are then listed, to be made to all or substantially all the holders of Variable Voting Shares in a province or territory of Canada to which the requirement applies, each Common Voting Share shall become convertible at the option of the holder into one Variable Voting Share, at any time while the offer is in effect until one day after the time prescribed by applicable securities legislation for the Offeror to take up and pay for such shares as are to be acquired pursuant to the offer. The conversion right may only be exercised in respect of Common Voting Shares for the purpose of depositing the resulting Variable Voting Shares, pursuant to the offer, and for no other reason, including notably with respect to voting rights attached thereto, which are deemed to remain subject to paragraph 6(b), immediately above, notwithstanding their conversion. The Transfer Agent shall deposit the resulting Variable Voting Shares, on behalf of the holder. To exercise such conversion right, the holder or his attorney duly authorized in writing shall:
 - A. give written notice to the Transfer Agent of the exercise of such right and of the number of Common Voting Shares in respect of which the right is being exercised;
 - B. deliver to the Transfer Agent the share certificate or certificates representing the Common Voting Shares in respect of which the right is being exercised; and
 - C. pay any applicable stamp tax or similar duty on or in respect of such conversion.

No share certificates representing the Variable Voting Shares resulting from the conversion of the Common Voting Shares shall be delivered to the holders on whose behalf such deposit is being made.

If Variable Voting Shares, resulting from the conversion and deposited pursuant to the offer are withdrawn by the holder or are not taken up by the Offeror, or the offer is abandoned or withdrawn by the Offeror or the offer otherwise expires without such Variable Voting Shares, being taken up and paid for, the Variable Voting Shares resulting from the conversion will be re-converted into Common Voting Shares and a share certificate representing the Common Voting Shares will be sent to the holder by the Transfer Agent. Variable Voting Shares resulting from the conversion and taken up and paid for by the Offeror shall be re-converted into Common Voting Shares at the time the Offeror is required under the applicable securities legislation to take up and pay for such shares if the Offeror is Canadian.

In the event that the Offeror takes up and pays for the Variable Voting Shares resulting from conversion, the Transfer Agent shall deliver to the holders thereof the consideration paid for such shares by the Offeror.

There will be no right to convert the Common Voting Shares into Variable Voting Shares in the following cases:

- A. the offer to purchase Variable Voting Shares is not required under applicable securities legislation of the rules of a stock exchange on which the Variable Voting Shares are then listed to be made to all or substantially all of the holders of Variable Voting Shares in a province or territory of Canada to which the requirement applies, that is, the offer is an "exempt take-over bid" within the meaning of the foregoing securities legislation; or
- B. an offer to purchase Common Voting Shares is made concurrently with the offer to purchase Variable Voting Shares and the offers are identical in respect of price per share, percentage of outstanding shares for which the offer is made, and in all other material respects, including in respect of the conditions attaching thereto. The offer to purchase the Common Voting Shares must be unconditional, subject to the exception that the offer for the Common Voting Shares may contain a condition to the effect that the Offeror is not required to take up and pay for Common Voting Shares deposited to the offer if no shares are purchased pursuant to the contemporaneous offer for the Variable Voting Shares.

7. Non-Voting Shares. Subject to the rights, privileges, restrictions and conditions which attach to any other class of shares, the Non-Voting Shares shall, as a class, have the following rights, privileges, restrictions and conditions:

(a) Creation:

- i. Series - The Non-Voting Shares may at any time or from time to time be issued in one or more series. Before any shares of a particular series are issued, the directors of the Corporation shall, by resolution, fix the number of shares that will form such series and shall, subject to the limitations set out herein, by resolution fix the designation, rights, privileges, restrictions and conditions to be attached to the Non-Voting Shares of such series, including, but without in any way limiting or restricting the generality of the foregoing, the rate, amount or method of calculation of dividends thereon, the time and place of payment of dividends, the consideration for and the terms and conditions (if any) of any purchase for cancellation, retraction or redemption thereof, conversion or exchange rights, and whether into or for securities of the Corporation or otherwise, the terms and conditions of any share purchase or retirement plan or sinking fund, and restrictions on the payment of dividends on any shares or payment in respect of capital on any shares in the capital of the Corporation or creation or issue of debt or equity securities; the whole subject to filing with the Registrar (as defined in the ABCA or successor legislation thereto) an Articles of Amendment setting forth a description of such series including the designation, rights, privileges, restrictions and conditions attached to the shares of

such series.

- ii. Amendments to Unissued Shares - Notwithstanding subparagraph 7(a)(i), the directors of the Corporation may at any time or from time to time change the rights, privileges, restrictions and conditions attached to unissued shares of any series of Non-Voting Shares.
 - iii. Parity of Each Series - The Non-Voting Shares of each series shall rank on a parity with the Non-Voting Shares of every other series with respect to accumulated dividends and return of capital. If any cumulative dividends or amounts payable on a return of capital are not paid in full, the Non-Voting Shares of all series shall participate ratably in respect of such dividends, including accumulations, if any, in accordance with the sums that would be payable on such shares if all such dividends were declared and paid in full, and in respect of any repayment of capital in accordance with the sums that would be payable on such repayment of capital if all sums so payable were paid in full; provided, however, that in the event of there being insufficient assets to satisfy in full all such claims as aforesaid, the claims of the holders of the Non-Voting Shares with respect to repayment of capital shall first be paid and satisfied and any assets remaining thereafter shall be applied towards the payment in satisfaction of claims in respect of dividends pro rata with the holders of all Non-Voting Shares.
- (b) Voting: Other than as expressly provided herein or under the ABCA, the Non-Voting Shares shall have no voting rights at any meetings of shareholders of the Corporation.
 - (c) Dividends: Subject to the rights, privileges, restrictions and conditions attached to any other class of shares of the Corporation ranking prior to the Non-Voting Shares, the holders of Non-Voting Shares shall be entitled to receive any dividend declared by the directors of the Corporation at the times and for the amounts that the Board of Directors may, from time to time, determine. The Non-Voting Shares, the Common Voting Shares and the Variable Voting Shares shall rank equally as to dividends on a share-for-share basis, and all dividends declared in any fiscal year of the Corporation shall be declared in equal or equivalent amounts per share on all Non-Voting Shares, Common Voting Shares and Variable Voting Shares then outstanding, without preference or distinction.
 - (d) Subdivision or Consolidation: No subdivision or consolidation of the Non-Voting Shares shall occur unless, simultaneously, the Non-Voting Shares, the Common Voting Shares and the Variable-Voting Shares are subdivided or consolidated in the same manner, so as to maintain and preserve the relative rights of the holders of the shares of each of the said classes.
 - (e) Liquidation, Dissolution or Winding-up: Subject to the rights, privileges, restrictions and conditions attaching to any other class of shares of the Corporation ranking prior to the Non-Voting Shares, in the case of liquidation, dissolution or winding-up of the Corporation or other distribution of the Corporation's assets among its shareholders for the purposes of winding-up its affairs, the holders of Non-Voting Shares, Common Voting Shares and Variable Voting Shares shall be entitled to receive the remaining property of the Corporation and shall be entitled to share equally, share for share, in all distributions of such assets.

(f) Conversion:

- i. No Right of Conversion - Except as provided for herein below, the Non-Voting Shares shall not have any conversion rights attached thereto.
- ii. Upon an Offer - In the event that an offer is made to purchase Common Voting Shares or Variable Voting Shares, as the case may be, and the offer is one which is required, pursuant to applicable securities legislation or the rules of a stock exchange on which the Common Voting Shares or Variable Voting Shares, as the case may be, are then listed, to be made to all or substantially all the holders of Common Voting Shares or Variable Voting Shares, as the case may be, in a province or territory of Canada to which the requirement applies, each Non-Voting Share shall become convertible at the option of the holder into one Common Voting Share or Variable Voting Share, as the case may be, at any time while the offer is in effect until one day after the time prescribed by applicable securities legislation for the Offeror to take up and pay for such shares as are to be acquired pursuant to the offer. The conversion right may only be exercised in respect of Non-Voting Shares for the purpose of depositing the resulting Common Voting Shares or Variable Voting Shares, as the case may be, pursuant to the offer, and for no other reason, including notably with respect to voting rights attached thereto, which are deemed to remain subject to paragraph 7(b), immediately above, notwithstanding their conversion. The Transfer Agent shall deposit the resulting Common Voting Shares or Variable Voting Shares, as the case may be, on behalf of the holder. To exercise such conversion right, the holder or his attorney duly authorized in writing shall:
 - A. give written notice to the Transfer Agent of the exercise of such right and of the number of Non-Voting Shares in respect of which the right is being exercised;
 - B. deliver to the Transfer Agent the share certificate or certificates representing the Non-Voting Shares in respect of which the right is being exercised; and
 - C. pay any applicable stamp tax or similar duty on or in respect of such conversion.

No share certificates representing the Common Voting Shares or Variable Voting Shares, as the case may be, resulting from the conversion of the Non-Voting Shares shall be delivered to the holders on whose behalf such deposit is being made.

If Common Voting Shares or Variable Voting Shares, as the case may be, resulting from the conversion and deposited pursuant to the offer are withdrawn by the holder or are not taken up by the Offeror, or the offer is abandoned or withdrawn by the Offeror or the offer otherwise expires without such Common Voting Shares or Variable Voting Shares, as the case may be, being taken up and paid for, the Common Voting Shares or Variable Voting Shares, as the case may be, resulting from the conversion will be re-converted into Non-Voting Shares and a share certificate representing the Non-Voting Shares will be sent to the holder by the Transfer Agent. Common Voting Shares or Variable Voting Shares, as the case may be, resulting from the conversion and taken up and paid for

by the Offeror shall be re-converted into Non-Voting Shares at the time the Offeror is required under the applicable securities legislation to take up and pay for such shares.

In the event that the Offeror takes up and pays for the Common Voting Shares or Variable Voting Shares, as the case may be, resulting from conversion, the Transfer Agent shall deliver to the holders thereof the consideration paid for such shares by the Offeror.

There will be no right to convert the Non-Voting Shares into Common Voting Shares or Variable Voting Shares, as the case may be, in the following cases:

- A. the offer to purchase Common Voting Shares or Variable Voting Shares, as the case may be, is not required under applicable securities legislation or the rules of a stock exchange on which the Common Voting Shares or Variable Voting Shares, as the case may be, are then listed to be made to all or substantially all of the holders of Common Voting Shares or Variable Voting Shares, as the case may be, in a province or territory of Canada to which the requirement applies, that is, the offer is an "exempt take-over bid" within the meaning of the foregoing securities legislation; or
- B. an offer to purchase Non-Voting Shares is made concurrently with the offer to purchase Common Voting Shares or Variable Voting Shares, as the case may be, and the offers are identical in respect of price per share, percentage of outstanding shares for which the offer is made, and in all other material respects, including in respect of the conditions attaching thereto. The offer to purchase the Non-Voting Shares must be unconditional, subject to the exception that the offer for the Non-Voting Shares may contain a condition to the effect that the Offeror is not required to take up and pay for Non-Voting Shares deposited to the offer if no shares are purchased pursuant to the contemporaneous offer for the Common Voting Shares or Variable Voting Shares, or both, as the case may be.

- (b) Amendments to Outstanding Non-Voting Shares: The rights, privileges, restrictions and conditions attaching to the Non-Voting Shares as a class may be added to, changed or removed but only with the approval of the holders of the Non-Voting Shares given as herein specified. The rights, privileges, restrictions and conditions attaching to the Non-Voting Shares as a class as provided herein and as maybe provided from time to time may be repealed, altered, modified, amended or amplified or otherwise varied only with the sanction of the holders of the Non-Voting Shares given in such a manner as may then be required by law, subject to a minimum requirement that such approval be given by resolution passed by the affirmative vote of at least two-thirds (2/3) of the votes cast at a meeting of holders of Non-Voting Shares duly called for such purpose and held upon at least 21 days' notice at which a quorum is present comprising at least two persons present, holding or representing by proxy at least 20% of the outstanding Non-Voting Shares. If any such quorum is not present within half an hour after the time appointed for the meeting, then the meeting shall be adjourned to a date being not less than 15 days later and at such time and place as may be appointed by the chairman and at such meeting a quorum will consist of that number of shareholders present in person or

represented by proxy. The formalities to be observed with respect to the giving of notice of any such meeting or adjourned meeting and the conduct thereof shall be those which may from time to time be prescribed in the by-laws of the Corporation with respect to meetings of shareholders. On every vote taken at every such meeting or adjourned meeting each holder of a Non-Voting Share shall be entitled to one vote for each Non-Voting Shares held.

8. Preferred Shares. The unlimited number of Preferred Shares shall have attached thereto the following rights, privileges, restrictions and conditions:

(a) Creation:

- i. Series - The Preferred Shares may at any time or from time to time be issued in one or more series. Before any shares of a particular series are issued, the directors of the Corporation shall, by resolution, fix the number of shares that will form such series and shall, subject to the limitations set out herein, by resolution fix the designation, rights, privileges, restrictions and conditions to be attached to the Preferred Shares of such series, including, but without in any way limiting or restricting the generality of the foregoing, the rate, amount or method of calculation of dividends thereon, the time and place of payment of dividends, the consideration for and the terms and conditions (if any) of any purchase for cancellation, retraction or redemption thereof, conversion or exchange rights, and whether into or for securities of the Corporation or otherwise, the terms and conditions of any share purchase or retirement plan or sinking fund, and restrictions on the payment of dividends on any shares or payment in respect of capital on any shares in the capital of the Corporation or creation or issue of debt or equity securities; the whole subject to filing with the Registrar (as defined in the ABCA) an Articles of Amendment setting forth a description of such series including the designation, rights, privileges, restrictions and conditions attached to the shares of such series.
- ii. Amendments to Unissued Shares - Notwithstanding subparagraph 8(a)i., the directors of the Corporation may at any time or from time to time change the rights, privileges, restrictions and conditions attached to unissued shares of any series of Preferred Shares.
- iii. Parity of Each Series - The Preferred Shares of each series shall rank on a parity with the Preferred Shares of every other series with respect to accumulated dividends and return of capital.

- (b) Voting: Other than as expressly provided herein or under the ABCA, the Preferred Shares shall have no voting rights at any meeting of shareholders of the Corporation.
- (c) Dividends: The Preferred Shares shall be entitled to a preference over the Common Voting, the Variable Voting Shares, the Non-Voting Shares and over any other shares of the Corporation ranking junior to the Preferred Shares with respect to priority in the payment of dividends.
- (d) Liquidation, Dissolution and Winding-up: The Preferred Shares shall be entitled to a preference over the Common Voting, the Variable Voting Shares, the Non-Voting Shares and over any other shares of the Corporation ranking junior to the Preferred Shares with respect to the distribution of assets in

the event of the liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary, or any other distribution of the assets of the Corporation among its shareholders for the purpose of winding-up its affairs. If any cumulative dividends or amounts payable on a return of capital are not paid in full, the Preferred Shares of all series shall participate rateably in respect of such dividends, including accumulations, if any, in accordance with the sums that would be payable on such shares if all such dividends were declared and paid in full, and in respect of any repayment of capital in accordance with the sums that would be payable on such repayment of capital if all sums so payable were paid in full; provided, however, that in the event of there being insufficient assets to satisfy in full all such claims as aforesaid, the claims of the holders of the Preferred Shares with respect to repayment of capital shall first be paid and satisfied and any assets remaining thereafter shall be applied towards the payment in satisfaction of claims in respect of dividends.

- (e) Other Preferences: The Preferred Shares of any series may also be given such other preferences not inconsistent with paragraphs 8(a) to 8(d) hereof over the Common Voting Shares, the Variable Voting Shares, the Non-Voting Shares and any other shares ranking junior to the Preferred Shares as may be determined in the case of each such series of Preferred Shares.

- (f) Amendments to Outstanding Preferred Shares: The rights, privileges, restrictions and conditions attaching to the Preferred Shares as a class may be added to, changed or removed but only with the approval of the holders of the Preferred Shares given as herein specified. The rights, privileges, restrictions and conditions attaching to the Preferred Shares as a class as provided herein and as may be provided from time to time may be repealed, altered, modified, amended or amplified or otherwise varied only with the sanction of the holders of the Preferred Shares given in such manner as may then be required by law, subject to a minimum requirement that such approval be given by resolution passed by the affirmative vote of a least two-thirds (2/3) of the votes cast at a meeting of holders of Preferred Shares duly called for such purpose and held upon at least 21 days' notice at which a quorum is present comprising at least two persons present, holding or representing by proxy at least 20% of the outstanding Preferred Shares. If any such quorum is not present within half an hour after the time appointed for the meeting, then the meeting shall be adjourned to a date being not less than 15 days later and at such time and place as may be appointed by the chairman and at such meeting a quorum will consist of that number of shareholders present in person or represented by proxy. The formalities to be observed with respect to the giving of notice of any such meeting or adjourned meeting and the conduct thereof shall be those which may from time to time be prescribed in the by-laws of the Corporation with respect to meetings of shareholders. On every vote taken at every such meeting or adjourned meeting each holder of a Preferred Share shall be entitled to one vote in respect of each one (\$1) dollar of stated value of Preferred Shares held.

SCHEDULE C
attached to and forming part
of Section 3 of the Articles of Incorporation of
Enerjet Holdco Inc. the "Corporation")

OTHER PROVISIONS
RESTRICTIONS ON FOREIGN OWNERSHIP

1. Definitions. For the purposes of this Schedule C, the following terms have the following meanings:

- (a) "ABCA" means the Business Corporations Act (Alberta);
- (b) "Aggregate Votes" means the aggregate of the votes attached to all voting shares of the Corporation that may ordinarily be cast to elect directors of the Corporation, other than the votes attached to the voting shares, if any, held by or on behalf of the Minister;
- (c) "corporation" includes a body corporate, partnership and unincorporated organization;
- (d) "CTA" means the Canada Transportation Act (Canada), or any successor legislation thereto that is intended to, inter alia, regulate the ownership of airlines;
- (e) "Minister" means the President of the Queen's Privy Council or such other member of the Queen's Privy Council for Canada as may be designated by the Governor in Council as the Minister for the purposes of the CTA;
- (f) "Ownership Rights" means, with respect to voting shares of the Corporation, all rights attaching thereto, including the rights to vote at any meeting of shareholders, to receive any dividends declared thereon by the Corporation, and to receive the remaining property of the Corporation upon liquidation, dissolution or winding-up of the Corporation;
- (g) "person" means any individual, body corporate, government or agency thereof, partnership, unincorporated syndicate, unincorporated organization, trustee, executor, administrator and other legal representative; and
- (h) "voting share" means a share in the capital of a corporation that carries, under all circumstances or by reason of an event that has occurred and is continuing, a right to vote.

All terms used in this Schedule C which are not defined in these Articles but are defined in the CTA or the ABCA have the meaning ascribed thereto in the CTA or the ABCA respectively, provided that in the event of any inconsistency between a definition contained in the CTA and a definition contained herein or in the ABCA, the definition contained in the CTA shall prevail. Any provision of this Schedule C which may be read in a manner that is inconsistent with the CTA shall be read so as to be consistent therewith.

2. Constraints on Issue and Transfer.

- (a) The Corporation shall not:
 - i. accept any subscription for its voting shares;
 - ii. issue any of its voting shares;
 - iii. register or otherwise recognize the transfer of any of its voting shares; or

iv. purchase or otherwise acquire any of its voting shares;

if, as a result of such subscription, issue, transfer or purchase the Corporation would cease to be a "Canadian" as defined in the CTA or as specified in any regulation made thereunder.

(b) In the event that any law of Canada or a province or territory of Canada applicable to the Corporation should become prescribed for the purposes of Section 174 of the ABCA, these Articles shall be read as if the constraints imposed pursuant to Section 2(a) included constraints in order to assist the Corporation or any of its affiliates or associates (as such terms are defined in the ABCA) to qualify under such prescribed law (including the CTA and any regulations thereunder and the Canadian Aviation Regulations under the Aeronautics Act (Canada)) to receive licenses, permits, grants, payments or other benefits by reason of attaining or maintaining a specified level of Canadian ownership or control and such specified level of Canadian ownership or control shall be the level of Canadian ownership or control designated by such prescribed law of Canada or a province or territory of Canada.

3. Constraints on Ownership Rights. No person shall hold, beneficially own or control, directly or indirectly, voting shares of the Corporation in a manner contrary to the constraints set forth in Section 2 and the Corporation shall refuse to recognize all Ownership Rights that would otherwise be attached to any voting shares held, beneficially owned or controlled, directly or indirectly, contrary to any such constraints, by deeming all voting shares held contrary to such constraints to be struck from the register of securities in an order inverse to the order of the registration of the acquisition by the holders of such voting shares, such that the number of shares held, beneficially owned or controlled, directly or indirectly, by a person or persons in any constrained class referred to in Section 2 is reduced to the permitted threshold for that class, as the case may be.

4. Limitation on Voting Rights. Where, at any meeting of shareholders of the Corporation more than 25% (or any higher percentage or individual or combined holding subject to a limit permitted by the CTA, specified by the Governor in Council pursuant to the CTA or which any other governmental authority may specify from time to time) of the voting shares represented at such meeting are held, beneficially owned or controlled, directly or indirectly, by non-Canadians, the voting rights attached to such voting shares shall be restricted on a pro rata basis such that the total number of votes which may be cast by or on behalf of non-Canadians at such meeting shall not be greater than 25% (or any higher percentage or individual or combined holding subject to a limit permitted by the CTA, specified by the Governor in Council pursuant to the CTA or which any other governmental authority may specify from time to time) of the total number of votes which may be cast at such meeting.

5. Sale of Constrained Shares.

(a) Without limiting any of the provisions of this Schedule C, the Corporation may, for the purposes of enforcing any constraint imposed pursuant to Section 2 above, sell, as if it were the owner thereof, any voting shares that are owned, or that the directors determine may be owned, by any person or persons, contrary to such constraint, in inverse order to the order of acquisition or registration of voting shares of the Corporation, or in such other manner as the Corporation may consider equitable and practicable, provided that such sale is conducted in accordance with the provisions set out below.

(b)

- i. For the purposes of Section 5(a), before the Corporation concludes that shares of the Corporation are owned contrary to a constraint referred to in Section 2 or the directors of the Corporation determine the shares of the Corporation may be owned contrary to such constraint, the Corporation shall send by registered mail a written notice in accordance with subsection 5(b)(v) to the person shown in the securities register of the Corporation as the holder of the shares.
- ii. For the purposes of Section 5(a), in determining that shares of the Corporation may be owned contrary to a constraint referred to in Section 2, the directors of the Corporation shall
 - A. ascertain whether or not the Corporation has received a reply to a request for information referred to in subsection 5(b)(vii) respecting such shares and consider the reply, if any, thereto; and
 - B. examine and consider any other records of the Corporation containing information that would indicate whether such shares are owned contrary to such constraint.
- iii. For the purposes of Section 5(a) where the Corporation has sent a notice referred to in subsection 5(b)(i) to a person shown in the securities register of the Corporation as the holder of shares and
 - A. the Corporation has concluded that shares in respect of which the notice was sent are owned contrary to a constraint referred to in Section 2, or
 - B. the directors of the Corporation have determined in accordance with subsection 5(b)(ii) that shares in respect of which the notice was sent may be owned contrary to such constraint,and the Corporation intends to sell all or some of the shares pursuant to Section 5(a), the Corporation shall, not less than 90 days but not more than 150 days after the sending of such notice, send to that person by registered mail a further written notice in accordance with subsection 5(b)(vi) respecting the shares that the Corporation intends to sell.
- iv. Where a Corporation sends a notice under subsection 5(b)(i) or 5(b)(iii), the Corporation shall, at the time the notice is sent, enter or cause to be entered in the securities register of the Corporation the particulars of such notice including the date on which it was sent.
- v. The notice referred to in subsection 5(b)(i) shall contain
 - A. the name and address of the holder of the shares as shown in the securities register of the Corporation;
 - B. a statement identifying the certificate representing the shares by certificate number or otherwise;
 - C. a statement including that all or some of the shares may be sold by the Corporation pursuant to Section 5(a) if such shares are owned, or the directors of the Corporation determine in accordance with subsection 5(b)(ii) that such shares may be owned,

- contrary to a constraint referred to in Section 2;
- D. a statement indicating that the Corporation may conclude that all or some of the shares are owned contrary to a constraint referred to in Section 2;
 - E. a statement indicating that the directors of the Corporation may determine in accordance with subsection 5(b)(ii) that all or some of the shares may be owned contrary to a constraint referred to in Section 2 and that for the purpose of making such determination the directors of the Corporation will (a) consider the reply, if any, to a request for information referred to in subsection 5(b)(vii) respecting such shares, and (b) examine and consider any other records of the Corporation containing information that would indicate whether such shares are owned contrary to such constraint;
 - F. a statement indicating that no share in respect of which the notice is sent may be sold pursuant to Section 5(a) if a transfer of such share is registered in the securities register of the Corporation after the notice was sent unless the Corporation again complies with the requirements set out in this Section 5 respecting the sale of such share;
 - G. a statement indicating that no share in respect of which the notice is sent may be sold pursuant to Section 5(a) unless not less than 60 days but not more than 150 days have elapsed from the day on which a notice referred to in subsection 5(b)(iii) is sent to the holder of such share;
 - H. a statement indicating the earliest date and the latest date on which the Corporation may sell the shares, having regard to the requirements set out in Section 5(d);
 - I. a statement indicating that the shares may be sold on any stock exchange where shares of the Corporation are listed and posted for trading or, where shares of the Corporation are not listed and posted for trading on any stock exchange, in such other manner as the directors of the Corporation determine to be appropriate;
 - J. a statement indicating that, if not all the shares of the holder represented by a certificate are sold pursuant to Section 5(a), a certificate representing the shares that are not sold will be issued upon surrender for cancellation of the certificate representing the shares sold; and
 - K. a statement indicating that, forthwith upon the sale of the shares pursuant to Section 5(a), the Corporation will (a) register the transfer or a notice of the sale of such shares or cause the transfer or a notice of the sale of such shares to be registered in the securities register of the Corporation, and (b) send a notice of such sale in accordance with paragraph 6(e)(i)(B) to the person shown in the securities register of the Corporation as the holder of such shares at the time of sale.
- vi. The notice referred to in subsection 5(b)(iii) shall contain

- A. the name and address of the holder of the shares as shown in the securities register of the Corporation;
- B. a statement identifying the certificate representing the shares by certificate number or otherwise;
- C. a statement indicating that all or some of the shares may be sold by the Corporation pursuant to Section 5(a) if such shares are owned, or the directors of the Corporation determine in accordance with subsection 5(b)(ii) that such shares may be owned, contrary to a constraint referred to in Section 2;
- D. a statement indicating that the Corporation has concluded that the shares are owned, or that the directors of the Corporation have determined in accordance with subsection 5(b)(ii) that the shares may be owned, contrary to a constraint referred to in Section 2 and indicating the reason why the Corporation so concluded or the directors so determined, as the case may be;
- E. a statement indicating that the Corporation intends to sell all or a specified number of the shares pursuant to Section 5(a);
- F. a statement indicating that if before the sale the Corporation changes its conclusion that the shares are owned, or the directors of the Corporation change their determination made in accordance with subsection 5(b)(ii) that the shares may be owned, contrary to a constraint referred to in Section 2 or there is a change in the reason for such conclusion or determination, the Corporation will send a notice in accordance with subsection 5(c)(i) to the person shown in the securities register of the Corporation as the holder of the shares;
- G. a statement advising that, unless the person shown in the securities register of the Corporation as the holder of the shares receives a notice referred to in paragraph 6(b)(vi)(F), such person and all other interested persons should not assume (a) that the Corporation has changed its conclusion that the shares are owned, or the directors of the Corporation have changed their determination made in accordance with subsection 5(b)(ii) that the shares may be owned, contrary to a constraint referred to in Section 2 that there has been a change in the reason for such conclusion or determination, or (c) that the Corporation no longer intends to sell the shares pursuant to Section 5(a);
- H. a statement indicating that no share in respect of which the notice is sent may be sold pursuant to Section 5(a) if a transfer of such share is registered in the securities register of the Corporation after the notice referred to in subsection 5(b)(i) was sent unless the Corporation again complies with the requirements set out in this Section 5 respecting the sale of such share;
- I. a statement indicating that no share in respect of which the notice is sent may be sold pursuant to Section 5(a) unless not less than 60 days but not more than 150 days have elapsed from the day on

which the notice was sent to the holder of such share; and

- J. a statement indicating each of the matters referred to in paragraphs 6(b)(v)(H) to (K).
- vii. The notice referred to in subsection 5(b)(i) shall be accompanied by a request for such information, including a request for the completion of such forms, as would indicate whether the shares are owned contrary to a constraint referred to in Section 2.
- viii. The notice referred to in subsection 5(b)(iii) shall be accompanied by a request for information referred to in subsection 5(b)(vii) unless the Corporation has received the requested information before the notice is sent.
- ix. A request for information referred to in subsection 5(b)(vii) shall be accompanied by instructions for the furnishing of the information and the completion of the forms referred to in that subsection and by a sufficient number of copies of the forms.

(c)

- i. Where the Corporation has:
 - A. sent a notice referred to in subsection 5(b)(iii) to a person shown in the securities register of the Corporation as the holder of shares, and
 - B. where the Corporation has not sold, pursuant to Section 5(a), a share in respect of which the notice was sent, and the Corporation changes its conclusion that the share is owned, or the directors of the Corporation change their determination made in accordance with subsection 5(b)(ii) that the share may be owned, contrary to a constraint referred to in Section 2, or there is a change in the reason for such conclusion or determination, the Corporation shall forthwith send by registered mail to that person a notice of such change of conclusion or determination including the reason therefor or a notice of such change in the reason for such conclusion or determination, as the case may be.
- ii. Where a Corporation sends a notice under subsection 5(c)(i), the Corporation shall, at the time the notice is sent, enter or cause to be entered in the securities register of the Corporation the particulars of such notice including the date on which it was sent.

(d)

- i. No share shall be sold by the Corporation pursuant to Section 5(a) unless:
 - A. the Corporation has sent the notices referred to in subsections 5(b)(i) and (iii) to the person shown in the securities register of the Corporation as the holder of the share;
 - B. not less than 150 days but not more than 300 days have elapsed from the day on which the notice referred to in subsection 5(b)(i) was sent to the holder of the share;
 - C. not less than 60 days but not more than 150 days

have elapsed from the day on which the notice referred to in subsection 5(b)(iii) was sent to the holder of the share;

- D. the Corporation has concluded that the share is owned, or the directors of the Corporation have determined in accordance with subsection 5(b)(ii) that the share may be owned, contrary to a constraint referred to in Section 2 and, at the time of sale, the Corporation has no reasonable grounds on which to change its conclusion or the directors of the Corporation have no reasonable grounds on which to change their determination, as the case may be;
 - E. the sale takes place
 - (1) on any stock exchange where the shares of the Corporation are listed and posted for trading, or
 - (2) where shares of the Corporation are not listed and posted for trading on any stock exchange, in such other manner as the directors of the Corporation determine to be appropriate; and
 - F. the Corporation sells the share with a view to obtaining the best sale price available in the circumstances at the time of sale.
- ii. No share in respect of which a notice is sent in accordance with subsection 5(b)(i) shall be sold by the Corporation pursuant to Section 5(a) if a transfer of such share is registered in the securities register of the Corporation after the notice was sent unless the Corporation again complies with the requirements set out in this Section 5 respecting the sale of such share.

(e)

- i. Forthwith upon a sale of shares by the Corporation pursuant to Section 5(a), the Corporation shall:
 - A. register the transfer or a notice of the sale of such shares or cause the transfer or a notice of the sale of such shares to be registered in the securities register of the Corporation; and
 - B. send a notice of such sale to the person shown in the securities register of the Corporation as the holder of the shares at the time of the sale.
- ii. The notice referred to in paragraph 4(e)(i)(B) shall:
 - A. state the number of shares sold;
 - B. identify the certificate representing the shares sold, by certificate number or otherwise;
 - C. state the date and manner of sale;
 - D. state the manner in which the person entitled to receive the net proceeds of the sale pursuant to 5.1 may obtain such proceeds;
 - E. state that the Corporation concluded that the shares were owned, or that the directors determined in accordance with subsection 5(b)(ii) that the shares

may be owned, contrary to a constraint referred to in Section 2 and state the reason why the Corporation so concluded or the directors so determined, as the case may be; and

F. contain a statement, if not all of the shares of the holder represented by a certificate were sold, that not all of such shares were sold and that a certificate representing the shares that were not sold will be issued upon surrender for cancellation of the certificate representing the shares sold.

(f) For the purposes of this Section 5, the proceeds of a sale by the Corporation under Section 5(a) shall be deposited in an interest bearing account with a bank in Canada to which the Bank Act (Canada) applies or a trust company in Canada to which the Trust Companies Act (Canada) applies.

6. Control. For the purposes of this Schedule C:

(a) a corporation is controlled by a person if

- i. more than fifty percent of the voting shares of the corporation are held by the person and by another person, if any, who is associated with that person;
- ii. the voting rights attached to any shares of the corporation held by the person and by another person, if any, who is associated with that person, are sufficient, if exercised, to elect a majority of the directors of the corporation; and
- iii. the person has, in relation to the corporation, any direct or indirect influence which, if exercised, would result in control in fact of the corporation;

(b) a partnership or unincorporated organization is controlled by a person if any ownership interest therein representing more than fifty percent (50%) of the assets of the partnership or organization is held, otherwise than by way of security only, by or for the benefit of that person.

7. Associate.

(a) For the purposes of this Schedule C, a person is associated with another person if

- i. one person is a corporation of which the other person is a director or an officer;
- ii. one person is a corporation that is directly or indirectly controlled by the other person;
- iii. one person is a partnership of which the other person is a partner;
- iv. both persons are corporations and one corporation is controlled, directly or indirectly, by the same person that controls, directly or indirectly, the other corporation;
- v. both persons are members of a voting trust that relates to the voting shares of a transportation undertaking;
- vi. both persons are parties to an agreement or arrangement, a purpose of which is to require the parties to act in concert with respect to their interests, direct or indirect, in a transportation undertaking; or

- vii. both persons are associated within the meaning of paragraphs i. to vi. with a same third person.

8. Joint Ownership.

- (a) For the purposes of this Schedule C, where voting shares of the Corporation are held, beneficially owned or controlled by several persons jointly, the number of voting shares held, beneficially owned or controlled by any one such person shall include the number of voting shares held, beneficially owned or controlled jointly with such other persons.
- (b) Where one or more of the joint holders, beneficial owners or persons controlling the voting shares is a non-Canadian, the voting shares held, beneficially owned or controlled jointly are deemed to be held, beneficially owned or controlled, as the case may be, by such non-Canadian.

9. Exceptions.

- (a) Nothing in this Schedule C shall be construed to apply in respect of voting shares of the Corporation that:
 - i. are held by the Minister in trust for Her Majesty in Right of Canada;
 - ii. are held by one or more underwriters solely for the purpose of distributing the shares to the public; or
 - iii. are held by any person that is acting in relation to the shares solely in its capacity as an intermediary in the payment of funds or the delivery of securities, or both, in connection with trades in securities and that provides centralized facilities for the clearing of trades in securities.
- (b) The constraints imposed pursuant to Section 2 do not apply to the extent that a person or their associates holds voting shares by way of security only and such holding by way of security only is evidenced in such form as may be prescribed by the by-laws or resolutions adopted by the shareholders or directors of the Corporation and filed by such holder with the Corporation.

10. By-Laws.

- (a) Subject to section 102 of the ABCA, the directors of the Corporation may make, amend or repeal any by-laws required to administer the constrained share provisions set out in these articles including bylaws:
 - i. to require any person in whose name voting shares of the Corporation are registered to furnish a statutory declaration under the Canada Evidence Act declaring whether
 - A. the shareholder is the beneficial owner of the voting shares of the Corporation or holds them for a beneficial owner,
 - B. the shareholder is an associate of any other shareholder,
 - C. the shareholder or beneficial owner is a Canadian, and declaring any further facts that the directors consider relevant;
 - ii. to require any person seeking to have a transfer of a

voting share registered in his name or to have a voting share issued to him to furnish a declaration similar to the declaration a shareholder may be required to furnish under paragraph (i); and

- iii. to determine the circumstances in which any declarations are required, their form and the times when they are to be furnished.
- (b) Where a person is required to furnish a declaration pursuant to a bylaw made under Section 10(a) the directors may refuse to register a transfer of a voting share in their name or to issue a voting share to them until that person has furnished the declaration.
- (c) In administering the constrained share provisions set out herein, the directors of the Corporation may rely upon
 - i. a statement made in a declaration referred to in Section 10(a) or 10(b); and
 - ii. the knowledge of a director, officer, employee or agent of the Corporation.
- (d) Where the directors are required to determine the total number of voting shares of the Corporation held by or on behalf of persons other than Canadians, the directors may rely upon the sum of
 - i. the voting shares held by every shareholder whose latest address as shown in the share register is outside Canada; and
 - ii. the voting shares held by every shareholder whose latest address as shown in the share register is in Canada but who, to the knowledge of a director, officer, employee or agent of the Corporation is not a Canadian.
- (e) For the purposes of Section 10(d), the directors may rely upon the share register of the Corporation as of any date after the day on which the Corporation became a constrained share corporation but that date shall not be more than four months before the day on which the determination is made.

11. Powers of Directors.

- (a) In the administration of this Schedule C, the directors of the Corporation shall enjoy, in addition to the powers set forth herein, all of the powers necessary or desirable, in their opinion, to carry out the intent and purpose hereof, including but not limited to all powers contemplated by the provisions relating to constrained share corporations in the ABCA.
- (b) If the board of directors, acting in good faith, determines that any persons are parties to an agreement or arrangement, a purpose of which is to require them to act in concert with respect to their interest, direct or indirect, in the Corporation, the board of directors shall be entitled to treat such persons as associates for the purposes hereof.
- (c) In administering the provisions of this Schedule C the directors of the Corporation may rely upon:
 - i. a statement made in a declaration referred to in Section 10; and
 - ii. the knowledge of a director, officer, employee or agent of the Corporation.

- (d) Wherever in this Schedule C it is necessary to determine the opinion of the directors of the Corporation, such opinion shall be expressed and conclusively evidenced by a resolution of the directors of the Corporation duly adopted, including a resolution in writing executed pursuant to Section 117 of the ABCA.

12. No Claims. Neither any shareholder of the Corporation nor any other interested person shall have any claim or action against the Corporation or against any director or officer of the Corporation nor shall the Corporation have any claim or action against any director or officer of the Corporation arising out of any act (including any omission to act) performed pursuant to or in intended pursuance of the provisions of this Schedule C or any breach or alleged breach of such provisions.

13. Application. This Schedule C will not become effective until such time as the Corporation becomes a "distributing corporation" as defined in the ABCA.

SCHEDULE D
attached to and forming part
of Section 3 of the Articles of Incorporation of
Enerjet Holdco Inc. the "Corporation")

No securities of the Corporation, other than non-convertible debt securities, shall be transferred (a) without the consent of either (i) a majority of the directors of the Corporation expressed by a resolution passed at a meeting of the board of directors or by an instrument or instruments in writing signed by a majority of the directors or (ii) the holders of a majority of the outstanding shares of the Corporation entitling the holders thereof to vote in all circumstances (other than a separate class vote of the holders of another class of shares of the Corporation) expressed by a resolution passed at a meeting of such shareholders or by an instrument or instruments in writing signed by the holders of a majority of such shares; and (b) unless such transfer complies with the terms and conditions, if any, regarding the transfer of shares in the capital of the Corporation contained in any applicable unanimous shareholders' agreement.

SCHEDULE B
attached to and forming part
of Section 6 of the Articles of Incorporation of
Enerjet Holdco Inc. (the "Corporation")

OTHER RULES AND PROVISIONS

1. Definitions. For the purposes of this Schedule B, the following terms have the following meanings:
 - (a) "CTA" means the Canada Transportation Act, S.C. 1996, Ch. 10, as amended, supplemented or replaced, from time to time;
 - (b) "Liquidity Event" means either:
 - (i) the completion of an initial public offering of Voting Shares which results in Voting Shares being listed and posted for trading or quoted on a Qualified Exchange; or
 - (ii) the closing of a merger, amalgamation, plan of arrangement, business combination, acquisition or other transaction or series of related transactions resulting in the holders of Voting Shares receiving consideration in the form of securities listed on a Qualified Exchange;
 - (c) "Qualified Exchange" means any of the Toronto Stock Exchange, the TSX Venture Exchange, the New York Stock Exchange, the American Stock Exchange, the Nasdaq National Market, the London Stock Exchange (main or AIM), the Canadian Securities Exchange or any successor exchange or market thereto; and
 - (d) "Voting Share" means the variable voting shares and the common voting shares in the share capital of the Corporation.
2. Without limiting the borrowing powers of the Corporation as set forth in the Business Corporations Act (Alberta), the directors of the Corporation may from time to time, without authorization of the shareholders,
 - (a) borrow money on the credit of the Corporation;
 - (b) issue, reissue, sell or pledge bonds, debentures, notes or other evidences of indebtedness or guarantees of the Corporation, whether secured or unsecured;
 - (c) subject to the Business Corporations Act (Alberta), give a guarantee on behalf of the Corporation to secure performance of an obligation of any person; and
 - (d) mortgage, hypothecate, pledge or otherwise create a security interest in all or any property of the Corporation, owned or subsequently acquired, to secure any obligation of the Corporation.

Nothing in this clause limits or restricts the borrowing of money by the Corporation on bills of exchange or promissory notes made, drawn, accepted or endorsed by or on behalf of the Corporation.
3. Subject to the Business Corporations Act (Alberta), the directors may, between annual general meetings, appoint one or more additional directors of the Corporation to serve until the next annual general meeting, but the number of the additional directors shall not at any time exceed one third of the number of directors who held office at the expiration of the last annual meeting of the Corporation.
4. The Corporation has a lien on every security registered in the name of a shareholder or his legal representative for a debt of that

shareholder to the Corporation.

5. Shareholders meetings may be held in the City of Calgary, in the Province of Alberta, or anywhere inside or outside of the Province of Alberta that the directors determine by resolution from time to time.
6. The Corporation shall not consummate a Liquidity Event if doing so would result in the Corporation ceasing to be "Canadian" as defined in the CTA or as specified in any regulation made thereunder.
7. The number of beneficial shareholders of the Corporation is limited to not more than 50 persons, not including employees and former employees of the Corporation or its affiliates, provided that each person is counted as one beneficial shareholder unless the person is created or used solely to purchase or hold securities of the Corporation in which case each beneficial shareholder or each beneficiary of the person, as the case may be, must be counted as a separate beneficial shareholder.
8. Any invitation to the public to subscribe for the securities of the Corporation is prohibited.

Schedule 3 Reserved Matters

- (1) Any merger, amalgamation, consolidation, recapitalization or similar business combination involving the Company.
- (2) Any recapitalization, stock split or similar change in the capital of the Company.
- (3) Any amendment to the articles of incorporation of the Company or the Corporate Articles.
- (4) Any sale of all or substantially all of the issued share capital of the Company.
- (5) Any acquisition, divestiture, transfer, sale, assignment, lease, mortgage or other encumbrance or disposal by the Company of any shares, business, undertaking or assets, in each case, with a value (or for a price) in excess of US\$20,000,000 or the proposal or execution by the Company of any agreement relating to any of the same.
- (6) The execution of any agreement by the Company in which any director, member of senior management or shareholder of the Company has an interest.
- (7) Any material capital expenditure by the Company in excess of US\$20,000,000 that was not included in the Company's operating and capital plan as approved by the Board for the relevant period.
- (8) The prosecution, settlement or compromise of any lawsuit or administrative action involving any material exposure by the Company, other than any lawsuit or action against a Noteholder.
- (9) The incurrence of any Financial Indebtedness or the giving of any guarantee or indemnity by the Company with a value (or in respect of any obligations with a value of) in excess of US\$20,000,000.
- (10) Any deviation from the low fare, low cost business model of the Company.
- (11) Any material agreement (or amendment to an existing agreement) including any intra-Group transaction with a value in excess of US\$20,000,000 or which is otherwise of a material nature to the Group as a whole or to any Obligor.
- (12) Any declaration or payment by the Company of any dividend or distribution in respect of any shares or securities.
- (13) Any issuance or redemption by the Company of any shares, debentures or other securities (including, without limitation, Notes but excluding any redemption by the Company of the Notes in accordance with the provisions of the Note Purchase Agreement and the Notes).
- (14) Any grant of any option or warrant or the modification or amendment of the terms of the same.
- (15) The appointment or removal of the Company's auditors.
- (16) Any material change in accounting policies, practices or principles adopted by the Company in its audited financial statements for the financial year ended December 31.

- (17) Any Winding-Up, liquidation, bankruptcy, suspension of payments, assignment for the benefit of creditors or any similar matter effected or proposed to be effected by the Company.
- (18) Any modification, termination or removal of any agreement between the Company and any shareholder of the Company.
- (19) Any change of the Company's name.
- (20) The adoption of (and any amendment to) any management incentive or share option scheme.
- (21) Any of the matters or actions referred to in paragraphs 1 to 20 above taken by or in respect of any Subsidiary.

**AMENDMENT NO. 1
TO THE
NOTEHOLDERS' AND SHAREHOLDERS' AGREEMENT
Dated as of September 8, 2021 with effect as of June 7, 2021**

WHEREAS:

- A. The undersigned are parties to a noteholders' and shareholders' agreement dated as of December 20, 2018 (the "**Existing Agreement**").
- B. Section 2.1 of the Existing Agreement provides that the CEO (for so long as he or she remains employed by the Company in such capacity) shall have the right to hold office as a Director (such person referred to in the Existing Agreement as the "**CEO Director**").
- C. Effective June 7, 2021 (the "**Transition Date**"), Merren McArthur ("**McArthur**") was appointed to the offices of President and CEO of the Company. However, the Board determined that it was in the best interest of the Company to delay McArthur's appointment to the Board until such time as McArthur becomes "Canadian" (as defined in the *Canada Transportation Act*).
- D. Pursuant to his Executive Employment Contract dated December 19, 2018, Thomas W. Morgan ("**Morgan**") agreed to transition from the position of CEO of the Company to the position of Chief Operating Officer of the Company at a future date to be determined by the Board, such date since being confirmed as the Transition Date.
- E. Pursuant to Section 2.2 of the Existing Agreement, upon Morgan ceasing to be the CEO of the Company, he was deemed to have resigned as a Director.
- F. The Board has further determined that it is in the best interest of the Company to appoint an additional Canadian Director to serve until such time as McArthur becomes Canadian.
- G. The Parties therefore desire to amend the Existing Agreement on the terms and subject to the conditions set forth herein (such agreement referred to herein as "**Amendment No. 1**") to temporarily remove the provisions providing the CEO with the right to hold office as a Director and to provide for the appointment by the Board of an additional Canadian Director.
- H. Capitalized terms used and not defined in this Amendment No. 1 have the respective meanings assigned to them in the Existing Agreement.

NOW THEREFORE, IN CONSIDERATION OF THE PREMISES AND THE COVENANTS AND AGREEMENTS HEREIN SET FORTH, THE PARTIES AGREE AS FOLLOWS:

1. Amendments

- 1.1 Until such time as the CEO gives notice to the Chairman of the Board that she has become "Canadian" and provides evidence to that effect:
 - 1.1.1 The provisions of the Existing Agreement providing for the appointment of the CEO as CEO Director shall not be operative.
 - 1.1.2 The definition of "CEO Director" shall not be operative and all other references in the Existing Agreement to the "CEO Director" shall be to the "Interim Director" (as defined below).
 - 1.1.3 The Board (by majority vote) shall have the right:

- (a) to designate one (1) Canadian person to hold office as a Director (such individual referred to herein as the **"Interim Director"**);
- (b) to remove the Interim Director from the Board, with or without cause; and
- (c) in the case that any Interim Director ceases to hold office as the Interim Director (pursuant to this clause, or otherwise), to designate a substitute Interim Director in his or her stead.

Each appointment or removal of an Interim Director shall be effected by notice in writing to the Company (in accordance with the provisions of clause 2.7 of the Existing Agreement) signed by or on behalf of majority of Directors.

1.2 Upon receipt by the Chairman of notice from the CEO as contemplated in clause 1.1:

1.2.1 The Interim Director shall be deemed to have resigned with effect as at such time.

1.2.2 Except for clause 1.2.1, the amendments contemplated by this Amendment No. 1 shall have no further force and effect as of such date and the original Existing Agreement dated effective December 20, 2018, unamended hereby, shall continue to be in full force and effect.

2. **Effectiveness**

2.1 This Amendment No. 1 will be deemed effective as of June 7, 2021 (the **"Effective Date"**).

2.2 Except as expressly provided in this Amendment No. 1, all of the terms and provisions of the Existing Agreement are and will remain in full force and effect and are hereby ratified and confirmed by the parties hereto. Without limiting the generality of the foregoing, the amendments contained herein will not be construed as an amendment to or waiver of any other provision of the Existing Agreement or as a waiver of or consent to any further or future action on the part of any party that would require the waiver or consent of any other party. On and after the Effective Date, and for so long as this Amendment No. 1 is effective, each reference in the Existing Agreement to "this Agreement," "the Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference to the Existing Agreement in any other agreements, documents, or instruments executed and delivered pursuant to, or in connection with, the Existing Agreement will mean and be a reference to the Existing Agreement as amended by this Amendment No. 1.

[Signature blocks follow on the next page]

IN WITNESS WHEREOF the Parties hereto have executed this Amendment No.1 as of the date first set forth above.

ENERJET HOLDCO INC.

DocuSigned by:
By: Merrin McArthur
Name: Merrin McArthur
Title: Chief Executive Officer

1263343 ALBERTA INC.

DocuSigned by:
By: Merrin McArthur
Name: Merrin McArthur
Title: Chief Executive Officer

INDIGO NORTHERN VENTURE LP by its general partner **INDIGO NORTHERN VENTURES GP, LLC**

DocuSigned by:
By: William A. Franke
Name: William A. Franke
Title: President

TORQUEST CAPITAL FUND IV, L.P., by its general partner **TORQUEST CAPITAL FUND IV GP INC.**

DocuSigned by:
By: Brent Belzberg
Name: Brent Belzberg
Title: Director and President

TORQUEST PARTNERS FUND (U.S.) IV, L.P., by its general partner **TORQUEST FUND IV GP INC.**

DocuSigned by:
By: Brent Belzberg
Name: Brent Belzberg
Title: Director and President

TORQUEST PARTNERS FUND IV, L.P., by its general partner **TORQUEST FUND IV GP INC.**

DocuSigned by:
By: Brent Belzberg
Name: Brent Belzberg
Title: Director and President

STEPHENSON MANAGEMENT INC.

DocuSigned by:
By: Mitchell Garber
Name: Mitchell Garber
Title: Director and President and Secretary

STEPWORTH HOLDINGS INC.

DocuSigned by:
By: Zeno Santache
Name: Zeno Santache
Title: Director and Vice President

ENERJET SPV INC.

DocuSigned by:
By: T.W. Morgan
Name: T.W. Morgan
Title: President

DocuSigned by:
Rylee White
40ADB2FCE97430...

Witness

DocuSigned by:
Rylee White
40ADB2FCE97430...

Witness

DocuSigned by:
Rylee White
48ADB2FCE97430...

Witness

DocuSigned by:
Timothy Dattels
A02F60F0E75544B...

TIM DATTELS

DocuSigned by:
Gary Torhjelm
DE3C0314158E45F...

GARY TORHJELM

DocuSigned by:
T.W. Morgan
72A0A7A8E32F843B...

T.W. MORGAN

AMENDMENT NO. 2
TO THE
NOTEHOLDERS' AND SHAREHOLDERS' AGREEMENT
dated effective as of December 5, 2022 (the "Effective Date")

WHEREAS:

- A. *The Existing Agreement*: The undersigned are parties to a noteholders' and shareholders' agreement originally dated effective as of December 20, 2018 (referred to herein as the "**Original Agreement**"), as amended by an amendment to that agreement dated effective as of June 7, 2021 (referred to herein as "**Amendment No. 1**", and collectively with the Original Agreement referred to herein as the "**Existing Agreement**"). Capitalized terms used and not defined in this Amendment No. 2 have the respective meanings assigned to them in the Existing Agreement;
- B. *Mechanism for the Appointment of New Canadian Directors*: Section 2.3 of the Existing Agreement currently provides that the majority of Canadian Investors shall have the right to designate three (3) persons to hold office at any one time as Directors. The Parties desire to amend the Existing Agreement on the terms and subject to the conditions set forth herein (this amending agreement referred to herein as "**Amendment No. 2**") to resolve the concerns expressed by the Canadian Transportation Agency that there is no formal mechanism in the Existing Agreement to resolve an impasse if the Canadian Investors cannot agree on the appointment of New Canadian Directors; and
- C. *Increase in the Size of the Board*: The Parties also desire to amend the Existing Agreement on the terms and subject to the conditions set forth herein to increase the size of the Board from seven (7) to nine (9) directors.

NOW THEREFORE, IN CONSIDERATION OF THE PREMISES AND THE COVENANTS AND AGREEMENTS HEREIN SET FORTH, THE PARTIES AGREE AS FOLLOWS:

1. **Amendments**

1.1 **Definitions and Interpretation**

- 1.1.1 Subject to Clause 2.1 of this Amendment No. 2, the definition of "New Canadian Directors" in clause 1.1 of the Existing Agreement is hereby deleted in its entirety and replaced with the following:

"**New Canadian Directors**" means the persons appointed by the Canadian Investors (other than Tim Dattels and T.W. Morgan) and holding office as a Director from time to time pursuant to clause 2.3, including the Torquest Directors, the Stephenson Director and the Stepworth Director, and the term "**New Canadian Director**" means any one of them;

- 1.1.2 Subject to Clause 2.1 of this Amendment No. 2, the following definitions are hereby inserted into clause 1.1 of the Existing Agreement:

"**Stephenson Director**" means the person appointed by Stephenson Management Inc. and holding office as a Director from time to time pursuant to clause 2.3.2;

"**Stepworth Director**" means the person appointed by Stepworth Holdings Inc. and holding office as a Director from time to time pursuant to clause 2.3.3;

"**Torquest Directors**" means the persons appointed by the Torquest Investors and holding office as Directors from time to time pursuant to clause 2.3.1 and the term "**Torquest Director**" means any one of them;

- 1.2 Subject to Clause 2.1 of this Amendment No. 2, Clause 2.1 of the Existing Agreement is hereby deleted in its entirety and replaced with the following:

2.1 Number of Directors and Board Composition

- 2.1.1 Subject to clauses 2.8 and 2.9 below, the Parties each hereby acknowledge and agree that the Board shall, at all times, comprise a maximum of nine (9) Directors, as follows:

- (a) the CEO Director;
- (b) four (4) New Canadian Directors;
- (c) three (3) Indigo Directors; and
- (d) one (1) Existing Canadian Director.

- 2.1.2 Each of the Directors shall be appointed and hold office (and may be removed and replaced) pursuant to and in accordance with the provisions of this clause 2.

- 1.3 Subject to Clause 2.1 of this Amendment No. 2, Clause 2.3 of the Existing Agreement is hereby deleted in its entirety and replaced with the following:

2.3 New Canadian Directors

- 2.3.1 Torquest Directors: Subject to clauses 2.8 and 2.9 below, for so long as Indigo (together with their Permitted Transferees) continues to hold at least 15% of the Fully Diluted Share Capital, Torquest Investor shall have the right and shall be entitled (but not obliged) from time to time:

- (a) to designate two (2) persons to hold office at any one time as Directors (each such person being referred to herein as a “**Torquest Director**”);
- (b) to remove, with or without cause, any Torquest Director from office;
- (c) in the case that any Torquest Director ceases to hold office as a Torquest Director (pursuant to clause 2.3.1(b) above, or otherwise), to designate a substitute Torquest Director in his or her stead; and
- (d) to have such Torquest Directors designate, together with each other Director, any Director (including, for the avoidance of doubt, any Indigo Director) as the Chairman of the Board (and to remove any person from such role at any time and designate any other Director as the Chairman of the Board). The Parties acknowledge that the initial Chairman to be designated by the Directors shall be a Canadian. The Parties acknowledge that (x) if all of the Directors cannot agree on a Chairman appointment, then the Chairman shall be appointed by the majority of the Directors, and (y) any Director may nominate the Chairman.

- 2.3.2 Stephenson Director: Subject to clauses 2.8 and 2.9 below, for so long as Indigo (together with their Permitted Transferees) continues to hold at least 15% of the Fully Diluted Share Capital, Stephenson Management Inc. shall have the right and shall be entitled (but not obliged) from time to time:

- (a) to designate one (1) person to hold office at any one time as a Director (such person being referred to herein as the “**Stephenson Director**”);
- (b) to remove, with or without cause, the Stephenson Director from office;
- (c) in the case that the Stephenson Director ceases to hold office as the Stephenson Director (pursuant to clause 2.3.2(b) above, or otherwise), to designate a substitute Stephenson Director in his or her stead; and

[Amendment No. 2 to Noteholders' and Shareholders' Agreement]

- (d) to have such Stephenson Director designate, together with each other Director, any Director (including, for the avoidance of doubt, any Indigo Director) as the Chairman of the Board (and to remove any person from such role at any time and designate any other Director as the Chairman of the Board). The Parties acknowledge that the initial Chairman to be designated by the Directors shall be a Canadian. The Parties acknowledge that (x) if all of the Directors cannot agree on a Chairman appointment, then the Chairman shall be appointed by the majority of the Directors, and (y) any Director may nominate the Chairman.

2.3.3 *Stepworth Director*: Subject to clauses 2.8 and 2.9 below, for so long as Indigo (together with their Permitted Transferees) continues to hold at least 15% of the Fully Diluted Share Capital, Stepworth Holdings Inc. shall have the right and shall be entitled (but not obliged) from time to time:

- (a) to designate one (1) person to hold office at any one time as a Director (such person being referred to herein as the “**Stepworth Director**”);
- (b) to remove, with or without cause, the Stepworth Director from office;
- (c) in the case that the Stepworth Director ceases to hold office as the Stepworth (pursuant to clause 2.3.3(b) above, or otherwise), to designate a substitute Stepworth Director in his or her stead; and
- (d) to have such Stepworth Director designate, together with each other Director, any Director (including, for the avoidance of doubt, any Indigo Director) as the Chairman of the Board (and to remove any person from such role at any time and designate any other Director as the Chairman of the Board). The Parties acknowledge that the initial Chairman to be designated by the Directors shall be a Canadian. The Parties acknowledge that (x) if all of the Directors cannot agree on a Chairman appointment, then the Chairman shall be appointed by the majority of the Directors, and (y) any Director may nominate the Chairman.

2.3.4 Each appointment or removal of a New Canadian Director shall be effected by written notice in writing to the Company (in accordance with the provisions of clause 2.7) signed by or on behalf of the Canadian Investor entitled to appoint such New Canadian Director.

1.4 Subject to Clause 2.1 of this Amendment No. 2, Clause 2.4 of the Existing Agreement is hereby deleted in its entirety and replaced with the following:

2.4 **Indigo Directors**

2.4.1 Subject to clause 2.8 below, for so long as Indigo (together with its Permitted Transferees) continues to hold at least 15% of the Fully Diluted Share Capital, Indigo shall have the right and shall be entitled (but not obliged) from time to time:

- (a) to designate three (3) persons to hold office at any one time as Directors (each such person being referred to herein as an “**Indigo Director**”);
- (b) to remove, with or without cause, any Indigo Director from office;
- (c) in the case that any Indigo Director ceases to hold office as a Director (pursuant to clause 2.4.1(b) above, or otherwise), to designate a substitute Indigo Director in his or her stead; and
- (d) to have such Indigo Directors designate, together with each other Director, any Director (including, for the avoidance of doubt, any Indigo Director) as the Chairman of the Board (and to remove any person from such role at any time and designate any other Director as the Chairman of the Board). The Parties acknowledge that the initial Chairman to be designated by the Directors shall be a Canadian. The Parties acknowledge that (x) if all

[Amendment No. 2 to Noteholders' and Shareholders' Agreement]

of the Directors cannot agree on a Chairman appointment, then the Chairman shall be appointed by the majority of the Directors, and (y) any Director may nominate the Chairman.

2.4.2 Each appointment or removal of an Indigo Director shall be effected by written notice in writing to the Company (in accordance with the provisions of clause 2.7) signed by or on behalf of Indigo.

2. **Effect on Existing Agreement**

2.1 The amendments to the Existing Agreement referred to herein will become effective on the date that the current CEO provides a notice to Chairman of the Board that she has become "Canadian" (as defined in the *Canada Transportation Act*).

2.2 Except as expressly provided in this Amendment No. 2, all of the terms and provisions of the Existing Agreement are and will remain in full force and effect and are hereby ratified and confirmed by the parties hereto. Without limiting the generality of the foregoing, the amendments contained herein will not be construed as an amendment to or waiver of any other provision of the Existing Agreement or as a waiver of or consent to any further or future action on the part of any party that would require the waiver or consent of any other party. On and after the Effective Date, and for so long as this Amendment No. 2 is effective, each reference in the Existing Agreement to "this Agreement," "the Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference to the Existing Agreement in any other agreements, documents, or instruments executed and delivered pursuant to, or in connection with, the Existing Agreement will mean and be a reference to the Existing Agreement as amended by this Amendment No. 2.

[Signature blocks follow on the next page]

IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. 2 as of the Effective Date first set forth above.

LYNX AIR HOLDINGS CORPORATION

DocuSigned by:
By: Merrin McArthur
Name: Merrin McArthur
Title: Chief Executive Officer

1263343 ALBERTA INC.

DocuSigned by:
By: Merrin McArthur
Name: Merrin McArthur
Title: Chief Executive Officer

INDIGO NORTHERN VENTURE LP by its general partner **INDIGO NORTHERN VENTURES GP, LLC**

DocuSigned by:
By: William A. Franke
Name: William A. Franke
Title: President

TORQUEST CAPITAL FUND IV, L.P., by its general partner **TORQUEST CAPITAL FUND IV GP INC.**

DocuSigned by:
By: Brent Beizberg
Name: Brent Beizberg
Title: Director and President

TORQUEST PARTNERS FUND (U.S.) IV, L.P., by its general partner **TORQUEST FUND IV GP INC.**

DocuSigned by:
By: Brent Beizberg
Name: Brent Beizberg
Title: Director and President

TORQUEST PARTNERS FUND IV, L.P., by its general partner **TORQUEST FUND IV GP INC.**

DocuSigned by:
By: Brent Beizberg
Name: Brent Beizberg
Title: Director and President

STEPHENSON MANAGEMENT INC.

DocuSigned by:
By: Mitchell Garber
Name: Mitchell Garber
Title: Director and President and Secretary

STEPWORTH HOLDINGS INC.

DocuSigned by:
By: Murielle Lortie
Name: Murielle Lortie
Title: Director and Vice President

ENERJET SPV INC.

DocuSigned by:
By: T.W. Morgan
Name: T.W. Morgan
Title: President

DocuSigned by:
By: Chris Goddard
Name: Chris Goddard
Title: Director and VP, Finance of Stepworth Holdings Inc.

DocuSigned by:
V. Hingley
Witness

DocuSigned by:
Tim Dattels
TIM DATTELS

DocuSigned by:
V. Hingley
Witness

DocuSigned by:
T.W. Morgan
T.W. MORGAN

Execution Version

**AMENDMENT NO. 3
TO THE
NOTEHOLDERS' AND SHAREHOLDERS' AGREEMENT
Dated as of February 24, 2023**

WHEREAS:

- A. The undersigned are parties to a noteholders' and shareholders' agreement dated as of December 20, 2018, as amended by amendment no. 1 to the noteholders' and shareholders' agreement dated effective as of June 7, 2021 and as further amended by amendment no. 2 to the noteholders' and shareholders' agreement dated as of December 5, 2022 (collectively, the "**Existing Agreement**").
- B. The Company and Indigo (each as defined in the Existing Agreement) have entered into a bridge note purchase agreement dated as of the date hereof (the "**Bridge NPA**").
- C. The Parties therefore desire to amend the Existing Agreement on the terms and subject to the conditions set forth herein (such agreement referred to herein as "**Amendment No. 3**") to reflect the terms of the Bridge NPA.
- D. Capitalized terms used and not defined in this Amendment No. 3 have the respective meanings assigned to them in the Existing Agreement.

NOW THEREFORE, IN CONSIDERATION OF THE PREMISES AND THE COVENANTS AND AGREEMENTS HEREIN SET FORTH, THE PARTIES AGREE AS FOLLOWS:

1. Amendments

- 1.1 The following new definition is added to Section 1.1 in alphabetical order:

"**Bridge Note Purchase Agreement**" the bridge note purchase agreement entered into on February 24, 2023 between the Company, Indigo and the Guarantor;

- 1.2 The definition of Notes is deleted in its entirety and replaced with the following:

"**Notes**" means the notes issued by the Company from time to time pursuant to the Note Purchase Agreement or the Bridge Note Purchase Agreement (or pursuant to any other note purchase agreement provided that the relevant notes are expressed to be Notes for the purpose of this Agreement);

- 1.3 The following is added as a new sub-section 2.3.5:

2.3.5 Notwithstanding any other provision of this Agreement, provided that Indigo has not materially breached the Bridge Note Purchase Agreement, to the extent that any Stepworth Director, Stephenson Director, or Torquest Director resigns from the Board, then Stepworth Holdings Inc., Stephenson Management Inc. or Torquest Investor, as applicable, shall, at the sole cost of the Company, use its reasonable commercial efforts to designate, within 90 days of the resignation, a new Director who shall be Canadian. If

Stepworth Holdings Inc., Stephenson Management Inc. or Torquest Investor, as applicable, fails to designate such new Director in accordance with this clause 2.3.5, then the Company shall take such action as required to replace such Director with a new Director who shall be Canadian.

1.4 The following is added as a new sub-section 5.8:

5.8 Subject to Section 3 of the Corporate Articles, at any time after a Conversion Date (as defined in the Bridge Note Purchase Agreement) but prior to February 24, 2025, unless extended by the Noteholder if the conversion of the Notes are extended pursuant to paragraph 3.6 of Schedule 11 of the Bridge Note Purchase Agreement, each Shareholder who is not also a Noteholder (as defined in the Bridge Note Purchase Agreement) shall have the right (exercisable by written notice to the Company) to subscribe for up to that number of Common Shares, in the same class as it then currently holds in the Company, which would maintain such Shareholder's pro-rata ownership of the Company as existed immediately prior to the issuance of the Initial Notes (as defined in the Bridge Note Purchase Agreement), at a price equal to 150% of the Relevant Conversion Price (as defined in the Bridge Note Purchase Agreement) (the "**Catch Up Right**"). In order to facilitate the Catch Up Right, the Company shall deliver written notice to each Shareholder who is also not a Noteholder upon the occurrence of a Conversion Date, which notice shall include the total number of Common Shares issued on such Conversion Date and an updated capitalization table reflecting such issuance. For greater certainty, the Catch Up Right shall only apply in respect of the conversion of Notes (as defined in the Bridge Note Purchase Agreement) issued under the Bridge Note Purchase Agreement.

1.5 The following is added as a new sub-section 13.8:

13.8 Notwithstanding any other provision of this Agreement to the contrary, the references to "Notes" in clauses 13.1, 13.2, 13.3 and 13.4 above shall not include the "Notes" issued under the Bridge Note Purchase Agreement such that clauses 13.1, 13.2, 13.3 and 13.4 above shall not apply to the "Notes" issued under the Bridge Note Purchase Agreement.

2. **Approval**

2.1 The Majority Noteholders consent to the issuance of Notes under the Bridge NPA.

3. **Consent and Waiver of Pre-Emptive Rights**

3.1 The undersigned Shareholders and Noteholders hereby consent to the transactions contemplated by the Bridge Note Purchase Agreement, including the issuance of the Notes and any Common Shares issuable upon conversion or redemption thereof, and any other transactions contemplated thereby including the issuance of any Common Shares pursuant to the aforementioned Catch Up Rights, notwithstanding any rights, entitlements, restrictions, requirements, or provisions in the Existing Agreement to the contrary or applicable thereto, including the notice and pre-emptive rights contained in contained in clause 8 of the Existing Agreement, which, for greater certainty, are waived in their entirety as they relate to such transactions.

4. **Effectiveness**

- 4.1 This Amendment No. 3 will be deemed effective as of the date first noted above (the "**Effective Date**").
- 4.2 Except as expressly provided in this Amendment No. 3, all of the terms and provisions of the Existing Agreement are and will remain in full force and effect and are hereby ratified and confirmed by the parties hereto. Without limiting the generality of the foregoing, the amendments contained herein will not be construed as an amendment to or waiver of any other provision of the Existing Agreement or as a waiver of or consent to any further or future action on the part of any party that would require the waiver or consent of any other party. On and after the Effective Date, and for so long as this Amendment No. 3 is effective, each reference in the Existing Agreement to "this Agreement," "the Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference to the Existing Agreement in any other agreements, documents, or instruments executed and delivered pursuant to, or in connection with, the Existing Agreement will mean and be a reference to the Existing Agreement as amended by this Amendment No. 3.

5. **Governing Law and Jurisdiction**

- 5.1 This Amendment No. 3 is governed by, and to be construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.
- 5.2 In relation to any legal action or proceedings arising out of or in connection with this Agreement ("**Proceedings**") each of the Parties irrevocably submits to the exclusive jurisdiction of the Ontario courts and waives any objection to Proceedings in those courts on the grounds of venue or on the grounds that the proceedings have been brought in an inappropriate forum.

[Signature blocks follow on the next page]

IN WITNESS WHEREOF the Parties hereto have executed this Agreement as of the date first set forth above.

LYNX AIR HOLDINGS CORPORATION


1263343 ALBERTA INC.


DocuSigned by:
By: 
A6A388A842874BB...
Name: Merren McArthur
Title: Chief Executive Officer

DocuSigned by:
By: 
A6A388A842874BB...
Name: Merren McArthur
Title: Chief Executive Officer

INDIGO NORTHERN VENTURE LP by its
general partner **INDIGO NORTHERN
VENTURES GP, LLC**

TORQUEST CAPITAL FUND IV, L.P., by its
general partner **TORQUEST CAPITAL
FUND IV GP INC.**


DocuSigned by:
By: 
B91D821890B74A3...
Name: William A. Franke
Title: President


DocuSigned by:
By: 
1D133C64966C40A...
Name: Brent Belzberg
Title: Director and President

DocuSigned by:
By: 
10A5546688FE4AA...
Name: Eric Berke
Title: Director and Vice President

**TORQUEST PARTNERS FUND (U.S.) IV,
L.P.**, by its general partner **TORQUEST
FUND IV GP INC.**

TORQUEST PARTNERS FUND IV, L.P., by
its general partner **TORQUEST FUND IV GP
INC.**

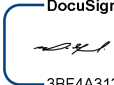
DocuSigned by:
By: 
1D133C64966C40A...
Name: Brent Belzberg
Title: Director and President

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By: 
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Name: Brent Belzberg
Title: Director and President

DocuSigned by:
By: 
10A5546688FE4AA...
Name: Eric Berke
Title: Director and Vice President

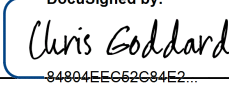
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By: 
10A5546688FE4AA...
Name: Eric Berke
Title: Director and Vice President

STEPHENSON MANAGEMENT INC.

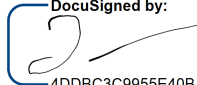
By:  DocuSigned by:
3BF4A3120B74475
Name: Mitchell Garber
Title: Director and President and Secretary

STEPWORTH HOLDINGS INC.


By:  DocuSigned by:
CB551D38750441E...
Name: Murielle Lorte
Title: Director and Vice President

By:  DocuSigned by:
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Name: Chris Goddard
Title: Director and VP, Finance

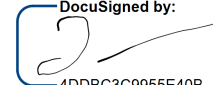
ENERJET SPV INC.

By:  DocuSigned by:
4DDBC3C9955E40B...
Name: T.W. Morgan
Title: President

 DocuSigned by:
A40509BD29C54ED...
Witness

 DocuSigned by:
8A30E20F73A5448...
TIM DATTELS

 DocuSigned by:
A40509BD29C54ED...
Witness

 DocuSigned by:
4DDBC3C9955E40B...
T.W. MORGAN

**AMENDMENT NO. 4
TO THE
NOTEHOLDERS' AND SHAREHOLDERS' AGREEMENT
Dated as of October 26, 2023**

WHEREAS:

- A. The undersigned are parties to a noteholders' and shareholders' agreement dated as of December 20, 2018, as amended by amendment no. 1 to the noteholders' and shareholders' agreement dated effective as of June 7, 2021, as further amended by amendment no. 2 to the noteholders' and shareholders' agreement dated as of December 5, 2022 and as further amended by amendment no. 3 to the noteholders' and shareholders' agreement dated as of February 24, 2023 (collectively, the "**Existing Agreement**").
- B. The Company and Indigo (each as defined in the Existing Agreement) have entered into a second bridge note purchase agreement dated as of the date hereof (the "**Second Bridge NPA**").
- C. The Parties therefore desire to amend the Existing Agreement on the terms and subject to the conditions set forth herein (such agreement referred to herein as "**Amendment No. 4**") to reflect the terms of the Second Bridge NPA.
- D. Capitalized terms used and not defined in this Amendment No. 4 have the respective meanings assigned to them in the Existing Agreement.

NOW THEREFORE, IN CONSIDERATION OF THE PREMISES AND THE COVENANTS AND AGREEMENTS HEREIN SET FORTH, THE PARTIES AGREE AS FOLLOWS:

1. Amendments

- 1.1 The following new definition is added to Section 1.1 in alphabetical order:

"**Second Bridge NPA**" the second bridge note purchase agreement entered into on October 26, 2023 between the Company, Indigo and the Guarantor;

- 1.2 The definition of Notes is deleted in its entirety and replaced with the following:

"**Notes**" means the notes issued by the Company from time to time pursuant to the Note Purchase Agreement, the Bridge Note Purchase Agreement or the Second Bridge NPA (or pursuant to any other note purchase agreement provided that the relevant notes are expressed to be Notes for the purpose of this Agreement);

- 1.3 Sub-section 13.8 is deleted in its entirety and replaced with the following:

13.8 Notwithstanding any other provision of this Agreement to the contrary, the references to "Notes" in clauses 13.1, 13.2, 13.3 and 13.4 above shall not include the "Notes" issued under the Bridge Note Purchase Agreement and the Second Bridge NPA

such that clauses 13.1, 13.2, 13.3 and 13.4 above shall not apply to the "Notes" issued under either the Bridge Note Purchase Agreement or the Second Bridge NPA.

2. **Approval**

2.1 The Majority Noteholders consent to the issuance of Notes under the Second Bridge NPA.

3. **Consent and Waiver of Pre-Emptive Rights**

3.1 The undersigned Shareholders and Noteholders hereby consent to the transactions contemplated by the Second Bridge NPA, including the issuance of the Notes and any Common Shares issuable upon conversion or redemption thereof, and any other transactions contemplated thereby, notwithstanding any rights, entitlements, restrictions, requirements, or provisions in the Existing Agreement to the contrary or applicable thereto, including the notice and pre-emptive rights contained in contained in clause 8 of the Existing Agreement, which, for greater certainty, are waived in their entirety as they relate to such transactions.

4. **Effectiveness**

4.1 This Amendment No. 4 will be deemed effective as of the date first noted above (the "**Effective Date**").

4.2 Except as expressly provided in this Amendment No. 4, all of the terms and provisions of the Existing Agreement are and will remain in full force and effect and are hereby ratified and confirmed by the parties hereto. Without limiting the generality of the foregoing, the amendments contained herein will not be construed as an amendment to or waiver of any other provision of the Existing Agreement or as a waiver of or consent to any further or future action on the part of any party that would require the waiver or consent of any other party. On and after the Effective Date, and for so long as this Amendment No. 4 is effective, each reference in the Existing Agreement to "this Agreement," "the Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference to the Existing Agreement in any other agreements, documents, or instruments executed and delivered pursuant to, or in connection with, the Existing Agreement will mean and be a reference to the Existing Agreement as amended by this Amendment No. 4.

5. **Governing Law and Jurisdiction**

5.1 This Amendment No. 4 is governed by, and to be construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.

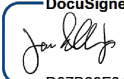
5.2 In relation to any legal action or proceedings arising out of or in connection with this Agreement ("**Proceedings**") each of the Parties irrevocably submits to the exclusive jurisdiction of the Ontario courts and waives any objection to Proceedings in those courts on the grounds of venue or on the grounds that the proceedings have been brought in an inappropriate forum.

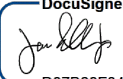
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IN WITNESS WHEREOF the Parties hereto have executed this Agreement as of the date first set forth above.

LYNX AIR HOLDINGS CORPORATION

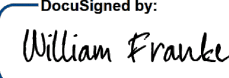
1263343 ALBERTA INC.


By: 
DocuSigned by:
D87B28F04A3B412...
Name: Jim Sullivan
Title: Interim Chief Executive Officer

By: 
DocuSigned by:
D87B28F04A3B412...
Name: Jim Sullivan
Title: Interim Chief Executive Officer

INDIGO NORTHERN VENTURE LP by its general partner **INDIGO NORTHERN VENTURES GP, LLC**

TORQUEST CAPITAL FUND IV, L.P., by its general partner **TORQUEST CAPITAL FUND IV GP INC.**


By: 
DocuSigned by:
E212EA34ACE84A8...
Name: William A. Franke
Title: President

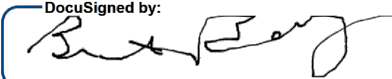
By: 
DocuSigned by:
1D133C64966C40A...
Name: Brent Belzberg
Title: Director and President

By: 
DocuSigned by:
10A5546688FE4AA...
Name: Eric Berke
Title: Director and Vice President


TORQUEST PARTNERS FUND (U.S.) IV, L.P., by its general partner **TORQUEST FUND IV GP INC.**

TORQUEST PARTNERS FUND IV, L.P., by its general partner **TORQUEST FUND IV GP INC.**

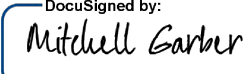
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Name: Eric Berke
Title: Director and Vice President

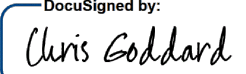
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Name: Mitchell Garber
Title: Director and President and Secretary

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Name: Murielle Lorte
Title: Director and Vice President

By: 
DocuSigned by:
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Name: Chris Goddard
Title: Director and VP, Finance

ENERJET SPV INC.

By: 
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Name: T.W. Morgan
Title: President


DocuSigned by:
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Witness


DocuSigned by:
8A30E20F73A5448...
TIM DATTELS


DocuSigned by:
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Witness


DocuSigned by:
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T.W. MORGAN

**AMENDMENT NO. 5
TO THE
NOTEHOLDERS' AND SHAREHOLDERS' AGREEMENT
Dated as of January _____, 2024**

WHEREAS:

- A. The undersigned are parties to a noteholders' and shareholders' agreement dated as of December 20, 2018, as amended by amendment no. 1 to the noteholders' and shareholders' agreement dated effective as of June 7, 2021, as further amended by amendment no. 2 to the noteholders' and shareholders' agreement dated as of December 5, 2022, as further amended by amendment no. 3 to the noteholders' and shareholders' agreement dated as of February 24, 2023 and as further amended by amendment no. 4 to the noteholders' and shareholders' agreement dated as of October 26, 2023 (collectively, the "**Existing Agreement**").
- B. The Company and Indigo (each as defined in the Existing Agreement) have entered into a third bridge note purchase agreement dated as of the date hereof (the "**Third Bridge NPA**").
- C. The Parties therefore desire to amend the Existing Agreement on the terms and subject to the conditions set forth herein (such agreement referred to herein as "**Amendment No. 5**") to reflect the terms of the Third Bridge NPA.
- D. Capitalized terms used and not defined in this Amendment No. 5 have the respective meanings assigned to them in the Existing Agreement.

NOW THEREFORE, IN CONSIDERATION OF THE PREMISES AND THE COVENANTS AND AGREEMENTS HEREIN SET FORTH, THE PARTIES AGREE AS FOLLOWS:

1. Amendments

- 1.1 All references to "Qualifying Offer" shall be deleted and replaced with "Qualifying Takeover Offer".
- 1.2 The following new definition is added to Section 1.1 in alphabetical order:

"**Third Bridge NPA**" the third bridge note purchase agreement entered into on January _____, 2024 between the Company, Indigo and the Guarantor;
- 1.3 The definition of Notes is deleted in its entirety and replaced with the following:

"**Notes**" means the notes issued by the Company from time to time pursuant to the Note Purchase Agreement, the Bridge Note Purchase Agreement, the Second Bridge NPA or the Third Bridge NPA (or pursuant to any other note purchase agreement provided that the relevant notes are expressed to be Notes for the purpose of this Agreement);
- 1.4 Section 9 is amended by inserting the below as a new sub-section 9.8 immediately following sub-section 9.7:

9.8 Flair Transaction

For greater certainty, notwithstanding anything contrary herein, any proceeds received from the consummation of the Flair Transaction (as defined in the Third Bridge NPA) shall be first applied to redeem in full all of the Notes issued under the Bridge Note Purchase Agreement, the Second Bridge NPA and the Third Bridge NPA, and then applied to repay in full any and all interest incurred pursuant to each of the Bridge Note Purchase Agreement, the Second NPA and the Third Bridge NPA.

1.5 Sub-section 13.8 is deleted in its entirety and replaced with the following:

13.8 Notwithstanding any other provision of this Agreement to the contrary, the references to "Notes" in clauses 13.1, 13.2, 13.3, 13.4 and 13.7 above shall not include the "Notes" issued under the Bridge Note Purchase Agreement, the Second Bridge NPA and the Third Bridge NPA such that clauses 13.1, 13.2, 13.3, 13.4 and 13.7 above shall not apply to the "Notes" issued under any of the Bridge Note Purchase Agreement, the Second Bridge NPA or the Third Bridge NPA.

2. Approval

2.1 The Majority Noteholders consent to the issuance of Notes under the Third Bridge NPA.

3. Consent and Waiver of Pre-Emptive Rights

3.1 The undersigned Shareholders and Noteholders hereby consent to the transactions contemplated by the Third Bridge NPA, including the issuance of the Notes and any Common Shares issuable upon conversion or redemption thereof, and any other transactions contemplated thereby, notwithstanding any rights, entitlements, restrictions, requirements, or provisions in the Existing Agreement to the contrary or applicable thereto, including the notice and pre-emptive rights contained in contained in clause 8 of the Existing Agreement, which, for greater certainty, are waived in their entirety as they relate to such transactions.

4. Effectiveness

4.1 This Amendment No. 5 will be deemed effective as of the date first noted above (the "**Effective Date**").

4.2 Except as expressly provided in this Amendment No. 5, all of the terms and provisions of the Existing Agreement are and will remain in full force and effect and are hereby ratified and confirmed by the parties hereto. Without limiting the generality of the foregoing, the amendments contained herein will not be construed as an amendment to or waiver of any other provision of the Existing Agreement or as a waiver of or consent to any further or future action on the part of any party that would require the waiver or consent of any other party. On and after the Effective Date, and for so long as this Amendment No. 5 is effective, each reference in the Existing Agreement to "this Agreement," "the Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference to the Existing Agreement in any other agreements, documents, or instruments executed and delivered pursuant to, or in connection with, the Existing Agreement will mean and be a reference to the Existing Agreement as amended by this Amendment No. 5.

5. **Governing Law and Jurisdiction**

- 5.1 This Amendment No. 5 is governed by, and to be construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.
- 5.2 In relation to any legal action or proceedings arising out of or in connection with this Agreement ("**Proceedings**") each of the Parties irrevocably submits to the exclusive jurisdiction of the Ontario courts and waives any objection to Proceedings in those courts on the grounds of venue or on the grounds that the proceedings have been brought in an inappropriate forum.

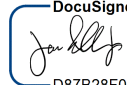
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IN WITNESS WHEREOF the Parties hereto have executed this Agreement as of the date first set forth above.

LYNX AIR HOLDINGS CORPORATION


1263343 ALBERTA INC.


By:  DocuSigned by:
D87B28F04A3B412...
Name: Jim Sullivan
Title: Interim Chief Executive Officer

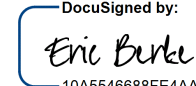
By:  DocuSigned by:
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Name: Jim Sullivan
Title: Interim Chief Executive Officer

INDIGO NORTHERN VENTURE LP by its general partner **INDIGO NORTHERN VENTURES GP, LLC**

TORQUEST CAPITAL FUND IV, L.P., by its general partner **TORQUEST CAPITAL FUND IV GP INC.**


By:  DocuSigned by:
E212FA34ACF84A8...
Name: William A. Franke
Title: President


By:  DocuSigned by:
1D133C64966C40A...
Name: Brent Belzberg
Title: Director and President


By:  DocuSigned by:
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Name: Eric Berke
Title: Director and Vice President

TORQUEST PARTNERS FUND (U.S.) IV, L.P., by its general partner **TORQUEST FUND IV GP INC.**

TORQUEST PARTNERS FUND IV, L.P., by its general partner **TORQUEST FUND IV GP INC.**

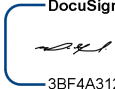
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Name: Brent Belzberg
Title: Director and President

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Name: Eric Berke
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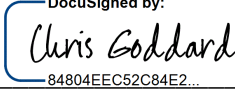
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STEPHENSON MANAGEMENT INC.

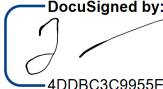
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STEPWORTH HOLDINGS INC.


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Name: Murielle Lorte
Title: Director and Vice President

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Name: Chris Goddard
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ENERJET SPV INC.

By:  DocuSigned by:
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Name: T.W. Morgan
Title: President

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TIM DATTELS

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Witness

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T.W. MORGAN

AMENDMENT NO. 6
TO THE
NOTEHOLDERS' AND SHAREHOLDERS' AGREEMENT
Dated as of February 2 , 2024

WHEREAS:

- A. The undersigned are parties to a noteholders' and shareholders' agreement dated as of December 20, 2018, as amended by amendment no. 1 to the noteholders' and shareholders' agreement dated effective as of June 7, 2021, as further amended by amendment no. 2 to the noteholders' and shareholders' agreement dated as of December 5, 2022, as further amended by amendment no. 3 to the noteholders' and shareholders' agreement dated as of February 24, 2023, as further amended by amendment no. 4 to the noteholders' and shareholders' agreement dated as of October 26, 2023 and as further amended by amendment no. 5 to the noteholders' and shareholders' agreement dated as of January 12, 2024 (collectively, the "**Existing Agreement**").
- B. The Company and Indigo (each as defined in the Existing Agreement) have entered into a fourth bridge note purchase agreement dated as of the date hereof (the "**Fourth Bridge NPA**").
- C. The Parties therefore desire to amend the Existing Agreement on the terms and subject to the conditions set forth herein (such agreement referred to herein as "**Amendment No. 6**") to reflect the terms of the Fourth Bridge NPA.
- D. Capitalized terms used and not defined in this Amendment No. 6 have the respective meanings assigned to them in the Existing Agreement.

NOW THEREFORE, IN CONSIDERATION OF THE PREMISES AND THE COVENANTS AND AGREEMENTS HEREIN SET FORTH, THE PARTIES AGREE AS FOLLOWS:

1. Amendments

- 1.1 The following new definition is added to Section 1.1 in alphabetical order:

"**Fourth Bridge NPA**" the fourth bridge note purchase agreement entered into on February 2 , 2024 between the Company, Indigo and the Guarantor;

- 1.2 The definition of Notes is deleted in its entirety and replaced with the following:

"**Notes**" means the notes issued by the Company from time to time pursuant to the Note Purchase Agreement, the Bridge Note Purchase Agreement, the Second Bridge NPA, the Third Bridge NPA or the Fourth Bridge NPA (or pursuant to any other note purchase agreement provided that the relevant notes are expressed to be Notes for the purpose of this Agreement);

- 1.3 Sub-section 9.8 is deleted in its entirety and replaced with the following:

9.8 Flair Transaction

For greater certainty, notwithstanding anything contrary herein, any proceeds received from the consummation of the Flair Transaction (as defined in the Fourth Bridge NPA) shall be first applied to redeem in full all of the Notes issued under the Bridge Note Purchase Agreement, the Second Bridge NPA, the Third Bridge NPA and the Fourth Bridge NPA, and then applied to repay in full any and all interest incurred pursuant to each of the Bridge Note Purchase Agreement, the Second Bridge NPA, the Third Bridge NPA and the Fourth Bridge NPA.

- 1.4 Sub-section 13.8 is deleted in its entirety and replaced with the following:

13.8 Notwithstanding any other provision of this Agreement to the contrary, the references to "Notes" in clauses 13.1, 13.2, 13.3, 13.4 and 13.7 above shall not include the "Notes" issued under the Bridge Note Purchase Agreement, the Second Bridge NPA, the Third Bridge NPA and the Fourth Bridge NPA such that clauses 13.1, 13.2, 13.3, 13.4 and 13.7 above shall not apply to the "Notes" issued under any of the Bridge Note Purchase Agreement, the Second Bridge NPA, the Third Bridge NPA or the Fourth Bridge NPA.

2. Approval

- 2.1 The Majority Noteholders consent to the issuance of Notes under the Fourth Bridge NPA.

3. Consent and Waiver of Pre-Emptive Rights

- 3.1 The undersigned Shareholders and Noteholders hereby consent to the transactions contemplated by the Fourth Bridge NPA, including the issuance of the Notes and any Common Shares issuable upon conversion or redemption thereof, and any other transactions contemplated thereby, notwithstanding any rights, entitlements, restrictions, requirements, or provisions in the Existing Agreement to the contrary or applicable thereto, including the notice and pre-emptive rights contained in contained in clause 8 of the Existing Agreement, which, for greater certainty, are waived in their entirety as they relate to such transactions.

4. Effectiveness

- 4.1 This Amendment No. 6 will be deemed effective as of the date first noted above (the "**Effective Date**").
- 4.2 Except as expressly provided in this Amendment No. 6, all of the terms and provisions of the Existing Agreement are and will remain in full force and effect and are hereby ratified and confirmed by the parties hereto. Without limiting the generality of the foregoing, the amendments contained herein will not be construed as an amendment to or waiver of any other provision of the Existing Agreement or as a waiver of or consent to any further or future action on the part of any party that would require the waiver or consent of any other party. On and after the Effective Date, and for so long as this Amendment No. 6 is effective, each reference in the Existing Agreement to "this Agreement," "the Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference to the Existing Agreement in any other agreements, documents, or instruments executed and delivered

pursuant to, or in connection with, the Existing Agreement will mean and be a reference to the Existing Agreement as amended by this Amendment No. 6.

5. Governing Law and Jurisdiction

- 5.1 This Amendment No. 6 is governed by, and to be construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.
- 5.2 In relation to any legal action or proceedings arising out of or in connection with this Agreement (“**Proceedings**”) each of the Parties irrevocably submits to the exclusive jurisdiction of the Ontario courts and waives any objection to Proceedings in those courts on the grounds of venue or on the grounds that the proceedings have been brought in an inappropriate forum.

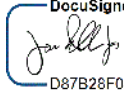
[Signature blocks follow on the next page]

IN WITNESS WHEREOF the Parties hereto have executed this Agreement as of the date first set forth above.

LYNX AIR HOLDINGS CORPORATION

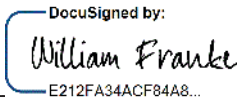
1263343 ALBERTA INC.

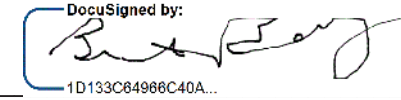
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Name: Jim Sullivan
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INDIGO NORTHERN VENTURE LP by its general partner **INDIGO NORTHERN VENTURES GP, LLC**

TORQUEST CAPITAL FUND IV, L.P., by its general partner **TORQUEST CAPITAL FUND IV GP INC.**

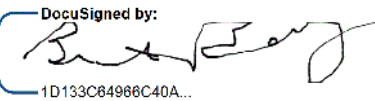
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Title: President

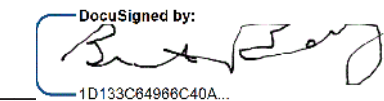
By:  DocuSigned by:
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Name: Brent Belzberg
Title: Director and President

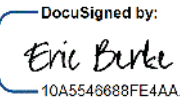
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Name: Eric Berke
Title: Director and Vice President

TORQUEST PARTNERS FUND (U.S.) IV, L.P., by its general partner **TORQUEST FUND IV GP INC.**

TORQUEST PARTNERS FUND IV, L.P., by its general partner **TORQUEST FUND IV GP INC.**

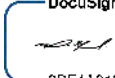
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Title: Director and President

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Name: Eric Berke
Title: Director and Vice President

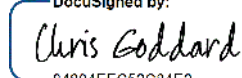
By:  DocuSigned by:
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Name: Eric Berke
Title: Director and Vice President

STEPHENSON MANAGEMENT INC.

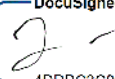
By:  DocuSigned by:
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Name: Mitchell Garber
Title: Director and President and Secretary

STEPWORTH HOLDINGS INC.

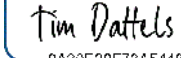
By:  DocuSigned by:
CB551D38750441E...
Name: Murielle Lorte
Title: Director and Vice President

By:  DocuSigned by:
84804EEC52C84E2...
Name: Chris Goddard
Title: Director and VP, Finance


ENERJET SPV INC.

By:  DocuSigned by:
4DDBC3C9955E40B...
Name: T.W. Morgan
Title: President

 DocuSigned by:
A40509BD29C54ED...
Witness

 DocuSigned by:
8A30E20F73A5448...
TIM DATTELS

 DocuSigned by:
A40509BD29C54ED...
Witness

 DocuSigned by:
4DDBC3C9955E40B...
T.W. MORGAN

**AMENDMENT NO. 7
TO THE
NOTEHOLDERS' AND SHAREHOLDERS' AGREEMENT
Dated as of February 7, 2024**

WHEREAS:

- A. The undersigned are parties to a noteholders' and shareholders' agreement dated as of December 20, 2018, as amended by amendment no. 1 to the noteholders' and shareholders' agreement dated effective as of June 7, 2021, as further amended by amendment no. 2 to the noteholders' and shareholders' agreement dated as of December 5, 2022, as further amended by amendment no. 3 to the noteholders' and shareholders' agreement dated as of February 24, 2023, as further amended by amendment no. 4 to the noteholders' and shareholders' agreement dated as of October 26, 2023, as further amended by amendment no. 5 to the noteholders' and shareholders' agreement dated as of January 12, 2024 and as further amended by amendment no. 6 to the noteholders' and shareholders' agreement dated as of February 2, 2024 (collectively, the "**Existing Agreement**").
- B. The Company and Indigo (each as defined in the Existing Agreement) have entered into a fifth bridge note purchase agreement dated as of the date hereof (the "**Fifth Bridge NPA**").
- C. The Parties therefore desire to amend the Existing Agreement on the terms and subject to the conditions set forth herein (such agreement referred to herein as "**Amendment No. 7**") to reflect the terms of the Fifth Bridge NPA.
- D. Capitalized terms used and not defined in this Amendment No. 7 have the respective meanings assigned to them in the Existing Agreement.

NOW THEREFORE, IN CONSIDERATION OF THE PREMISES AND THE COVENANTS AND AGREEMENTS HEREIN SET FORTH, THE PARTIES AGREE AS FOLLOWS:

1. Amendments

- 1.1 The following new definition is added to Section 1.1 in alphabetical order:

"**Fifth Bridge NPA**" means the fifth bridge note purchase agreement entered into on February 7, 2024 between the Company, Indigo and the Guarantor;

- 1.2 The definition of Notes is deleted in its entirety and replaced with the following:

"**Notes**" means the notes issued by the Company from time to time pursuant to the Note Purchase Agreement, the Bridge Note Purchase Agreement, the Second Bridge NPA, the Third Bridge NPA, the Fourth Bridge NPA or the Fifth Bridge NPA (or pursuant to any other note purchase agreement provided that the relevant notes are expressed to be Notes for the purpose of this Agreement);

- 1.3 Sub-section 9.8 is deleted in its entirety and replaced with the following:

9.8 Flair Transaction

For greater certainty, notwithstanding anything contrary herein, any proceeds received from the consummation of the Flair Transaction (as defined in the Fifth Bridge NPA) shall be first applied to redeem in full all of the Notes issued under the Bridge Note Purchase Agreement, the Second Bridge NPA, the Third Bridge NPA, the Fourth Bridge NPA and the Fifth Bridge NPA, and then applied to repay in full any and all interest incurred pursuant to each of the Bridge Note Purchase Agreement, the Second Bridge NPA, the Third Bridge NPA, the Fourth Bridge NPA and the Fifth Bridge NPA.

- 1.4 Sub-section 13.8 is deleted in its entirety and replaced with the following:

13.8 Notwithstanding any other provision of this Agreement to the contrary, the references to "Notes" in clauses 13.1, 13.2, 13.3, 13.4 and 13.7 above shall not include the "Notes" issued under the Bridge Note Purchase Agreement, the Second Bridge NPA, the Third Bridge NPA, the Fourth Bridge NPA and the Fifth Bridge NPA such that clauses 13.1, 13.2, 13.3, 13.4 and 13.7 above shall not apply to the "Notes" issued under any of the Bridge Note Purchase Agreement, the Second Bridge NPA, the Third Bridge NPA, the Fourth Bridge NPA or the Fifth Bridge NPA.

2. Approval

- 2.1 The Majority Noteholders consent to the issuance of Notes under the Fifth Bridge NPA.

3. Consent and Waiver of Pre-Emptive Rights

- 3.1 The undersigned Shareholders and Noteholders hereby consent to the transactions contemplated by the Fifth Bridge NPA, including the issuance of the Notes and any Common Shares issuable upon conversion or redemption thereof, and any other transactions contemplated thereby, notwithstanding any rights, entitlements, restrictions, requirements, or provisions in the Existing Agreement to the contrary or applicable thereto, including the notice and pre-emptive rights contained in contained in clause 8 of the Existing Agreement, which, for greater certainty, are waived in their entirety as they relate to such transactions.

4. Effectiveness

- 4.1 This Amendment No. 7 will be deemed effective as of the date first noted above (the "**Effective Date**").
- 4.2 Except as expressly provided in this Amendment No. 7, all of the terms and provisions of the Existing Agreement are and will remain in full force and effect and are hereby ratified and confirmed by the parties hereto. Without limiting the generality of the foregoing, the amendments contained herein will not be construed as an amendment to or waiver of any other provision of the Existing Agreement or as a waiver of or consent to any further or future action on the part of any party that would require the waiver or consent of any other party. On and after the Effective Date, and for so long as this Amendment No. 7 is effective, each reference in the Existing Agreement to "this Agreement," "the Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference to the Existing Agreement in any other agreements, documents, or instruments executed and delivered

pursuant to, or in connection with, the Existing Agreement will mean and be a reference to the Existing Agreement as amended by this Amendment No. 7.

5. Governing Law and Jurisdiction

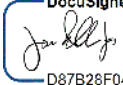
- 5.1 This Amendment No. 7 is governed by, and to be construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.
- 5.2 In relation to any legal action or proceedings arising out of or in connection with this Agreement (“**Proceedings**”) each of the Parties irrevocably submits to the exclusive jurisdiction of the Ontario courts and waives any objection to Proceedings in those courts on the grounds of venue or on the grounds that the proceedings have been brought in an inappropriate forum.

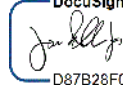
[Signature blocks follow on the next page]

IN WITNESS WHEREOF the Parties hereto have executed this Agreement as of the date first set forth above.

LYNX AIR HOLDINGS CORPORATION

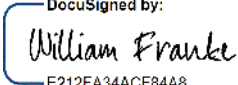
1263343 ALBERTA INC.

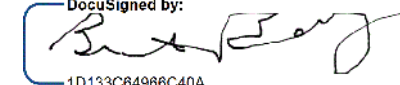
By:  DocuSigned by:
D87B28F04A3B412...
Name: Jim Sullivan
Title: Interim Chief Executive Officer

By:  DocuSigned by:
D87B28F04A3B412...
Name: Jim Sullivan
Title: Interim Chief Executive Officer

INDIGO NORTHERN VENTURE LP by its general partner **INDIGO NORTHERN VENTURES GP, LLC**

TORQUEST CAPITAL FUND IV, L.P., by its general partner **TORQUEST CAPITAL FUND IV GP INC.**

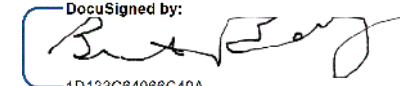
By:  DocuSigned by:
E212FA34ACF84A8...
Name: William A. Franke
Title: President

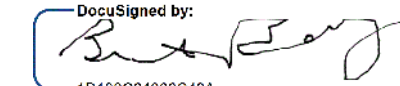
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Name: Brent Belzberg
Title: Director and President

By:  DocuSigned by:
10A5548688FE4AA...
Name: Eric Berke
Title: Director and Vice President

TORQUEST PARTNERS FUND (U.S.) IV, L.P., by its general partner **TORQUEST FUND IV GP INC.**

TORQUEST PARTNERS FUND IV, L.P., by its general partner **TORQUEST FUND IV GP INC.**

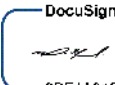
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Name: Brent Belzberg
Title: Director and President

By:  DocuSigned by:
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Name: Brent Belzberg
Title: Director and President

By:  DocuSigned by:
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Name: Eric Berke
Title: Director and Vice President

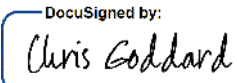
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Name: Eric Berke
Title: Director and Vice President

STEPHENSON MANAGEMENT INC.

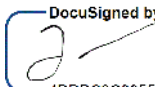
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Name: Mitchell Garber
Title: Director and President and Secretary

STEPWORTH HOLDINGS INC.

By:  DocuSigned by:
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Name: Murielle Lorte
Title: Director and Vice President

By:  DocuSigned by:
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Name: Chris Goddard
Title: Director and VP, Finance

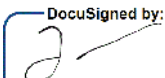
ENERJET SPV INC.

By:  DocuSigned by:
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Name: T.W. Morgan
Title: President

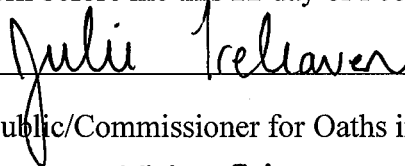
 DocuSigned by:
A40509BD29C54ED...
Witness

 DocuSigned by:
8A30E20F73A5448...
TIM DATTELS

 DocuSigned by:
A40509BD29C54ED...
Witness

 DocuSigned by:
4DDBC3C9955E40B...
T.W. MORGAN

This is **Exhibit “38”** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.

A handwritten signature in cursive script, reading "Julie Treleaven", is written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barister & Solicitor



4695 Shawinigan-Sud Boul.
Shawinigan QC G9P 5H9

November 17, 2023

1263343 ALBERTA INC.
C/O GREG MELCHIN
3215 12 ST NE
CALGARY AB T2E 7S9

Account Number
84054 1767 RM0001

Dear Sir or Madam:

Subject: Custom account arrears for 2023-05-04 to
2023-09-14
Balance: \$25,030,382.24

Thank you for proposing an arrangement to pay the amount you owe on your account.

We confirm that the terms of your arrangement are as follows:

Starting October 2023, all future monthly transactions with the Canada Border Services Agency (CBSA) must be paid on due date.

For the first five months of the Term, 1263343 Alberta Inc. (Lynx Air) will pay a total of \$500,000 towards the Outstanding Balance paid as follows:

December 1, 2023, \$100,000;
January 2, 2024, \$100,000;
February 1, 2024, \$100,000;
March 1, 2024, \$200,000.

Commencing April 1, 2024, 1263343 Alberta Inc. (Lynx Air) will make monthly payments, on the first of each month, in a minimum amount of \$700,000 towards the outstanding balance.

Interest will continue to add up until you pay the full amount you owe. You can find the rates at canada.ca/taxes-interest-rates. This payment arrangement does not include future interest that will be calculated on the remaining balance. We understand that 1263343 Alberta Inc. (Lynx Air) will apply to the Tax Payer Relief Program in order to have the interest on the account revised. If the request is not granted in full or in part, a new agreement

.../2



Shawinigan National Verification
and Collections Centre
4695 Shawinigan-Sud Boulevard
Shawinigan QC G9P 5H9

Local : 819-534-4251
Toll Free : 1-800-229-0827 Ext. : 4251
Fax : 833-635-2481
Web site : canada.ca/taxes

will be discussed for the payment of the remaining balance in November 2026.

You must follow this arrangement and make your payments on time. If you don't, we may have to take legal action without further notice. If, following events beyond its control, 1263343 Alberta Inc. (Lynx Air) is not in a position to honor a payment, CRA must inform in advance so that it can be rescheduled at a future date.

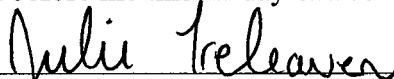
For more information about our collections policies, go to canada.ca/cra-collections.

We appreciate your immediate attention to this matter.

Yours truly,

P. Henripin
Customs collection officer

This is **Exhibit “39”** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

Search ID #: Z17062935

Transmitting Party

OSLER HOSKIN & HARCOURT LLP

2700, 225 6 AVENUE SW
CALGARY, AB T2P 1N2

Party Code: 50084029

Phone #: 403 592 7120

Reference #: 1246361-2381

Search ID #: Z17062935

Date of Search: 2024-Feb-16

Time of Search: 11:17:03

Business Debtor Search For:

LYNX AIR HOLDINGS CORPORATION

Exact Result(s) Only Found

NOTE:

A complete Search may result in a Report of Exact and Inexact Matches.
Be sure to read the reports carefully.



Search ID #: Z17062935

Business Debtor Search For:

LYNX AIR HOLDINGS CORPORATION

Search ID #: Z17062935

Date of Search: 2024-Feb-16

Time of Search: 11:17:03

Registration Number: 21100704497

Registration Type: SECURITY AGREEMENT

Registration Date: 2021-Oct-07

Registration Status: Current

Expiry Date: 2031-Oct-07 23:59:59

Exact Match on:

Debtor

No: 3

Amendments to Registration

21111709301

Amendment

2021-Nov-17

Debtor(s)

Block

1 ENERJET HOLDCO INC.
123 - 1440 AVIATION PARK NE
CALGARY, AB T2E 7E2

Status

Deleted by
21111709301

Block

2 1263343 ALBERTA INC.
123 - 440 AVIATION PARK NE
CALGARY, AB T2E 7E2

Status

Current

Block

3 LYNX AIR HOLDINGS CORPORATION
123 - 1440 AVIATION PARK NE
CALGARY, AB T2E 7E2

Status

Current by
21111709301

Secured Party / Parties

Block

1 INDIGO NORTHERN VENTURES LP
2525 E. CAMELBACK ROAD, SUITE 900
PHOENIX, AZ 85016
Email: wfranke@indigopartners.net

Status

Current

Search ID #: Z17062935

Collateral: General

<u>Block</u>	<u>Description</u>	<u>Status</u>
1	ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY.	Current

Search ID #: Z17062935

Business Debtor Search For:

LYNX AIR HOLDINGS CORPORATION

Search ID #: Z17062935

Date of Search: 2024-Feb-16

Time of Search: 11:17:03

Registration Number: 23022314776

Registration Type: SECURITY AGREEMENT

Registration Date: 2023-Feb-23

Registration Status: Current

Expiry Date: 2033-Feb-23 23:59:59

Exact Match on: Debtor No: 2

Debtor(s)

Block

Status

1 1263343 ALBERTA INC.
3215 - 12TH STREET NE
CALGARY, AB T2E7S9

Current

Block

Status

2 LYNX AIR HOLDINGS CORPORATION
3215 - 12TH STREET NE
CALGARY, AB T2E7S9

Current

Secured Party / Parties

Block

Status

1 INDIGO NORTHERN VENTURES LP
2525 E. CAMELBACK ROAD, SUITE 900
PHOENIX, AZ 85016
Email: wfranke@indigopartners.net

Current

Collateral: General

Block

Description

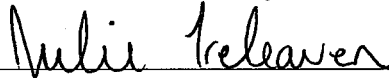
Status

1 ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY.

Current

Result Complete

This is **Exhibit "40"** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

Search ID #: Z17062919

Transmitting Party

OSLER HOSKIN & HARCOURT LLP

2700, 225 6 AVENUE SW
CALGARY, AB T2P 1N2

Party Code: 50084029

Phone #: 403 592 7120

Reference #: 1246361-2381

Search ID #: Z17062919

Date of Search: 2024-Feb-16

Time of Search: 11:15:01

Business Debtor Search For:

1263343 ALBERTA INC.

Exact Result(s) Only Found

NOTE:

A complete Search may result in a Report of Exact and Inexact Matches.
Be sure to read the reports carefully.



Search ID #: Z17062919

Business Debtor Search For:

1263343 ALBERTA INC.

Search ID #: Z17062919

Date of Search: 2024-Feb-16

Time of Search: 11:15:01

Registration Number: 21042230824

Registration Type: SECURITY AGREEMENT

Registration Date: 2021-Apr-22

Registration Status: Current

Expiry Date: 2036-Apr-22 23:59:59

Exact Match on: Debtor No: 1

Amendments to Registration

21042614985	Amendment	2021-Apr-26
22021102615	Amendment	2022-Feb-11
22021104406	Renewal	2022-Feb-11
23062913287	Amendment	2023-Jun-29

Debtor(s)

Block

Status

1 1263343 ALBERTA INC.
1440 AVIATION PARK N.E.
CALGARY, AB T2E 8E2

Current

Secured Party / Parties

Block

Status

1 WELLINGTON LEASING NO. 39 LIMITED
2ND FLOOR, HERBERT PARK LANE ANGLESEA RD
DUBLIN 4, IRELAND, XX XX
Email: notices@aergocapital.com

Deleted by
23062913287

Block

Status

2 UMB BANK, N.A., NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS SECURITY
TRUSTEE
6440 S. MILLROCK DRIVE, SUITE 400
SALT LAKE CITY, UT 84121
Email: CorpTrustUtah@umb.com

Deleted by
23062913287

Search ID #: Z17062919

Block

3 HIGH RIDGE AVIATION TRADING 2 LIMITED
SUITE 4 RINEANNA HOUSE
SHANNON, IRELAND, XX XX XX
Email: notices@highridgeaviation.com

Status

Current by
23062913287

Collateral: Serial Number Goods

<u>Block</u>	<u>Serial Number</u>	<u>Year</u>	<u>Make and Model</u>	<u>Category</u>	<u>Status</u>
1	44312	2021	BOEING 737-8MAX	AC - Aircraft Canada	Current By 21042614985
2	CGJSL	2021	BOEING 737-8MAX	AC - Aircraft Canada	Current By 22021102615

Collateral: General

<u>Block</u>	<u>Description</u>	<u>Status</u>
1	ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY.	Deleted By 21042614985
2	ALL OF THE DEBTOR'S RIGHT, TITLE AND INTEREST, PRESENT AND FUTURE, IN AND TO THE FOLLOWING PROPERTY AS MORE PARTICULARLY DESCRIBED IN THE SECURITY ASSIGNMENT (DEFINED BELOW), INCLUDING: (A) (I) THE RIGHT TO PURCHASE THE AIRCRAFT PURSUANT TO THE BOEING PURCHASE AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS THEREOF AND TO TAKE TITLE TO THE AIRCRAFT, AND TO BE NAMED THE "BUYER" IN THE BILL OF SALE AND ANY INVOICE OR SIMILAR DOCUMENT TO BE DELIVERED IN RESPECT OF THE AIRCRAFT BY BOEING PURSUANT TO THE BOEING PURCHASE AGREEMENT AND (II) THE RIGHT TO ACCEPT DELIVERY OF THE AIRCRAFT, IN EACH CASE, OTHER THAN EXCLUDED BOEING PURCHASE AGREEMENT PROPERTY (THE "BOEING PURCHASE AGREEMENT ASSIGNED PROPERTY"); (B) THE DEBTOR'S RIGHTS IN AND TO EACH BFE CONTRACT, INCLUDING (WITHOUT LIMITATION) ALL WARRANTY AND INDEMNITY PROVISIONS CONTAINED IN EACH SUCH AGREEMENT AND ALL CLAIMS THEREUNDER (THE "VENDOR AGREEMENT ASSIGNED PROPERTY"); (C) ALL OF THE RIGHT, TITLE AND INTEREST, PRESENT AND FUTURE OF THE DEBTOR TO AND UNDER ALL WARRANTIES RELATING TO THE AIRCRAFT, ANY ENGINE OR PART IN EXISTENCE FROM TIME TO TIME; (D) ALL RIGHTS OF THE DEBTOR IN CONNECTION WITH ANY SALE OR OTHER DISPOSITION OF THE BOEING PURCHASE AGREEMENT ASSIGNED PROPERTY OR THE VENDOR AGREEMENT ASSIGNED PROPERTY, OR ANY PART THEREOF; (E) ALL "BUYER FURNISHED EQUIPMENT" (WHETHER NOW OWNED OR HEREAFTER ACQUIRED) FURNISHED TO BOEING OR THE ENGINE MANUFACTURER (AS THE CASE MAY BE) TO BE ATTACHED TO THE AIRCRAFT AND IN RELATION TO WHICH THE DEBTOR HAS RIGHTS; AND	Deleted By 22021102615

Search ID #: Z17062919

- | | | |
|---|---|-----------------------------------|
| 3 | <p>(F) THE PROCEEDS (WHICH SHALL INCLUDE ANY AND ALL "PROCEEDS" AS SUCH TERM IS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT (ALBERTA)) OF ANY OF THE FOREGOING OR PAYMENTS OR CREDITS PAYABLE TO THE DEBTOR FROM TIME TO TIME IN CONNECTION THEREWITH, IN WHATEVER FORM THEY MAY BE, TOGETHER WITH: (I) ALL CLAIMS, RIGHTS AND REMEDIES OF THE DEBTOR ARISING OUT OF OR IN CONNECTION WITH THE FOREGOING (INCLUDING, WITHOUT LIMITATION, ALL DAMAGES, WARRANTIES, SERVICE LIFE POLICIES, INDEMNITIES, CREDIT MEMORANDA, CREDITS, REBATES, REFUNDS, DISCOUNTS AND OTHER COMPENSATION PAYABLE FOR OR IN RESPECT THEREOF), WHETHER ARISING OUT OF OR IN CONNECTION WITH A BREACH OR DEFAULT OR OTHERWISE; AND (II) ALL RIGHTS OF THE DEBTOR TO REQUIRE, ENFORCE AND COMPEL PERFORMANCE OF ALL OF THE PROVISIONS OF THE FOREGOING, AND OTHERWISE TO EXERCISE ALL CLAIMS, RIGHTS AND REMEDIES THEREUNDER, AND ALL RIGHTS TO GIVE AND RECEIVE NOTICES, REPORTS, REQUESTS AND CONSENTS, TO MAKE DEMANDS, TO EXERCISE DISCRETIONS, OPTIONS AND ELECTIONS THEREUNDER AND TO TAKE ALL OTHER ACTION THEREUNDER, PURSUANT THERETO OR IN CONNECTION THEREWITH.</p> <p>"AIRCRAFT" MEANS THE BOEING 737-8MAX AIRCRAFT WITH MANUFACTURER'S SERIAL NUMBER 44312.</p> <p>"SECURITY ASSIGNMENT" MEANS THE SECURITY ASSIGNMENT DATED APRIL 23, 2021 RELATING TO THE AIRCRAFT BETWEEN THE DEBTOR AS ASSIGNOR AND THE CREDITOR AS ASSIGNEE.</p> <p>CAPITALIZED TERMS USED HEREIN BUT NOT OTHERWISE DEFINED SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN THE SECURITY ASSIGNMENT, INCLUDING BY REFERENCE TO ANY OTHER DOCUMENT.</p> | <p>Deleted By
22021102615</p> |
| 4 | <p>ONE (1) 2021 BOEING B737 MAX 8 AIRFRAME BEARING MANUFACTURER'S SERIAL NUMBER 44312 AND CANADIAN REGISTRATION MARKS C-GJSL AND TWO CFM INTERNATIONAL INC, MODEL CFM LEAP-1B ENGINES BEARING MANUFACTURER'S SERIAL NUMBERS 60A406 AND 603910 WHEREVER LOCATED, AND ALL COMPONENTS, FURNISHINGS, EQUIPMENT OR OTHER PARTS OF ANY KIND WHICH MAY FROM TIME TO TIME BE INCORPORATED OR INSTALLED IN OR ATTACHED TO THE AIRFRAME OR ANY ENGINE FOR SO LONG AS SAME IS SO ATTACHED AND THEREAFTER FOR SO LONG AS SAME IS SUBJECT TO THE LEASE IN RESPECT THEREOF (THE "AIRCRAFT");</p> <p>ALL MANUALS, DOCUMENTS, DATA, LOG BOOKS AND OTHER RECORDS IN RESPECT OF THE AIRCRAFT OR ANY PART THEREOF;</p> <p>ALL RIGHTS TO MONEY OR OTHER VALUE PAYABLE UNDER INSURANCE POLICIES IN RESPECT OF THE AIRCRAFT;</p> <p>ALL WARRANTIES, REPRESENTATIONS, SERVICE CONTRACTS, PRODUCT SUPPORT OR OTHER AGREEMENTS OF ANY NATURE IN RESPECT OF OR THAT SHALL APPLY TO THE AIRCRAFT OR ANY PART THEREOF FROM ANY MANUFACTURER, VENDOR, CONTRACTOR OR SUPPLIER THEREOF;</p> <p>TOGETHER WITH ALL PROCEEDS OF ANY OF THE FOREGOING IN ANY FORM INCLUDING GOODS, DOCUMENTS OF TITLE, CHATTEL PAPER, INVESTMENT PROPERTY, INSTRUMENTS, MONEY, INTANGIBLES OR ANY OTHER PERSONAL (MOVABLE) PROPERTY RECEIVED WHEN SUCH COLLATERAL OR PROCEEDS ARE SOLD, COLLECTED, DEALT WITH OR OTHERWISE DISPOSED OF.</p> <p>PROCEEDS: ACCOUNTS, CHATTEL PAPER, MONEY, INTANGIBLES, GOODS, INSURANCE PROCEEDS, DOCUMENTS OF TITLE, INSTRUMENTS AND SECURITIES.</p> | <p>Current By
22021102615</p> |

Particulars

<u>Block</u>	<u>Additional Information</u>	<u>Status</u>
1	<p>THE COMPLETE ADDRESS OF THE SECURED PARTY IS: 2ND FLOOR, EMBASSY HOUSE, HERBERT PARK LANE ANGLESEA ROAD, DUBLIN 4, IRELAND</p>	<p>Deleted By 23062913287</p>

Search ID #: Z17062919

<u>Block</u>	<u>Additional Information</u>	<u>Status</u>
2	THE COMPLETE ADDRESS OF THE SECURED PARTY IS: SUITE 4 RINEANNA HOUSE, SHANNON FREE ZONE, SHANNON, CO CLARE, V14 CA36, IRELAND	Current By 23062913287

Search ID #: Z17062919

Business Debtor Search For:

1263343 ALBERTA INC.

Search ID #: Z17062919

Date of Search: 2024-Feb-16

Time of Search: 11:15:01

Registration Number: 21042230835

Registration Date: 2021-Apr-22

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2036-Apr-22 23:59:59

Exact Match on: Debtor No: 1

Amendments to Registration

21042615057	Amendment	2021-Apr-26
22031510031	Renewal	2022-Mar-15
22031512186	Amendment	2022-Mar-15
23062610127	Amendment	2023-Jun-26

Debtor(s)

Block

Status

1 1263343 ALBERTA INC.
1440 AVIATION PARK N.E.
CALGARY, AB T2E 8E2

Current

Secured Party / Parties

Block

Status

1 WELLINGTON LEASING NO. 40 LIMITED
2ND FLOOR, HERBERT PARK LANE ANGLESEA RD
DUBLIN 4, IRELAND, XX XX
Email: notices@aergocapital.com

Deleted by
23062610127

Block

Status

2 UMB BANK, N.A., NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS SECURITY
TRUSTEE
6440 S. MILLROCK DRIVE, SUITE 400
SALT LAKE CITY, UT 84121
Email: CorpTrustUtah@umb.com

Deleted by
23062610127

Search ID #: Z17062919

Block

3 BANK OF UTAH, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER
TRUSTEE
C/O AVIATION CAPITAL GROUP LLC
NEWPORT BEACH, CA 92660
Email: ACGLegal@AviationCapital.com

Status

Current by
23062610127

Collateral: Serial Number Goods

<u>Block</u>	<u>Serial Number</u>	<u>Year</u>	<u>Make and Model</u>	<u>Category</u>	<u>Status</u>
1	44314	2021	BOEING 737-8MAX	AC - Aircraft Canada	Current By 21042615057
2	CFULI	2021	BOEING 737-8MAX	AC - Aircraft Canada	Current By 22031512186

Collateral: General

<u>Block</u>	<u>Description</u>	<u>Status</u>
1	ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY.	Deleted By 21042615057
2	ALL OF THE DEBTOR'S RIGHT, TITLE AND INTEREST, PRESENT AND FUTURE, IN AND TO THE FOLLOWING PROPERTY AS MORE PARTICULARLY DESCRIBED IN THE SECURITY ASSIGNMENT (DEFINED BELOW), INCLUDING: (A) (I) THE RIGHT TO PURCHASE THE AIRCRAFT PURSUANT TO THE BOEING PURCHASE AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS THEREOF AND TO TAKE TITLE TO THE AIRCRAFT, AND TO BE NAMED THE "BUYER" IN THE BILL OF SALE AND ANY INVOICE OR SIMILAR DOCUMENT TO BE DELIVERED IN RESPECT OF THE AIRCRAFT BY BOEING PURSUANT TO THE BOEING PURCHASE AGREEMENT AND (II) THE RIGHT TO ACCEPT DELIVERY OF THE AIRCRAFT, IN EACH CASE, OTHER THAN EXCLUDED BOEING PURCHASE AGREEMENT PROPERTY (THE "BOEING PURCHASE AGREEMENT ASSIGNED PROPERTY"); (B) THE DEBTOR'S RIGHTS IN AND TO EACH BFE CONTRACT, INCLUDING (WITHOUT LIMITATION) ALL WARRANTY AND INDEMNITY PROVISIONS CONTAINED IN EACH SUCH AGREEMENT AND ALL CLAIMS THEREUNDER (THE "VENDOR AGREEMENT ASSIGNED PROPERTY"); (C) ALL OF THE RIGHT, TITLE AND INTEREST, PRESENT AND FUTURE OF THE DEBTOR TO AND UNDER ALL WARRANTIES RELATING TO THE AIRCRAFT, ANY ENGINE OR PART IN EXISTENCE FROM TIME TO TIME; (D) ALL RIGHTS OF THE DEBTOR IN CONNECTION WITH ANY SALE OR OTHER DISPOSITION OF THE BOEING PURCHASE AGREEMENT ASSIGNED PROPERTY OR THE VENDOR AGREEMENT ASSIGNED PROPERTY, OR ANY PART THEREOF; (E) ALL "BUYER FURNISHED EQUIPMENT" (WHETHER NOW OWNED OR HEREAFTER ACQUIRED) FURNISHED TO BOEING OR THE ENGINE MANUFACTURER (AS THE CASE MAY BE) TO BE ATTACHED TO THE AIRCRAFT AND IN RELATION TO WHICH THE DEBTOR HAS RIGHTS; AND	Deleted By 22031512186

Search ID #: Z17062919

- | | | |
|---|---|-----------------------------------|
| 3 | <p>(F) THE PROCEEDS (WHICH SHALL INCLUDE ANY AND ALL "PROCEEDS" AS SUCH TERM IS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT (ALBERTA)) OF ANY OF THE FOREGOING OR PAYMENTS OR CREDITS PAYABLE TO THE DEBTOR FROM TIME TO TIME IN CONNECTION THEREWITH, IN WHATEVER FORM THEY MAY BE, TOGETHER WITH: (I) ALL CLAIMS, RIGHTS AND REMEDIES OF THE DEBTOR ARISING OUT OF OR IN CONNECTION WITH THE FOREGOING (INCLUDING, WITHOUT LIMITATION, ALL DAMAGES, WARRANTIES, SERVICE LIFE POLICIES, INDEMNITIES, CREDIT MEMORANDA, CREDITS, REBATES, REFUNDS, DISCOUNTS AND OTHER COMPENSATION PAYABLE FOR OR IN RESPECT THEREOF), WHETHER ARISING OUT OF OR IN CONNECTION WITH A BREACH OR DEFAULT OR OTHERWISE; AND (II) ALL RIGHTS OF THE DEBTOR TO REQUIRE, ENFORCE AND COMPEL PERFORMANCE OF ALL OF THE PROVISIONS OF THE FOREGOING, AND OTHERWISE TO EXERCISE ALL CLAIMS, RIGHTS AND REMEDIES THEREUNDER, AND ALL RIGHTS TO GIVE AND RECEIVE NOTICES, REPORTS, REQUESTS AND CONSENTS, TO MAKE DEMANDS, TO EXERCISE DISCRETIONS, OPTIONS AND ELECTIONS THEREUNDER AND TO TAKE ALL OTHER ACTION THEREUNDER, PURSUANT THERETO OR IN CONNECTION THEREWITH.</p> <p>"AIRCRAFT" MEANS THE BOEING 737-8MAX AIRCRAFT WITH MANUFACTURER'S SERIAL NUMBER 44314.</p> <p>"SECURITY ASSIGNMENT" MEANS THE SECURITY ASSIGNMENT DATED APRIL 23, 2021 RELATING TO THE AIRCRAFT BETWEEN THE DEBTOR AS ASSIGNOR AND THE CREDITOR AS ASSIGNEE.</p> <p>CAPITALIZED TERMS USED HEREIN BUT NOT OTHERWISE DEFINED SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN THE SECURITY ASSIGNMENT, INCLUDING BY REFERENCE TO ANY OTHER DOCUMENT.</p> | <p>Deleted By
22031512186</p> |
| 4 | <p>ONE (1) 2021 BOEING B737 MAX 8 AIRFRAME BEARING MANUFACTURER'S SERIAL NUMBER 44314 AND CANADIAN REGISTRATION MARKS C-FULI AND TWO CFM INTERNATIONAL INC, MODEL CFM LEAP-1B ENGINES BEARING MANUFACTURER'S SERIAL NUMBERS 603953 AND 603961 WHEREVER LOCATED, AND ALL COMPONENTS, FURNISHINGS, EQUIPMENT OR OTHER PARTS OF ANY KIND WHICH MAY FROM TIME TO TIME BE INCORPORATED OR INSTALLED IN OR ATTACHED TO THE AIRFRAME OR ANY ENGINE FOR SO LONG AS SAME IS SO ATTACHED AND THEREAFTER FOR SO LONG AS SAME IS SUBJECT TO THE LEASE IN RESPECT THEREOF (THE "AIRCRAFT");</p> <p>ALL MANUALS, DOCUMENTS, DATA, LOG BOOKS AND OTHER RECORDS IN RESPECT OF THE AIRCRAFT OR ANY PART THEREOF;</p> <p>ALL RIGHTS TO MONEY OR OTHER VALUE PAYABLE UNDER INSURANCE POLICIES IN RESPECT OF THE AIRCRAFT;</p> <p>ALL WARRANTIES, REPRESENTATIONS, SERVICE CONTRACTS, PRODUCT SUPPORT OR OTHER AGREEMENTS OF ANY NATURE IN RESPECT OF OR THAT SHALL APPLY TO THE AIRCRAFT OR ANY PART THEREOF FROM ANY MANUFACTURER, VENDOR, CONTRACTOR OR SUPPLIER THEREOF;</p> <p>TOGETHER WITH ALL PROCEEDS OF ANY OF THE FOREGOING IN ANY FORM INCLUDING GOODS, DOCUMENTS OF TITLE, CHATTEL PAPER, INVESTMENT PROPERTY, INSTRUMENTS, MONEY, INTANGIBLES OR ANY OTHER PERSONAL (MOVABLE) PROPERTY RECEIVED WHEN SUCH COLLATERAL OR PROCEEDS ARE SOLD, COLLECTED, DEALT WITH OR OTHERWISE DISPOSED OF.</p> <p>PROCEEDS: ACCOUNTS, CHATTEL PAPER, MONEY, INTANGIBLES, GOODS, INSURANCE PROCEEDS, DOCUMENTS OF TITLE, INSTRUMENTS AND SECURITIES.</p> | <p>Current By
22031512186</p> |

Particulars

<u>Block</u>	<u>Additional Information</u>	<u>Status</u>
1	<p>THE COMPLETE ADDRESS OF THE SECURED PARTY IS: 2ND FLOOR, EMBASSY HOUSE, HERBERT PARK LANE ANGLESEA ROAD, DUBLIN 4, IRELAND</p>	<p>Deleted By 23062610127</p>

Search ID #: Z17062919

<u>Block</u>	<u>Additional Information</u>	<u>Status</u>
2	THE COMPLETE ADDRESS OF THE SECURED PARTY IS: C/O AVIATION CAPITAL GROUP LLC, 840 NEWPORT CENTER DRIVE, SUITE 300, NEWPORT BEACH, CALIFORNIA 92660, U.S.A.	Current By 23062610127

Search ID #: Z17062919

Business Debtor Search For:

1263343 ALBERTA INC.

Search ID #: Z17062919

Date of Search: 2024-Feb-16

Time of Search: 11:15:01

Registration Number: 21042230850

Registration Date: 2021-Apr-22

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2036-Apr-22 23:59:59

Exact Match on: Debtor No: 1

Amendments to Registration

21042615155	Amendment	2021-Apr-26
22040404919	Renewal	2022-Apr-04
22040406620	Amendment	2022-Apr-04
23063008713	Amendment	2023-Jun-30

Debtor(s)

Block

Status

1 1263343 ALBERTA INC.
1440 AVIATION PARK N.E.
CALGARY, AB T2E 8E2

Current

Secured Party / Parties

Block

Status

1 WELLINGTON LEASING NO. 41 LIMITED
2ND FLOOR, HERBERT PARK LANE ANGLESEA RD
DUBLIN 4, IRELAND, XX XX
Email: notices@aergocapital.com

Deleted by
23063008713

Block

Status

2 UMB BANK, N.A.
6440 S. MILLROCK DRIVE, SUITE 400
SALT LAKE CITY, UT 84121
Email: CorpTrustUtah@umb.com

Deleted by
23063008713

Search ID #: Z17062919

Block

3 AERDRAGON MSN44306 LEASING LIMITED
AVIATION HOUSE, SHANNON, CO. CLARE
V14 AN29, IRELAND, XX XX XX
Email: contracts@aerdragon.cn

Status

Current by
23063008713

Block

4 SOCIETE GENERALE
29 BOULEVARD HAUSSMANN
75009 PARIS, FRANCE, XX XX XX
Email: jean-michel.le-dem@sgcib.com

Status

Current by
23063008713

Collateral: Serial Number Goods

<u>Block</u>	<u>Serial Number</u>	<u>Year</u>	<u>Make and Model</u>	<u>Category</u>	<u>Status</u>
1	44306	2021	BOEING 737-8MAX	AC - Aircraft Canada	Current By 21042615155
2	CFULH	2021	BOEING 737-8MAX	AC - Aircraft Canada	Current By 22040406620

Collateral: General

<u>Block</u>	<u>Description</u>	<u>Status</u>
1	ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY.	Deleted By 21042615155
2	ALL OF THE DEBTOR'S RIGHT, TITLE AND INTEREST, PRESENT AND FUTURE, IN AND TO THE FOLLOWING PROPERTY AS MORE PARTICULARLY DESCRIBED IN THE SECURITY ASSIGNMENT (DEFINED BELOW), INCLUDING: (A) (I) THE RIGHT TO PURCHASE THE AIRCRAFT PURSUANT TO THE BOEING PURCHASE AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS THEREOF AND TO TAKE TITLE TO THE AIRCRAFT, AND TO BE NAMED THE "BUYER" IN THE BILL OF SALE AND ANY INVOICE OR SIMILAR DOCUMENT TO BE DELIVERED IN RESPECT OF THE AIRCRAFT BY BOEING PURSUANT TO THE BOEING PURCHASE AGREEMENT AND (II) THE RIGHT TO ACCEPT DELIVERY OF THE AIRCRAFT, IN EACH CASE, OTHER THAN EXCLUDED BOEING PURCHASE AGREEMENT PROPERTY (THE "BOEING PURCHASE AGREEMENT ASSIGNED PROPERTY"); (B) THE DEBTOR'S RIGHTS IN AND TO EACH BFE CONTRACT, INCLUDING (WITHOUT LIMITATION) ALL WARRANTY AND INDEMNITY PROVISIONS CONTAINED IN EACH SUCH AGREEMENT AND ALL CLAIMS THEREUNDER (THE "VENDOR AGREEMENT ASSIGNED PROPERTY"); (C) ALL OF THE RIGHT, TITLE AND INTEREST, PRESENT AND FUTURE OF THE DEBTOR TO AND UNDER ALL WARRANTIES RELATING TO THE AIRCRAFT, ANY ENGINE OR PART IN EXISTENCE FROM TIME TO TIME; (D) ALL RIGHTS OF THE DEBTOR IN CONNECTION WITH ANY SALE OR OTHER DISPOSITION OF THE BOEING PURCHASE AGREEMENT ASSIGNED PROPERTY OR THE VENDOR AGREEMENT ASSIGNED PROPERTY, OR ANY PART THEREOF; (E) ALL "BUYER FURNISHED EQUIPMENT" (WHETHER NOW OWNED OR HEREAFTER ACQUIRED) FURNISHED TO BOEING OR THE ENGINE MANUFACTURER (AS THE CASE MAY BE) TO BE ATTACHED TO THE AIRCRAFT AND IN RELATION TO WHICH THE DEBTOR HAS RIGHTS; AND	Deleted By 22040406620

Search ID #: Z17062919

- | | | |
|---|---|-----------------------------------|
| 3 | <p>(F) THE PROCEEDS (WHICH SHALL INCLUDE ANY AND ALL "PROCEEDS" AS SUCH TERM IS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT (ALBERTA)) OF ANY OF THE FOREGOING OR PAYMENTS OR CREDITS PAYABLE TO THE DEBTOR FROM TIME TO TIME IN CONNECTION THEREWITH, IN WHATEVER FORM THEY MAY BE, TOGETHER WITH: (I) ALL CLAIMS, RIGHTS AND REMEDIES OF THE DEBTOR ARISING OUT OF OR IN CONNECTION WITH THE FOREGOING (INCLUDING, WITHOUT LIMITATION, ALL DAMAGES, WARRANTIES, SERVICE LIFE POLICIES, INDEMNITIES, CREDIT MEMORANDA, CREDITS, REBATES, REFUNDS, DISCOUNTS AND OTHER COMPENSATION PAYABLE FOR OR IN RESPECT THEREOF), WHETHER ARISING OUT OF OR IN CONNECTION WITH A BREACH OR DEFAULT OR OTHERWISE; AND (II) ALL RIGHTS OF THE DEBTOR TO REQUIRE, ENFORCE AND COMPEL PERFORMANCE OF ALL OF THE PROVISIONS OF THE FOREGOING, AND OTHERWISE TO EXERCISE ALL CLAIMS, RIGHTS AND REMEDIES THEREUNDER, AND ALL RIGHTS TO GIVE AND RECEIVE NOTICES, REPORTS, REQUESTS AND CONSENTS, TO MAKE DEMANDS, TO EXERCISE DISCRETIONS, OPTIONS AND ELECTIONS THEREUNDER AND TO TAKE ALL OTHER ACTION THEREUNDER, PURSUANT THERETO OR IN CONNECTION THEREWITH.</p> <p>"AIRCRAFT" MEANS THE BOEING 737-8MAX AIRCRAFT WITH MANUFACTURER'S SERIAL NUMBER 44306.</p> <p>"SECURITY ASSIGNMENT" MEANS THE SECURITY ASSIGNMENT DATED APRIL 23, 2021 RELATING TO THE AIRCRAFT BETWEEN THE DEBTOR AS ASSIGNOR AND THE CREDITOR AS ASSIGNEE.</p> <p>CAPITALIZED TERMS USED HEREIN BUT NOT OTHERWISE DEFINED SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN THE SECURITY ASSIGNMENT, INCLUDING</p> | <p>Deleted By
22040406620</p> |
| 4 | <p>ONE (1) 2021 BOEING B737 MAX 8 AIRFRAME BEARING MANUFACTURER'S SERIAL NUMBER 44306 AND CANADIAN REGISTRATION MARKS C-FULH AND TWO CFM INTERNATIONAL INC, MODEL CFM LEAP-1B27 ENGINES BEARING MANUFACTURER'S SERIAL NUMBERS 603939 AND 603989 WHEREVER LOCATED, AND ALL COMPONENTS, FURNISHINGS, EQUIPMENT OR OTHER PARTS OF ANY KIND WHICH MAY FROM TIME TO TIME BE INCORPORATED OR INSTALLED IN OR ATTACHED TO THE AIRFRAME OR ANY ENGINE FOR SO LONG AS SAME IS SO ATTACHED AND THEREAFTER FOR SO LONG AS SAME IS SUBJECT TO THE LEASE IN RESPECT THEREOF (THE "AIRCRAFT");</p> <p>ALL MANUALS, DOCUMENTS, DATA, LOG BOOKS AND OTHER RECORDS IN RESPECT OF THE AIRCRAFT OR ANY PART THEREOF;</p> <p>ALL RIGHTS TO MONEY OR OTHER VALUE PAYABLE UNDER INSURANCE POLICIES IN RESPECT OF THE AIRCRAFT;</p> <p>ALL WARRANTIES, REPRESENTATIONS, SERVICE CONTRACTS, PRODUCT SUPPORT OR OTHER AGREEMENTS OF ANY NATURE IN RESPECT OF OR THAT SHALL APPLY TO THE AIRCRAFT OR ANY PART THEREOF FROM ANY MANUFACTURER, VENDOR, CONTRACTOR OR SUPPLIER THEREOF;</p> <p>TOGETHER WITH ALL PROCEEDS OF ANY OF THE FOREGOING IN ANY FORM INCLUDING GOODS, DOCUMENTS OF TITLE, CHATTEL PAPER, INVESTMENT PROPERTY, INSTRUMENTS, MONEY, INTANGIBLES OR ANY OTHER PERSONAL (MOVABLE) PROPERTY RECEIVED WHEN SUCH COLLATERAL OR PROCEEDS ARE SOLD, COLLECTED, DEALT WITH OR OTHERWISE DISPOSED OF.</p> <p>PROCEEDS: ACCOUNTS, CHATTEL PAPER, MONEY, INTANGIBLES, GOODS, INSURANCE PROCEEDS, DOCUMENTS OF TITLE, INSTRUMENTS AND SECURITIES.</p> | <p>Current By
22040406620</p> |

Particulars

<u>Block</u>	<u>Additional Information</u>	<u>Status</u>
1	<p>THE COMPLETE ADDRESS OF THE SECURED PARTY IS: 2ND FLOOR, EMBASSY HOUSE, HERBERT PARK LANE ANGLESEA ROAD, DUBLIN 4, IRELAND</p>	<p>Deleted By 22040406620</p>

Search ID #: Z17062919

<u>Block</u>	<u>Additional Information</u>	<u>Status</u>
2	<p>THE COMPLETE ADDRESS OF WELLINGTON LEASING NO. 41 LIMITED IS: 2ND FLOOR, EMBASSY HOUSE, HERBERT PARK LANE ANGLESEA ROAD, DUBLIN 4, IRELAND.</p> <p>UMB BANK, N.A. IS ACTING NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS SECURITY TRUSTEE.</p>	Deleted By 23063008713

Search ID #: Z17062919

Business Debtor Search For:

1263343 ALBERTA INC.

Search ID #: Z17062919

Date of Search: 2024-Feb-16

Time of Search: 11:15:01

Registration Number: 21100704497

Registration Date: 2021-Oct-07

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2031-Oct-07 23:59:59

Exact Match on: Debtor No: 2

Amendments to Registration

21111709301

Amendment

2021-Nov-17

Debtor(s)

Block

1 ENERJET HOLDCO INC.
123 - 1440 AVIATION PARK NE
CALGARY, AB T2E 7E2

Status

Deleted by
21111709301

Block

2 1263343 ALBERTA INC.
123 - 440 AVIATION PARK NE
CALGARY, AB T2E 7E2

Status

Current

Block

3 LYNX AIR HOLDINGS CORPORATION
123 - 1440 AVIATION PARK NE
CALGARY, AB T2E 7E2

Status

Current by
21111709301

Secured Party / Parties

Block

1 INDIGO NORTHERN VENTURES LP
2525 E. CAMELBACK ROAD, SUITE 900
PHOENIX, AZ 85016
Email: wfranke@indigopartners.net

Status

Current

Collateral: General

Block

Description

1 ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY.

Status

Current

Search ID #: Z17062919

Business Debtor Search For:

1263343 ALBERTA INC.

Search ID #: Z17062919

Date of Search: 2024-Feb-16

Time of Search: 11:15:01

Registration Number: 21120111116

Registration Date: 2021-Dec-01

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2031-Dec-01 23:59:59

Exact Match on:

Debtor

No: 1

Amendments to Registration

22042017916	Amendment	2022-Apr-20
22121329382	Amendment	2022-Dec-13
23011211347	Amendment	2023-Jan-12
23031710921	Amendment	2023-Mar-17
23032821529	Amendment	2023-Mar-28
23040418404	Amendment	2023-Apr-04
23041218864	Amendment	2023-Apr-12
23041821878	Amendment	2023-Apr-18
23042018629	Amendment	2023-Apr-20
23042630183	Amendment	2023-Apr-26
23042728794	Amendment	2023-Apr-27
23050415401	Amendment	2023-May-04
23051503562	Amendment	2023-May-15
23052330224	Amendment	2023-May-23
23060212129	Amendment	2023-Jun-02
23092823540	Amendment	2023-Sep-28
23100432376	Amendment	2023-Oct-04
23110624616	Amendment	2023-Nov-06
24021431024	Amendment	2024-Feb-14

Search ID #: Z17062919

Debtor(s)

Block

1 1263343 ALBERTA INC.
123 - 1440 AVIATION PARK NE
CALGARY, AB T2E 7E2

Status

Current

Secured Party / Parties

Block

1 ATB FINANCIAL - 07609
102-8TH AVENUE SW
CALGARY, AB T2P 1B3
Phone #: 403 974 5744 Fax #: 403 974 5191
Email: pprnotices@atb.com

Status

Current

Collateral: General

Block

Description

1 The amount of CDN \$20,000.00 on deposit with ATB Financial

2 The amount of USD \$200,000.00 on deposit with ATB Financial

3 The amount of CDN \$1,056,726.60 on deposit with ATB Financial

4 The amount of USD \$388,453.00 on deposit with ATB Financial

5 The amount of USD \$465625.00 on deposit with ATB Financial

6 The amount of CDN \$1506726.60 on deposit with ATB Financial

7 The amount of USD \$708137.00 on deposit with ATB Financial

8 The amount of CDN \$1,756,726.60 on deposit with ATB Financial

9 The amount of CDN \$2006726.60 on deposit with ATB Financial

10 The amount of CDN \$2,256,726.60 on deposit with ATB Financial

11 The amount of USD \$861,934.40 on deposit with ATB Financial

12 The amount of CDN \$2,506,726.60 on deposit with ATB Financial

Status

Deleted By
22042017916

Deleted By
22121329382

Deleted By
23031710921

Deleted By
23011211347

Deleted By
23031710921

Deleted By
23032821529

Deleted By
23041821878

Deleted By
23040418404

Deleted By
23041218864

Deleted By
23042018629

Deleted By
23100432376

Deleted By
23042630183

Search ID #: Z17062919

13	The amount of CDN \$3,036,726.60 on deposit with ATB Financial	Deleted By 23042728794
14	The amount of CDN \$3,286,726.60 on deposit with ATB Financial	Deleted By 23050415401
15	The amount of CDN \$3,536,726.60 on deposit with ATB Financial	Deleted By 23051503562
16	The amount of CDN \$3,786,726.60 on deposit with ATB Financial	Deleted By 23052330224
17	The amount of CDN \$4,431,726.60 on deposit with ATB Financial	Deleted By 23060212129
18	The amount of CDN \$4,581,726.60 on deposit with ATB Financial	Deleted By 23092823540
19	The amount of CDN \$4,641,726.60 on deposit with ATB Financial	Deleted By 24021431024
20	The amount of USD \$917,613.62 on deposit with ATB Financial	Deleted By 23110624616
21	The amount of USD \$1,027,613.62 on deposit with ATB Financial	Current By 23110624616
22	The amount of CDN \$4,469,645.96 on deposit with ATB Financial	Current By 24021431024

Search ID #: Z17062919

Business Debtor Search For:

1263343 ALBERTA INC.

Search ID #: Z17062919

Date of Search: 2024-Feb-16

Time of Search: 11:15:01

Registration Number: 22062414184

Registration Type: SECURITY AGREEMENT

Registration Date: 2022-Jun-24

Registration Status: Current

Expiry Date: 2036-Jun-24 23:59:59

Exact Match on: Debtor No: 1

Debtor(s)

Block

Status

1 1263343 ALBERTA INC.
3215-12TH STREET N.E.
CALGARY, AB T2E 7S9

Current

Secured Party / Parties

Block

Status

1 WILMINGTON TRUST SP SERVICES (DUBLIN) LIMITED
FOURTH FLOOR, 3 GEORGE'S DOCK, IFSC
DUBLIN 1, XX D01 X5X0
Email: irishownertrusts@wilmingtontrust.com

Current

Collateral: Serial Number Goods

<u>Block</u>	<u>Serial Number</u>	<u>Year</u>	<u>Make and Model</u>	<u>Category</u>	<u>Status</u>
1	42846	2022	BOEING 737 MAX 8	AC - Aircraft Canada	Current
2	CGUUL	2022	BOEING 737 MAX 8	AC - Aircraft Canada	Current

Search ID #: Z17062919

Collateral: General

<u>Block</u>	<u>Description</u>	<u>Status</u>
1	<p>ONE (1) 2022 BOEING 737 MAX8 AIRFRAME BEARING MANUFACTURER'S SERIAL NUMBER 42846 AND CANADIAN REGISTRATION MARK C-GUUL, TOGETHER WITH TWO (2) CFM INTERNATIONAL LEAP-1B27 AIRCRAFT ENGINES BEARING MANUFACTURER'S SERIAL NUMBERS 603784 AND 603828, WHETHER OR NOT INSTALLED ON SUCH AIRFRAME, OR ANY SUBSTITUTE AIRCRAFT ENGINE FROM TIME TO TIME, AND ALL COMPONENTS, FURNISHINGS, EQUIPMENT OR OTHER PARTS OF ANY KIND WHICH MAY FROM TIME TO TIME BE INCORPORATED OR INSTALLED IN OR ATTACHED TO THE AIRFRAME OR ANY ENGINE FOR SO LONG AS THE SAME IS SO ATTACHED.</p> <p>ALL APPLIANCES, COMPONENTS, PARTS, INSTRUMENTS, NAVIGATIONAL AND COMMUNICATIONS EQUIPMENT, APPURTENANCES, ACCESSORIES, FURNISHINGS AND OTHER GOODS AND EQUIPMENT OF WHATEVER NATURE WHICH MAY FROM TIME TO TIME BE INCORPORATED OR INSTALLED IN OR ATTACHED TO THE FOREGOING AIRFRAME OR ENGINES (COLLECTIVELY, THE "PARTS") AND ANY PART WHICH AFTER REMOVAL FROM SUCH AIRFRAME OR ENGINE REMAINS SUBJECT TO THE SECURITY INTEREST IN RESPECT THEREOF. THE FOREGOING AIRFRAME, ENGINES AND PARTS ARE HEREINAFTER COLLECTIVELY REFERRED TO AS THE "AIRCRAFT".</p> <p>ANY AND ALL BILLS OF SALE IN RESPECT OF THE AIRCRAFT OR ANY PART THEREOF.</p> <p>ALL TECHNICAL DATA, MANUALS, LOG BOOKS, RECORDS, DOCUMENTS OF TITLE, AGREEMENTS, LICENSES, WARRANTIES, GUARANTEES, INDEMNIFICATIONS, SERVICE CONTRACTS, OWNERSHIP CERTIFICATES, AND OTHER DOCUMENTS IN ANY FORM EVIDENCING OR RELATING TO THE AIRCRAFT. ALL CONTRACTS OR POLICIES OF INSURANCE COVERING THE AIRCRAFT, ANY AND ALL BENEFITS, CLAIMS, INTANGIBLES, RIGHTS TO MONEY OR OTHER VALUE WHICH THE DEBTOR NOW HAS OR MAY HEREAFTER HAVE AS INDEMNITY OR COMPENSATION FOR LOSS OF OR DAMAGES TO SUCH COLLATERAL, AND THE RIGHT TO MAKE ALL CLAIMS UNDER ALL SUCH CONTRACTS AND POLICIES OF INSURANCE.</p>	Current

Search ID #: Z17062919

- 2 ALL LEASES OR OTHER CONTRACTS PURSUANT TO WHICH THE DEBTOR SHALL LEASE, SUBLEASE, CHARTER, OR PART WITH POSSESSION OF THE AIRCRAFT FOR COMPENSATION, INCLUDING ANY INTEREST OF THE DEBTOR IN ANY SUBLEASE OF THE AIRCRAFT AND ANY FURTHER SUBLEASES AND OTHER CONTRACTS PURSUANT TO WHICH SUBSEQUENT SUBLESSORS GIVE POSSESSION OF THE AIRCRAFT TO THE ULTIMATE OPERATOR THEREOF. Current
- ALL REPRESENTATIONS, WARRANTIES, COVENANTS AND INDEMNITIES OF ANY MANUFACTURER OR VENDOR OF AND WITH RESPECT TO THE AIRCRAFT IN ANY CONTRACT OR AGREEMENT BETWEEN THE DEBTOR AND SUCH MANUFACTURER OR VENDOR.
- ALL REPLACEMENTS, RENEWALS, ADDITIONS AND ACCESSIONS TO AND SUBSTITUTIONS FOR ANY OF THE FOREGOING COLLATERAL.
- PROCEEDS - GOODS, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, CHATTEL PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.
- ALL PROCEEDS OF ANY OF THE FOREGOING IN ANY FORM INCLUDING GOODS, INVENTORY, DOCUMENTS OF TITLE, CHATTEL PAPER, INVESTMENT PROPERTY, SECURITIES, INSTRUMENTS, MONEY, INTANGIBLES OR ANY OTHER PERSONAL PROPERTY RECEIVED WHEN SUCH COLLATERAL OR PROCEEDS ARE SOLD, COLLECTED OR OTHERWISE DISPOSED OF.

Particulars

<u>Block</u>	<u>Additional Information</u>	<u>Status</u>
1	WILMINGTON TRUST SP SERVICES (DUBLIN) LIMITED IS NOT ACTING IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE.	Current

Search ID #: Z17062919

Business Debtor Search For:

1263343 ALBERTA INC.

Search ID #: Z17062919

Date of Search: 2024-Feb-16

Time of Search: 11:15:01

Registration Number: 22070600947

Registration Date: 2022-Jul-06

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2036-Jul-06 23:59:59

Exact Match on: Debtor No: 1

Debtor(s)

Block

Status

1 1263343 ALBERTA INC.
3215 - 12TH STREET N.E
CALGARY, AB T2E 7S9

Current

Secured Party / Parties

Block

Status

1 WILMINGTON TRUST SP SERVICES (DUBLIN) LIMITED
FOURTH FLOOR, 3 GEORGE'S DOCK, IFSC
DUBLIN 1, XX D01 X5X0
Email: irishownertrusts@wilmingtontrust.com

Current

Collateral: Serial Number Goods

<u>Block</u>	<u>Serial Number</u>	<u>Year</u>	<u>Make and Model</u>	<u>Category</u>	<u>Status</u>
1	42847	2022	BOEING 737 MAX8	AC - Aircraft Canada	Current
2	CFULJ	2022	BOEING 737 MAX8	AC - Aircraft Canada	Current

Search ID #: Z17062919

Collateral: General

<u>Block</u>	<u>Description</u>	<u>Status</u>
1	<p>ONE (1) 2022 BOEING 737 MAX8 AIRFRAME BEARING MANUFACTURER'S SERIAL NUMBER 42847 AND CANADIAN REGISTRATION MARKS C-FULJ, TOGETHER WITH TWO (2) CFM INTERNATIONAL LEAP-1B27 AIRCRAFT ENGINES BEARING MANUFACTURER'S SERIAL NUMBERS 60A498 AND 603740, WHETHER OR NOT INSTALLED ON SUCH AIRFRAME, OR ANY SUBSTITUTE AIRCRAFT ENGINE FROM TIME TO TIME, AND ALL COMPONENTS, FURNISHINGS, EQUIPMENT OR OTHER PARTS OF ANY KIND WHICH MAY FROM TIME TO TIME BE INCORPORATED OR INSTALLED IN OR ATTACHED TO THE AIRFRAME OR ANY ENGINE FOR SO LONG AS THE SAME IS SO ATTACHED.</p> <p>ALL APPLIANCES, COMPONENTS, PARTS, INSTRUMENTS, NAVIGATIONAL AND COMMUNICATIONS EQUIPMENT, APPURTENANCES, ACCESSORIES, FURNISHINGS AND OTHER GOODS AND EQUIPMENT OF WHATEVER NATURE WHICH MAY FROM TIME TO TIME BE INCORPORATED OR INSTALLED IN OR ATTACHED TO THE FOREGOING AIRFRAME OR ENGINES (COLLECTIVELY, THE "PARTS") AND ANY PART WHICH AFTER REMOVAL FROM SUCH AIRFRAME OR ENGINE REMAINS SUBJECT TO THE SECURITY INTEREST IN RESPECT THEREOF. THE FOREGOING AIRFRAME, ENGINES AND PARTS ARE HEREINAFTER COLLECTIVELY REFERRED TO AS THE "AIRCRAFT".</p> <p>ANY AND ALL BILLS OF SALE IN RESPECT OF THE AIRCRAFT OR ANY PART THEREOF.</p> <p>ALL TECHNICAL DATA, MANUALS, LOG BOOKS, RECORDS, DOCUMENTS OF TITLE, AGREEMENTS, LICENSES, WARRANTIES, GUARANTEES, INDEMNIFICATIONS, SERVICE CONTRACTS, OWNERSHIP CERTIFICATES, AND OTHER DOCUMENTS IN ANY FORM EVIDENCING OR RELATING TO THE AIRCRAFT. ALL CONTRACTS OR POLICIES OF INSURANCE COVERING THE AIRCRAFT, ANY AND ALL BENEFITS, CLAIMS, INTANGIBLES, RIGHTS TO MONEY OR OTHER VALUE WHICH THE DEBTOR NOW HAS OR MAY HEREAFTER HAVE AS INDEMNITY OR COMPENSATION FOR LOSS OF OR DAMAGES TO SUCH COLLATERAL, AND THE RIGHT TO MAKE ALL CLAIMS UNDER ALL SUCH CONTRACTS AND POLICIES OF IN</p>	Current
2	<p>ALL LEASES OR OTHER CONTRACTS PURSUANT TO WHICH THE DEBTOR SHALL LEASE, SUBLEASE, CHARTER, OR PART WITH POSSESSION OF THE AIRCRAFT FOR COMPENSATION, INCLUDING ANY INTEREST OF THE DEBTOR IN ANY SUBLEASE OF THE AIRCRAFT AND ANY FURTHER SUBLEASES AND OTHER CONTRACTS PURSUANT TO WHICH SUBSEQUENT SUBLESSORS GIVE POSSESSION OF THE AIRCRAFT TO THE ULTIMATE OPERATOR THEREOF.</p> <p>ALL REPRESENTATIONS, WARRANTIES, COVENANTS AND INDEMNITIES OF ANY MANUFACTURER OR VENDOR OF AND WITH RESPECT TO THE AIRCRAFT IN ANY CONTRACT OR AGREEMENT BETWEEN THE DEBTOR AND SUCH MANUFACTURER OR VENDOR.</p> <p>ALL REPLACEMENTS, RENEWALS, ADDITIONS AND ACCESSIONS TO AND SUBSTITUTIONS FOR ANY OF THE FOREGOING COLLATERAL.</p> <p>PROCEEDS - GOODS, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, CHATTEL PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.</p> <p>ALL PROCEEDS OF ANY OF THE FOREGOING IN ANY FORM INCLUDING GOODS, INVENTORY, DOCUMENTS OF TITLE, CHATTEL PAPER, INVESTMENT PROPERTY, SECURITIES, INSTRUMENTS, MONEY, INTANGIBLES OR ANY OTHER PERSONAL PROPERTY RECEIVED WHEN SUCH COLLATERAL OR PROCEEDS ARE SOLD, COLLECTED OR OTHERWISE DISPOSED OF.</p>	Current

Search ID #: Z17062919

Particulars

<u>Block</u>	<u>Additional Information</u>	<u>Status</u>
1	THE FULL NAME AND ADDRESS OF THE SECURED PARTY IS: WILMINGTON TRUST SP SERVICES (DUBLIN) LIMITED, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE FOURTH FLOOR, 3 GEORGE'S DOCK, IFSC, DUBLIN 1, D01 X5X0 ATTN: IRISH OWNER TRUSTS	Current

Search ID #: Z17062919

Business Debtor Search For:

1263343 ALBERTA INC.

Search ID #: Z17062919

Date of Search: 2024-Feb-16

Time of Search: 11:15:01

Registration Number: 22082501008

Registration Date: 2022-Aug-25

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2036-Aug-25 23:59:59

Exact Match on: Debtor No: 1

Debtor(s)

Block

Status

1 1263343 ALBERTA INC.
3215 - 12TH STREET N.E.
CALGARY, AB T2E 7S9

Current

Secured Party / Parties

Block

Status

1 WILMINGTON TRUST SP SERVICES (DUBLIN) LIMITED
FOURTH FLOOR, 3 GEORGE'S DOCK, IFSC
DUBLIN 1, XX D01 X5X0
Email: irishownertrusts@wilmingtontrust.com

Current

Collateral: Serial Number Goods

<u>Block</u>	<u>Serial Number</u>	<u>Year</u>	<u>Make and Model</u>	<u>Category</u>	<u>Status</u>
1	CGULN	2022	BOEING 737-MAX8	AC - Aircraft Canada	Current
2	42845	2022	BOEING 737-MAX8	AC - Aircraft Canada	Current

Search ID #: Z17062919

Collateral: General

<u>Block</u>	<u>Description</u>	<u>Status</u>
1	<p>ONE (1) 2022 BOEING 737 MAX8 AIRFRAME BEARING MANUFACTURER'S SERIAL NUMBER 42845 AND CANADIAN REGISTRATION MARKS C-GULN, TOGETHER WITH TWO (2) CFM INTERNATIONAL LEAP-1B27 AIRCRAFT ENGINES BEARING MANUFACTURER'S SERIAL NUMBERS 603642 AND 603643, WHETHER OR NOT INSTALLED ON SUCH AIRFRAME, OR ANY SUBSTITUTE AIRCRAFT ENGINE FROM TIME TO TIME, AND ALL COMPONENTS, FURNISHINGS, EQUIPMENT OR OTHER PARTS OF ANY KIND WHICH MAY FROM TIME TO TIME BE INCORPORATED OR INSTALLED IN OR ATTACHED TO THE AIRFRAME OR ANY ENGINE FOR SO LONG AS THE SAME IS SO ATTACHED.</p> <p>ALL APPLIANCES, COMPONENTS, PARTS, INSTRUMENTS, NAVIGATIONAL AND COMMUNICATIONS EQUIPMENT, APPURTENANCES, ACCESSORIES, FURNISHINGS AND OTHER GOODS AND EQUIPMENT OF WHATEVER NATURE WHICH MAY FROM TIME TO TIME BE INCORPORATED OR INSTALLED IN OR ATTACHED TO THE FOREGOING AIRFRAME OR ENGINES (COLLECTIVELY, THE "PARTS") AND ANY PART WHICH AFTER REMOVAL FROM SUCH AIRFRAME OR ENGINE REMAINS SUBJECT TO THE SECURITY INTEREST IN RESPECT THEREOF. THE FOREGOING AIRFRAME, ENGINES AND PARTS ARE HEREINAFTER COLLECTIVELY REFERRED TO AS THE "AIRCRAFT".</p> <p>ANY AND ALL BILLS OF SALE IN RESPECT OF THE AIRCRAFT OR ANY PART THEREOF.</p> <p>ALL TECHNICAL DATA, MANUALS, LOG BOOKS, RECORDS, DOCUMENTS OF TITLE, AGREEMENTS, LICENSES, WARRANTIES, GUARANTEES, INDEMNIFICATIONS, SERVICE CONTRACTS, OWNERSHIP CERTIFICATES, AND OTHER DOCUMENTS IN ANY FORM EVIDENCING OR RELATING TO THE AIRCRAFT. ALL CONTRACTS OR POLICIES OF INSURANCE COVERING THE AIRCRAFT, ANY AND ALL BENEFITS, CLAIMS, INTANGIBLES, RIGHTS TO MONEY OR OTHER VALUE WHICH THE DEBTOR NOW HAS OR MAY HEREAFTER HAVE AS INDEMNITY OR COMPENSATION FOR LOSS OF OR DAMAGES TO SUCH COLLATERAL, AND THE RIGHT TO MAKE ALL CLAIMS UNDER ALL SUCH CONTRACTS AND POLICIES OF INSURANCE.</p>	Current

Search ID #: Z17062919

- 2 ALL LEASES OR OTHER CONTRACTS PURSUANT TO WHICH THE DEBTOR SHALL LEASE, SUBLEASE, CHARTER, OR PART WITH POSSESSION OF THE AIRCRAFT FOR COMPENSATION, INCLUDING ANY INTEREST OF THE DEBTOR IN ANY SUBLEASE OF THE AIRCRAFT AND ANY FURTHER SUBLEASES AND OTHER CONTRACTS PURSUANT TO WHICH SUBSEQUENT SUBLESSORS GIVE POSSESSION OF THE AIRCRAFT TO THE ULTIMATE OPERATOR THEREOF. Current
- ALL REPRESENTATIONS, WARRANTIES, COVENANTS AND INDEMNITIES OF ANY MANUFACTURER OR VENDOR OF AND WITH RESPECT TO THE AIRCRAFT IN ANY CONTRACT OR AGREEMENT BETWEEN THE DEBTOR AND SUCH MANUFACTURER OR VENDOR.
- ALL REPLACEMENTS, RENEWALS, ADDITIONS AND ACCESSIONS TO AND SUBSTITUTIONS FOR ANY OF THE FOREGOING COLLATERAL.
- PROCEEDS - GOODS, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, CHATTEL PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.
- ALL PROCEEDS OF ANY OF THE FOREGOING IN ANY FORM INCLUDING GOODS, INVENTORY, DOCUMENTS OF TITLE, CHATTEL PAPER, INVESTMENT PROPERTY, SECURITIES, INSTRUMENTS, MONEY, INTANGIBLES OR ANY OTHER PERSONAL PROPERTY RECEIVED WHEN SUCH COLLATERAL OR PROCEEDS ARE SOLD, COLLECTED OR OTHERWISE DISPOSED OF.

Particulars

<u>Block</u>	<u>Additional Information</u>	<u>Status</u>
1	WILMINGTON TRUST SP SERVICES (DUBLIN) LIMITED IS ACTING, NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY AS OWNER TRUSTEE.	Current

Search ID #: Z17062919

Business Debtor Search For:

1263343 ALBERTA INC.

Search ID #: Z17062919

Date of Search: 2024-Feb-16

Time of Search: 11:15:01

Registration Number: 23022314776

Registration Type: SECURITY AGREEMENT

Registration Date: 2023-Feb-23

Registration Status: Current

Expiry Date: 2033-Feb-23 23:59:59

Exact Match on: Debtor No: 1

Debtor(s)

Block

Status

1 1263343 ALBERTA INC.
3215 - 12TH STREET NE
CALGARY, AB T2E7S9

Current

Block

Status

2 LYNX AIR HOLDINGS CORPORATION
3215 - 12TH STREET NE
CALGARY, AB T2E7S9

Current

Secured Party / Parties

Block

Status

1 INDIGO NORTHERN VENTURES LP
2525 E. CAMELBACK ROAD, SUITE 900
PHOENIX, AZ 85016
Email: wfranke@indigopartners.net

Current

Collateral: General

Block

Description

Status

1 ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY.

Current

Search ID #: Z17062919

Business Debtor Search For:

1263343 ALBERTA INC.

Search ID #: Z17062919

Date of Search: 2024-Feb-16

Time of Search: 11:15:01

Registration Number: 23042114857

Registration Date: 2023-Apr-21

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2037-Apr-21 23:59:59

Exact Match on: Debtor No: 1

Debtor(s)

Block

Status

1 1263343 ALBERTA INC.
123, 1440 AVIATION PARK NE
CALGARY, AB T2E 7E2

Current

Secured Party / Parties

Block

Status

1 BOC AVIATION LIMITED
8 SHENTON WAY #18 01
SINGAPORE, XX 068811
Email: notices@bocaviation.com

Current

Collateral: Serial Number Goods

<u>Block</u>	<u>Serial Number</u>	<u>Year</u>	<u>Make and Model</u>	<u>Category</u>	<u>Status</u>
1	66474	2023	BOEING 737-8	AC - Aircraft Canada	Current
2	CGLYX	2023	BOEING 737-8	AC - Aircraft Canada	Current

Search ID #: Z17062919

Collateral: General

<u>Block</u>	<u>Description</u>	<u>Status</u>
1	<p>ONE (1) 2023 BOEING 737-8 BEARING MANUFACTURER'S SERIAL NUMBER 66474 AND CANADIAN REGISTRATION MARKS C-GLYX, TOGETHER WITH TWO (2) CFM LEAP-1B25 AIRCRAFT ENGINES BEARING MANUFACTURER'S SERIAL NUMBERS 60B084 AND 60B127, WHETHER OR NOT INSTALLED ON SUCH AIRFRAME, OR ANY SUBSTITUTE AIRCRAFT ENGINE FROM TIME TO TIME, AND ALL COMPONENTS, FURNISHINGS, EQUIPMENT OR OTHER PARTS OF ANY KIND WHICH MAY FROM TIME TO TIME BE INCORPORATED OR INSTALLED IN OR ATTACHED TO THE AIRFRAME OR ANY ENGINE FOR SO LONG AS THE SAME IS SO ATTACHED.</p> <p>ALL APPLIANCES, COMPONENTS, PARTS, INSTRUMENTS, NAVIGATIONAL AND COMMUNICATIONS EQUIPMENT, APPURTENANCES, ACCESSORIES, FURNISHINGS AND OTHER GOODS AND EQUIPMENT OF WHATEVER NATURE WHICH MAY FROM TIME TO TIME BE INCORPORATED OR INSTALLED IN OR ATTACHED TO THE FOREGOING AIRFRAME OR ENGINES (COLLECTIVELY, THE "PARTS") AND ANY PART WHICH AFTER REMOVAL FROM SUCH AIRFRAME OR ENGINE REMAINS SUBJECT TO THE SECURITY INTEREST IN RESPECT THEREOF. THE FOREGOING AIRFRAME, ENGINES AND PARTS ARE HEREINAFTER COLLECTIVELY REFERRED TO AS THE "AIRCRAFT".</p> <p>ANY AND ALL BILLS OF SALE IN RESPECT OF THE AIRCRAFT OR ANY PART THEREOF.</p> <p>ALL TECHNICAL DATA, MANUALS, LOG BOOKS, RECORDS, DOCUMENTS OF TITLE, AGREEMENTS, LICENSES, WARRANTIES, GUARANTEES, INDEMNIFICATIONS, SERVICE CONTRACTS, OWNERSHIP CERTIFICATES, AND OTHER DOCUMENTS IN ANY FORM EVIDENCING OR RELATING TO THE AIRCRAFT. ALL CONTRACTS OR POLICIES OF INSURANCE COVERING THE AIRCRAFT, ANY AND ALL BENEFITS, CLAIMS, INTANGIBLES, RIGHTS TO MONEY OR OTHER VALUE WHICH THE DEBTOR NOW HAS OR MAY HEREAFTER HAVE AS INDEMNITY OR COMPENSATION FOR LOSS OF OR DAMAGES TO SUCH COLLATERAL, AND THE RIGHT TO MAKE ALL CLAIMS UNDER ALL SUCH CONTRACTS AND POLICIES OF INSURANCE.</p>	Current

Search ID #: Z17062919

- 2 ALL LEASES OR OTHER CONTRACTS PURSUANT TO WHICH THE DEBTOR SHALL Current
LEASE, SUBLEASE, CHARTER, OR PART WITH POSSESSION OF THE AIRCRAFT
FOR COMPENSATION, INCLUDING ANY INTEREST OF THE DEBTOR IN ANY
SUBLEASE OF THE AIRCRAFT AND ANY FURTHER SUBLEASES AND OTHER
CONTRACTS PURSUANT TO WHICH SUBSEQUENT SUBLESSORS GIVE
POSSESSION OF THE AIRCRAFT TO THE ULTIMATE OPERATOR THEREOF.
- ALL REPRESENTATIONS, WARRANTIES, COVENANTS AND INDEMNITIES OF ANY
MANUFACTURER OR VENDOR OF AND WITH RESPECT TO THE AIRCRAFT IN ANY
CONTRACT OR AGREEMENT BETWEEN THE DEBTOR AND SUCH MANUFACTURER
OR VENDOR.
- ALL REPLACEMENTS, RENEWALS, ADDITIONS AND ACCESSIONS TO AND
SUBSTITUTIONS FOR ANY OF THE FOREGOING COLLATERAL.
- PROCEEDS - GOODS, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, CHATTEL
PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.
- ALL PROCEEDS OF ANY OF THE FOREGOING IN ANY FORM INCLUDING GOODS,
INVENTORY, DOCUMENTS OF TITLE, CHATTEL PAPER, INVESTMENT PROPERTY,
SECURITIES, INSTRUMENTS, MONEY, INTANGIBLES OR ANY OTHER PERSONAL
PROPERTY RECEIVED WHEN SUCH COLLATERAL OR PROCEEDS ARE SOLD,
COLLECTED OR OTHERWISE DISPOSED OF.

Search ID #: Z17062919

Business Debtor Search For:

1263343 ALBERTA INC.

Search ID #: Z17062919

Date of Search: 2024-Feb-16

Time of Search: 11:15:01

Registration Number: 23042502458

Registration Type: SECURITY AGREEMENT

Registration Date: 2023-Apr-25

Registration Status: Current

Expiry Date: 2033-Apr-25 23:59:59

Exact Match on:

Debtor

No: 2

Amendments to Registration

23051030066

Amendment

2023-May-10

Debtor(s)

Block

1 1263343 ALBERTA INC.
123, 1440 AVIATION PARK NE
CALGARY, AB T2E 7E2

Status

Deleted by
23051030066

Block

2 1263343 ALBERTA INC.
3215 - 12 STREET NE
CALGARY, AB T2E 7S9

Status

Current by
23051030066

Secured Party / Parties

Block

1 ENGINE LEASE FINANCE CORPORATION
BUILDING 156, SHANNON FREE ZONE
SHANNON, COUNTY CLARE, XX V14 VH70
Email: notices@elfc.com

Status

Current

Search ID #: Z17062919

Collateral: General

<u>Block</u>	<u>Description</u>	<u>Status</u>
1	<p>(I) ONE (1) LEAP 1B-25 ENGINE BEARING MANUFACTURER'S SERIAL NUMBER 60B294 (DESCRIBED ON THE INTERNATIONAL REGISTRY AS CFM MODEL LEAP-1B) (THE "ENGINE") TOGETHER WITH ENGINE TRANSPORTATION STAND AND (II) ALL SUBSTITUTED, RENEWED AND REPLACEMENT APPLIANCES, ACCESSORIES, MODULES, COMPONENTS AND OTHER ITEMS OF EQUIPMENT APPROVED FOR USE BY THE MANUFACTURER OF THE ENGINE, INCLUDING WITHOUT LIMITATION ANY QUICK ENGINE CHANGE UNITS WHICH MAY FROM TIME TO TIME BE INSTALLED ON THE ENGINE (INCLUDING (1) QEC KIT P/N QECMX737-288)) OR ANY OF THE AFORESAID (COLLECTIVELY, THE "PARTS") AT ANY PARTICULAR TIME INCORPORATED OR INSTALLED IN OR ON SUCH ENGINE OR RELATING TO SUCH ENGINE.</p> <p>ALL RECORDS, MANUALS AND OTHER DOCUMENTS WHICH SHALL BE MAINTAINED IN THE ENGLISH LANGUAGE (WHETHER IN PAPER FORM OR IN A COMPUTER/ELECTRONIC READABLE FORM) RELATING TO THE ENGINE AND ANY PART RELATING THERETO.</p> <p>ALL CONTRACTS OR POLICIES OF INSURANCE OR REINSURANCE COVERING THE ENGINE, ANY AND ALL BENEFITS, CLAIMS, INTANGIBLES, RIGHTS TO MONEY OR OTHER VALUE WHICH THE DEBTOR NOW HAS OR MAY HEREAFTER HAVE AS INDEMNITY OR COMPENSATION FOR LOSS OF OR DAMAGE TO SUCH COLLATERAL INCLUDING THE BENEFIT, RIGHTS, TITLE, AND INTEREST IN AND TO THE PROCEEDS OF THE POLICIES OF INSURANCE OR REINSURANCE, AND ALL BENEFIT OF, AND ALL RIGHT TO MAKE ALL CLAIMS UNDER ALL SUCH CONTRACTS AND POLICIES OF INSURANCE OR REINSURANCE.</p> <p>ANY AND ALL MONEYS OR OTHER COMPENSATION FROM TIME TO TIME PAYABLE IN RESPECT OF ANY REQUISITION OF TITLE OR OTHER COMPULSORY ACQUISITION, REQUISITION, APPROPRIATION, EXPROPRIATION, DEPRIVATION OR CONFISCATION FOR ANY REASON OF THE ENGINE OR ANY PART THEREOF.</p>	Current

Search ID #: Z17062919

- 2 ALL LEASES, SUBLEASES OR OTHER CONTRACTS PURSUANT TO WHICH THE DEBTOR SHALL LEASE, SUBLEASE, CHARTER, OR PART WITH POSSESSION OF THE ENGINE AND ANY PAYMENTS UNDER SUCH LEASES, SUBLEASES OR OTHER CONTRACTS, INCLUDING ANY INTEREST OF THE DEBTOR IN ANY SUBLEASE OF THE ENGINE AND ANY FURTHER SUBLEASES AND OTHER CONTRACTS PURSUANT TO WHICH SUBSEQUENT SUBLESSORS GIVE POSSESSION OF THE ENGINE TO THE ULTIMATE OPERATOR THEREOF. Current
- ALL WARRANTIES, REPRESENTATIONS, INDEMNITIES, SERVICE CONTRACTS, PRODUCT SUPPORT OR OTHER AGREEMENTS OF ANY NATURE IN RESPECT OF OR THAT SHALL APPLY TO THE ENGINE OR ANY PART THEREOF FROM ANY MANUFACTURER, VENDOR, CONTRACTOR OR SUPPLIER THEREOF.
- ALL RIGHT, TITLE AND INTEREST UNDER ANY TRUST AGREEMENT RELATING TO THE ENGINE, INCLUDING ANY TRUST ESTATE CREATED THEREBY AND ALL RIGHTS TO ANY OF THE FOREGOING COLLATERAL THEREUNDER.
- ALL REPLACEMENTS, RENEWALS, ADDITIONS AND ACCESSIONS TO AND SUBSTITUTIONS FOR ANY OF THE FOREGOING COLLATERAL.
- PROCEEDS: ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED GOODS, INVENTORY, INVESTMENT PROPERTY, INSTRUMENTS, DOCUMENTS OF TITLE, CHATTEL PAPER, INTANGIBLES AND MONEY, ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT OF ALBERTA AND, REGULATIONS THEREUNDER, DERIVED DIRECTLY OR INDIRECTLY FROM ANY SALE OF, DISPOSAL OF OR DEALING WITH THE ENGINE OR ANY PART THEREOF.

Search ID #: Z17062919

Business Debtor Search For:

1263343 ALBERTA INC.

Search ID #: Z17062919

Date of Search: 2024-Feb-16

Time of Search: 11:15:01

Registration Number: 23051026424

Registration Date: 2023-May-10

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2033-May-10 23:59:59

Exact Match on:

Debtor

No: 1

Amendments to Registration

23051804294

Amendment

2023-May-18

23051819064

Amendment

2023-May-18

Debtor(s)

Block

Status

1 1263343 ALBERTA INC.
3215 - 12 STREET NE
CALGARY, AB T2E 7S9

Current

Secured Party / Parties

Block

Status

1 ENGINE LEASE FINANCE CORPORATION
BUILDING 156, SHANNON FREE ZONE
SHANNON, COUNTY CLARE, XX V14 VH70
Email: notices@elfc.com

Current

Search ID #: Z17062919

Collateral: General

<u>Block</u>	<u>Description</u>	<u>Status</u>
1	<p>(I) ONE (1) LEAP 1B-25 ENGINE BEARING MANUFACTURER'S SERIAL NUMBER 60B324 (DESCRIBED ON THE INTERNATIONAL REGISTRY AS CFM MODEL LEAP-1B) (THE "ENGINE") TOGETHER WITH ENGINE TRANSPORTATION STAND AND (II) ALL SUBSTITUTED, RENEWED AND REPLACEMENT APPLIANCES, ACCESSORIES, MODULES, COMPONENTS AND OTHER ITEMS OF EQUIPMENT APPROVED FOR USE BY THE MANUFACTURER OF THE ENGINE, INCLUDING WITHOUT LIMITATION ANY QUICK ENGINE CHANGE UNITS WHICH MAY FROM TIME TO TIME BE INSTALLED ON THE ENGINE (INCLUDING (1) QEC KIT P/N #####) OR ANY OF THE AFORESAID (COLLECTIVELY, THE "PARTS") AT ANY PARTICULAR TIME INCORPORATED OR INSTALLED IN OR ON SUCH ENGINE OR RELATING TO SUCH ENGINE.</p> <p>ALL RECORDS, MANUALS AND OTHER DOCUMENTS WHICH SHALL BE MAINTAINED IN THE ENGLISH LANGUAGE (WHETHER IN PAPER FORM OR IN A COMPUTER/ELECTRONIC READABLE FORM) RELATING TO THE ENGINE AND ANY PART RELATING THERETO.</p> <p>ALL CONTRACTS OR POLICIES OF INSURANCE OR REINSURANCE COVERING THE ENGINE, ANY AND ALL BENEFITS, CLAIMS, INTANGIBLES, RIGHTS TO MONEY OR OTHER VALUE WHICH THE DEBTOR NOW HAS OR MAY HEREAFTER HAVE AS INDEMNITY OR COMPENSATION FOR LOSS OF OR DAMAGE TO SUCH COLLATERAL INCLUDING THE BENEFIT, RIGHTS, TITLE, AND INTEREST IN AND TO THE PROCEEDS OF THE POLICIES OF INSURANCE OR REINSURANCE, AND ALL BENEFIT OF, AND ALL RIGHT TO MAKE ALL CLAIMS UNDER ALL SUCH CONTRACTS AND POLICIES OF INSURANCE OR REINSURANCE.</p> <p>ANY AND ALL MONEYS OR OTHER COMPENSATION FROM TIME TO TIME PAYABLE IN RESPECT OF ANY REQUISITION OF TITLE OR OTHER COMPULSORY ACQUISITION, REQUISITION, APPROPRIATION, EXPROPRIATION, DEPRIVATION OR CONFISCATION FOR ANY REASON OF THE ENGINE OR ANY PART THEREOF.</p>	Deleted By 23051804294

Search ID #: Z17062919

- 2 ALL LEASES, SUBLEASES OR OTHER CONTRACTS PURSUANT TO WHICH THE DEBTOR SHALL LEASE, SUBLEASE, CHARTER, OR PART WITH POSSESSION OF THE ENGINE AND ANY PAYMENTS UNDER SUCH LEASES, SUBLEASES OR OTHER CONTRACTS, INCLUDING ANY INTEREST OF THE DEBTOR IN ANY SUBLEASE OF THE ENGINE AND ANY FURTHER SUBLEASES AND OTHER CONTRACTS PURSUANT TO WHICH SUBSEQUENT SUBLESSORS GIVE POSSESSION OF THE ENGINE TO THE ULTIMATE OPERATOR THEREOF. Deleted By 23051819064
- ALL WARRANTIES, REPRESENTATIONS, INDEMNITIES, SERVICE CONTRACTS, PRODUCT SUPPORT OR OTHER AGREEMENTS OF ANY NATURE IN RESPECT OF OR THAT SHALL APPLY TO THE ENGINE OR ANY PART THEREOF FROM ANY MANUFACTURER, VENDOR, CONTRACTOR OR SUPPLIER THEREOF.
- ALL RIGHT, TITLE AND INTEREST UNDER ANY TRUST AGREEMENT RELATING TO THE ENGINE, INCLUDING ANY TRUST ESTATE CREATED THEREBY AND ALL RIGHTS TO ANY OF THE FOREGOING COLLATERAL THEREUNDER.
- ALL REPLACEMENTS, RENEWALS, ADDITIONS AND ACCESSIONS TO AND SUBSTITUTIONS FOR ANY OF THE FOREGOING COLLATERAL.
- PROCEEDS: ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED GOODS, INVENTORY, INVESTMENT PROPERTY, INSTRUMENTS, DOCUMENTS OF TITLE, CHATTEL PAPER, INTANGIBLES AND MONEY, ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT OF ALBERTA AND, REGULATIONS THEREUNDER, DERIVED DIRECTLY OR INDIRECTLY FROM ANY SALE OF, DISPOSAL OF OR DEALING WITH THE ENGINE OR ANY PART THEREOF.
- 3 (I) ONE (1) LEAP 1B-25 ENGINE BEARING MANUFACTURER'S SERIAL NUMBER 60B324 (DESCRIBED ON THE INTERNATIONAL REGISTRY AS CFM MODEL LEAP-1B) (THE "ENGINE") TOGETHER WITH ENGINE TRANSPORTATION STAND AND (II) ALL SUBSTITUTED, RENEWED AND REPLACEMENT APPLIANCES, ACCESSORIES, MODULES, COMPONENTS AND OTHER ITEMS OF EQUIPMENT APPROVED FOR USE BY THE MANUFACTURER OF THE ENGINE, INCLUDING WITHOUT LIMITATION ANY QUICK ENGINE Deleted By 23051819064
- CHANGE UNITS WHICH MAY FROM TIME TO TIME BE INSTALLED ON THE ENGINE (INCLUDING (1) QEC KIT P/N QECMX737-373) OR ANY OF THE AFORESAID (COLLECTIVELY, THE "PARTS") AT ANY PARTICULAR TIME INCORPORATED OR INSTALLED IN OR ON SUCH ENGINE OR RELATING TO SUCH ENGINE.

Search ID #: Z17062919

- 4 (I) ONE (1) LEAP 1B-25 ENGINE BEARING MANUFACTURER'S SERIAL NUMBER 60B324 (DESCRIBED ON THE INTERNATIONAL REGISTRY AS CFM MODEL LEAP-1B) (THE "ENGINE") TOGETHER WITH ENGINE TRANSPORTATION STAND AND (II) ALL SUBSTITUTED, RENEWED AND REPLACEMENT APPLIANCES, ACCESSORIES, MODULES, COMPONENTS AND OTHER ITEMS OF EQUIPMENT APPROVED FOR USE BY THE MANUFACTURER OF THE ENGINE, INCLUDING WITHOUT LIMITATION ANY QUICK ENGINE CHANGE UNITS WHICH MAY FROM TIME TO TIME BE INSTALLED ON THE ENGINE (INCLUDING (1) QEC KIT P/N QECMX737-373) OR ANY OF THE AFORESAID (COLLECTIVELY, THE "PARTS") AT ANY PARTICULAR TIME INCORPORATED OR INSTALLED IN OR ON SUCH ENGINE OR RELATING TO SUCH ENGINE. Current By
23051819064
- ALL RECORDS, MANUALS AND OTHER DOCUMENTS WHICH SHALL BE MAINTAINED IN THE ENGLISH LANGUAGE (WHETHER IN PAPER FORM OR IN A COMPUTER/ELECTRONIC READABLE FORM) RELATING TO THE ENGINE AND ANY PART RELATING THERETO.
- ALL CONTRACTS OR POLICIES OF INSURANCE OR REINSURANCE COVERING THE ENGINE, ANY AND ALL BENEFITS, CLAIMS, INTANGIBLES, RIGHTS TO MONEY OR OTHER VALUE WHICH THE DEBTOR NOW HAS OR MAY HEREAFTER HAVE AS INDEMNITY OR COMPENSATION FOR LOSS OF OR DAMAGE TO SUCH COLLATERAL INCLUDING THE BENEFIT, RIGHTS, TITLE, AND INTEREST IN AND TO THE PROCEEDS OF THE POLICIES OF INSURANCE OR REINSURANCE, AND ALL BENEFIT OF, AND ALL RIGHT TO MAKE ALL CLAIMS UNDER ALL SUCH CONTRACTS AND POLICIES OF INSURANCE OR REINSURANCE.
- ANY AND ALL MONEYS OR OTHER COMPENSATION FROM TIME TO TIME PAYABLE IN RESPECT OF ANY REQUISITION OF TITLE OR OTHER COMPULSORY ACQUISITION, REQUISITION, APPROPRIATION, EXPROPRIATION, DEPRIVATION OR CONFISCATION FOR ANY REASON OF THE ENGINE OR ANY PART THEREOF.
- 5 ALL LEASES, SUBLEASES OR OTHER CONTRACTS PURSUANT TO WHICH THE DEBTOR SHALL LEASE, SUBLEASE, CHARTER, OR PART WITH POSSESSION OF THE ENGINE AND ANY PAYMENTS UNDER SUCH LEASES, SUBLEASES OR OTHER CONTRACTS, INCLUDING ANY INTEREST OF THE DEBTOR IN ANY SUBLEASE OF THE ENGINE AND ANY FURTHER SUBLEASES AND OTHER CONTRACTS PURSUANT TO WHICH SUBSEQUENT SUBLESSORS GIVE POSSESSION OF THE ENGINE TO THE ULTIMATE OPERATOR THEREOF. Current By
23051819064
- ALL WARRANTIES, REPRESENTATIONS, INDEMNITIES, SERVICE CONTRACTS, PRODUCT SUPPORT OR OTHER AGREEMENTS OF ANY NATURE IN RESPECT OF OR THAT SHALL APPLY TO THE ENGINE OR ANY PART THEREOF FROM ANY MANUFACTURER, VENDOR, CONTRACTOR OR SUPPLIER THEREOF.
- ALL RIGHT, TITLE AND INTEREST UNDER ANY TRUST AGREEMENT RELATING TO THE ENGINE, INCLUDING ANY TRUST ESTATE CREATED THEREBY AND ALL RIGHTS TO ANY OF THE FOREGOING COLLATERAL THEREUNDER.
- ALL REPLACEMENTS, RENEWALS, ADDITIONS AND ACCESSIONS TO AND SUBSTITUTIONS FOR ANY OF THE FOREGOING COLLATERAL.
- PROCEEDS: ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED GOODS, INVENTORY, INVESTMENT PROPERTY, INSTRUMENTS, DOCUMENTS OF TITLE, CHATTEL PAPER, INTANGIBLES AND MONEY, ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT OF ALBERTA AND, REGULATIONS THEREUNDER, DERIVED DIRECTLY OR INDIRECTLY FROM ANY SALE OF, DISPOSAL OF OR DEALING WITH THE ENGINE OR ANY PART THEREOF.

Search ID #: Z17062919

Business Debtor Search For:

1263343 ALBERTA INC.

Search ID #: Z17062919

Date of Search: 2024-Feb-16

Time of Search: 11:15:01

Registration Number: 23072400539

Registration Date: 2023-Jul-24

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2037-Jul-24 23:59:59

Exact Match on:

Debtor

No: 1

Debtor(s)

Block

Status

1 1263343 ALBERTA INC.
3215 12 ST NE
CALGARY, AB T2E 7S9

Current

Secured Party / Parties

Block

Status

1 BOC AVIATION LIMITED
79 ROBINSON ROAD #15-01
SINGAPORE, XX 068897
Email: notices@bocaviation.com

Current

Collateral: Serial Number Goods

<u>Block</u>	<u>Serial Number</u>	<u>Year</u>	<u>Make and Model</u>	<u>Category</u>	<u>Status</u>
1	63383	2023	BOEING 737-8	AC - Aircraft Canada	Current
2	CGJHK	2023	BOEING 737-8	AC - Aircraft Canada	Current

Search ID #: Z17062919

Collateral: General

<u>Block</u>	<u>Description</u>	<u>Status</u>
1	<p>ONE (1) 2023 BOEING 737-8 BEARING MANUFACTURER'S SERIAL NUMBER 63383 AND CANADIAN REGISTRATION MARKS C-GJHK, TOGETHER WITH TWO (2) CFM LEAP-1B25 AIRCRAFT ENGINES BEARING MANUFACTURER'S SERIAL NUMBERS 60B346 AND 60B373, WHETHER OR NOT INSTALLED ON SUCH AIRFRAME, OR ANY SUBSTITUTE AIRCRAFT ENGINE FROM TIME TO TIME, AND ALL COMPONENTS, FURNISHINGS, EQUIPMENT OR OTHER PARTS OF ANY KIND WHICH MAY FROM TIME TO TIME BE INCORPORATED OR INSTALLED IN OR ATTACHED TO THE AIRFRAME OR ANY ENGINE FOR SO LONG AS THE SAME IS SO ATTACHED.</p> <p>ALL APPLIANCES, COMPONENTS, PARTS, INSTRUMENTS, NAVIGATIONAL AND COMMUNICATIONS EQUIPMENT, APPURTENANCES, ACCESSORIES, FURNISHINGS AND OTHER GOODS AND EQUIPMENT OF WHATEVER NATURE WHICH MAY FROM TIME TO TIME BE INCORPORATED OR INSTALLED IN OR ATTACHED TO THE FOREGOING AIRFRAME OR ENGINES (COLLECTIVELY, THE "PARTS") AND ANY PART WHICH AFTER REMOVAL FROM SUCH AIRFRAME OR ENGINE REMAINS SUBJECT TO THE SECURITY INTEREST IN RESPECT THEREOF. THE FOREGOING AIRFRAME, ENGINES AND PARTS ARE HEREINAFTER COLLECTIVELY REFERRED TO AS THE "AIRCRAFT".</p> <p>ANY AND ALL BILLS OF SALE IN RESPECT OF THE AIRCRAFT OR ANY PART THEREOF.</p> <p>ALL TECHNICAL DATA, MANUALS, LOG BOOKS, RECORDS, DOCUMENTS OF TITLE, AGREEMENTS, LICENSES, WARRANTIES, GUARANTEES, INDEMNIFICATIONS, SERVICE CONTRACTS, OWNERSHIP CERTIFICATES, AND OTHER DOCUMENTS IN ANY FORM EVIDENCING OR RELATING TO THE AIRCRAFT. ALL CONTRACTS OR POLICIES OF INSURANCE COVERING THE AIRCRAFT, ANY AND ALL BENEFITS, CLAIMS, INTANGIBLES, RIGHTS TO MONEY OR OTHER VALUE WHICH THE DEBTOR NOW HAS OR MAY HEREAFTER HAVE AS INDEMNITY OR COMPENSATION FOR LOSS OF OR DAMAGES TO SUCH COLLATERAL, AND THE RIGHT TO MAKE ALL CLAIMS UNDER ALL SUCH CONTRACTS AND POLICIES OF INSURANCE.</p>	Current

Search ID #: Z17062919

- 2 ALL LEASES OR OTHER CONTRACTS PURSUANT TO WHICH THE DEBTOR SHALL Current
LEASE, SUBLEASE, CHARTER, OR PART WITH POSSESSION OF THE AIRCRAFT
FOR COMPENSATION, INCLUDING ANY INTEREST OF THE DEBTOR IN ANY
SUBLEASE OF THE AIRCRAFT AND ANY FURTHER SUBLEASES AND OTHER
CONTRACTS PURSUANT TO WHICH SUBSEQUENT SUBLESSORS GIVE
POSSESSION OF THE AIRCRAFT TO THE ULTIMATE OPERATOR THEREOF.
- ALL REPRESENTATIONS, WARRANTIES, COVENANTS AND INDEMNITIES OF ANY
MANUFACTURER OR VENDOR OF AND WITH RESPECT TO THE AIRCRAFT IN ANY
CONTRACT OR AGREEMENT BETWEEN THE DEBTOR AND SUCH MANUFACTURER
OR VENDOR.
- ALL REPLACEMENTS, RENEWALS, ADDITIONS AND ACCESSIONS TO AND
SUBSTITUTIONS FOR ANY OF THE FOREGOING COLLATERAL.
- PROCEEDS - GOODS, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, CHATTEL
PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.
- ALL PROCEEDS OF ANY OF THE FOREGOING IN ANY FORM INCLUDING GOODS,
INVENTORY, DOCUMENTS OF TITLE, CHATTEL PAPER, INVESTMENT PROPERTY,
SECURITIES, INSTRUMENTS, MONEY, INTANGIBLES OR ANY OTHER PERSONAL
PROPERTY RECEIVED WHEN SUCH COLLATERAL OR PROCEEDS ARE SOLD,
COLLECTED OR OTHERWISE DISPOSED OF.

Search ID #: Z17062919

Business Debtor Search For:

1263343 ALBERTA INC.

Search ID #: Z17062919

Date of Search: 2024-Feb-16

Time of Search: 11:15:01

Registration Number: 23080827927

Registration Date: 2023-Aug-08

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2037-Aug-08 23:59:59

Exact Match on:

Debtor

No: 1

Debtor(s)

Block

Status

1 1263343 ALBERTA INC.
3215 12 ST NE
CALGARY, AB T2E 7S9

Current

Secured Party / Parties

Block

Status

1 BOC AVIATION LIMITED
79 ROBINSON ROAD #15-01
SINGAPORE, XX 068897
Email: notices@bocaviation.com

Current

Collateral: Serial Number Goods

<u>Block</u>	<u>Serial Number</u>	<u>Year</u>	<u>Make and Model</u>	<u>Category</u>	<u>Status</u>
1	63382	2023	BOEING 737-8	AC - Aircraft Canada	Current
2	CFTHF	2023	BOEING 737-8	AC - Aircraft Canada	Current

Search ID #: Z17062919

Collateral: General

<u>Block</u>	<u>Description</u>	<u>Status</u>
1	<p>ONE (1) 2023 BOEING 737-8 BEARING MANUFACTURER'S SERIAL NUMBER 63382 AND CANADIAN REGISTRATION MARKS C-FTHF, TOGETHER WITH TWO (2) CFM LEAP-1B25 AIRCRAFT ENGINES BEARING MANUFACTURER'S SERIAL NUMBERS 60B356 AND 60B361, WHETHER OR NOT INSTALLED ON SUCH AIRFRAME, OR ANY SUBSTITUTE AIRCRAFT ENGINE FROM TIME TO TIME, AND ALL COMPONENTS, FURNISHINGS, EQUIPMENT OR OTHER PARTS OF ANY KIND WHICH MAY FROM TIME TO TIME BE INCORPORATED OR INSTALLED IN OR ATTACHED TO THE AIRFRAME OR ANY ENGINE FOR SO LONG AS THE SAME IS SO ATTACHED.</p> <p>ALL APPLIANCES, COMPONENTS, PARTS, INSTRUMENTS, NAVIGATIONAL AND COMMUNICATIONS EQUIPMENT, APPURTENANCES, ACCESSORIES, FURNISHINGS AND OTHER GOODS AND EQUIPMENT OF WHATEVER NATURE WHICH MAY FROM TIME TO TIME BE INCORPORATED OR INSTALLED IN OR ATTACHED TO THE FOREGOING AIRFRAME OR ENGINES (COLLECTIVELY, THE "PARTS") AND ANY PART WHICH AFTER REMOVAL FROM SUCH AIRFRAME OR ENGINE REMAINS SUBJECT TO THE SECURITY INTEREST IN RESPECT THEREOF. THE FOREGOING AIRFRAME, ENGINES AND PARTS ARE HEREINAFTER COLLECTIVELY REFERRED TO AS THE "AIRCRAFT".</p> <p>ANY AND ALL BILLS OF SALE IN RESPECT OF THE AIRCRAFT OR ANY PART THEREOF.</p>	Current

Search ID #: Z17062919

2 ALL TECHNICAL DATA, MANUALS, LOG BOOKS, RECORDS, DOCUMENTS OF TITLE, Current AGREEMENTS, LICENSES, WARRANTIES, GUARANTEES, INDEMNIFICATIONS, SERVICE CONTRACTS, OWNERSHIP CERTIFICATES, AND OTHER DOCUMENTS IN ANY FORM EVIDENCING OR RELATING TO THE AIRCRAFT. ALL CONTRACTS OR POLICIES OF INSURANCE COVERING THE AIRCRAFT, ANY AND ALL BENEFITS, CLAIMS, INTANGIBLES, RIGHTS TO MONEY OR OTHER VALUE WHICH THE DEBTOR NOW HAS OR MAY HEREAFTER HAVE AS INDEMNITY OR COMPENSATION FOR LOSS OF OR DAMAGES TO SUCH COLLATERAL, AND THE RIGHT TO MAKE ALL CLAIMS UNDER ALL SUCH CONTRACTS AND POLICIES OF INSURANCE.

ALL LEASES OR OTHER CONTRACTS PURSUANT TO WHICH THE DEBTOR SHALL LEASE, SUBLEASE, CHARTER, OR PART WITH POSSESSION OF THE AIRCRAFT FOR COMPENSATION, INCLUDING ANY INTEREST OF THE DEBTOR IN ANY SUBLEASE OF THE AIRCRAFT AND ANY FURTHER SUBLEASES AND OTHER CONTRACTS PURSUANT TO WHICH SUBSEQUENT SUBLESSORS GIVE POSSESSION OF THE AIRCRAFT TO THE ULTIMATE OPERATOR THEREOF.

ALL REPRESENTATIONS, WARRANTIES, COVENANTS AND INDEMNITIES OF ANY MANUFACTURER OR VENDOR OF AND WITH RESPECT TO THE AIRCRAFT IN ANY CONTRACT OR AGREEMENT BETWEEN THE DEBTOR AND SUCH MANUFACTURER OR VENDOR.

ALL REPLACEMENTS, RENEWALS, ADDITIONS AND ACCESSIONS TO AND SUBSTITUTIONS FOR ANY OF THE FOREGOING COLLATERAL.

PROCEEDS - GOODS, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, CHATTEL PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.

ALL PROCEEDS OF ANY OF THE FOREGOING IN ANY FORM INCLUDING GOODS, INVENTORY, DOCUMENTS OF TITLE, CHATTEL PAPER, INVESTMENT PROPERTY, SECURITIES, INSTRUMENTS, MONEY, INTANGIBLES OR ANY OTHER PERSONAL PROPERTY RECEIVED WHEN SUCH COLLATERAL OR PROCEEDS ARE SOLD, COLLECTED OR OTHERWISE DISPOSED OF.

Search ID #: Z17062919

Business Debtor Search For:

1263343 ALBERTA INC.

Search ID #: Z17062919

Date of Search: 2024-Feb-16

Time of Search: 11:15:01

Registration Number: 23082222813

Registration Type: SECURITY AGREEMENT

Registration Date: 2023-Aug-22

Registration Status: Current

Expiry Date: 2033-Aug-22 23:59:59

Exact Match on:

Debtor

No: 1

Amendments to Registration

23091406893

Amendment

2023-Sep-14

Debtor(s)

Block

Status

Current

1 1263343 ALBERTA INC.
3215 - 12 STREET NE
CALGARY, AB T2E 7S9

Secured Party / Parties

Block

Status

Current

1 ENGINE LEASE FINANCE CORPORATION
BUILDING 156, SHANNON FREE ZONE
SHANNON, COUNTY CLARE, XX V14 VH70
Email: notices@elfc.com

Search ID #: Z17062919

Collateral: General

<u>Block</u>	<u>Description</u>	<u>Status</u>
1	<p>(I) ONE (1) LEAP 1B-25 ENGINE BEARING MANUFACTURER'S SERIAL NUMBER 60B569 (DESCRIBED ON THE INTERNATIONAL REGISTRY AS CFM MODEL LEAP-1B) (THE "ENGINE") TOGETHER WITH ENGINE TRANSPORTATION STAND AND (II) ALL SUBSTITUTED, RENEWED AND REPLACEMENT APPLIANCES, ACCESSORIES, MODULES, COMPONENTS AND OTHER ITEMS OF EQUIPMENT APPROVED FOR USE BY THE MANUFACTURER OF THE ENGINE, INCLUDING WITHOUT LIMITATION ANY QUICK ENGINE CHANGE UNITS WHICH MAY FROM TIME TO TIME BE INSTALLED ON THE ENGINE (INCLUDING (1) QEC KIT P/N #####) OR ANY OF THE AFORESAID (COLLECTIVELY, THE "PARTS") AT ANY PARTICULAR TIME INCORPORATED OR INSTALLED IN OR ON SUCH ENGINE OR RELATING TO SUCH ENGINE.</p> <p>ALL RECORDS, MANUALS AND OTHER DOCUMENTS WHICH SHALL BE MAINTAINED IN THE ENGLISH LANGUAGE (WHETHER IN PAPER FORM OR IN A COMPUTER/ELECTRONIC READABLE FORM) RELATING TO THE ENGINE AND ANY PART RELATING THERETO.</p> <p>ALL CONTRACTS OR POLICIES OF INSURANCE OR REINSURANCE COVERING THE ENGINE, ANY AND ALL BENEFITS, CLAIMS, INTANGIBLES, RIGHTS TO MONEY OR OTHER VALUE WHICH THE DEBTOR NOW HAS OR MAY HEREAFTER HAVE AS INDEMNITY OR COMPENSATION FOR LOSS OF OR DAMAGE TO SUCH COLLATERAL INCLUDING THE BENEFIT, RIGHTS, TITLE, AND INTEREST IN AND TO THE PROCEEDS OF THE POLICIES OF INSURANCE OR REINSURANCE, AND ALL BENEFIT OF, AND ALL RIGHT TO MAKE ALL CLAIMS UNDER ALL SUCH CONTRACTS AND POLICIES OF INSURANCE OR REINSURANCE.</p> <p>ANY AND ALL MONEYS OR OTHER COMPENSATION FROM TIME TO TIME PAYABLE IN RESPECT OF ANY REQUISITION OF TITLE OR OTHER COMPULSORY ACQUISITION, REQUISITION, APPROPRIATION, EXPROPRIATION, DEPRIVATION OR CONFISCATION FOR ANY REASON OF THE ENGINE OR ANY PART THEREOF.</p>	Deleted By 23091406893

Search ID #: Z17062919

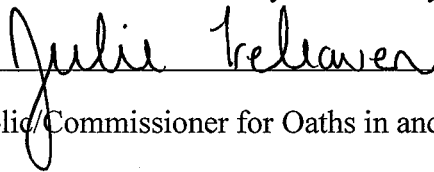
- 2 ALL LEASES, SUBLEASES OR OTHER CONTRACTS PURSUANT TO WHICH THE DEBTOR SHALL LEASE, SUBLEASE, CHARTER, OR PART WITH POSSESSION OF THE ENGINE AND ANY PAYMENTS UNDER SUCH LEASES, SUBLEASES OR OTHER CONTRACTS, INCLUDING ANY INTEREST OF THE DEBTOR IN ANY SUBLEASE OF THE ENGINE AND ANY FURTHER SUBLEASES AND OTHER CONTRACTS PURSUANT TO WHICH SUBSEQUENT SUBLESSORS GIVE POSSESSION OF THE ENGINE TO THE ULTIMATE OPERATOR THEREOF. Deleted By 23091406893
- ALL WARRANTIES, REPRESENTATIONS, INDEMNITIES, SERVICE CONTRACTS, PRODUCT SUPPORT OR OTHER AGREEMENTS OF ANY NATURE IN RESPECT OF OR THAT SHALL APPLY TO THE ENGINE OR ANY PART THEREOF FROM ANY MANUFACTURER, VENDOR, CONTRACTOR OR SUPPLIER THEREOF.
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- PROCEEDS: ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED GOODS, INVENTORY, INVESTMENT PROPERTY, INSTRUMENTS, DOCUMENTS OF TITLE, CHATTEL PAPER, INTANGIBLES AND MONEY, ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT OF ALBERTA AND, REGULATIONS THEREUNDER, DERIVED DIRECTLY OR INDIRECTLY FROM ANY SALE OF, DISPOSAL OF OR DEALING WITH THE ENGINE OR ANY PART THEREOF.
- 3 (I) ONE (1) LEAP 1B-25 ENGINE BEARING MANUFACTURER'S SERIAL NUMBER 60B569 (DESCRIBED ON THE INTERNATIONAL REGISTRY AS CFM MODEL LEAP-1B) (THE "ENGINE") TOGETHER WITH ENGINE TRANSPORTATION STAND AND (II) ALL SUBSTITUTED, RENEWED AND REPLACEMENT APPLIANCES, ACCESSORIES, MODULES, COMPONENTS AND OTHER ITEMS OF EQUIPMENT APPROVED FOR USE BY THE MANUFACTURER OF THE ENGINE, INCLUDING WITHOUT LIMITATION ANY QUICK ENGINE CHANGE UNITS WHICH MAY FROM TIME TO TIME BE INSTALLED ON THE ENGINE (INCLUDING (1) QEC KIT P/N QECMX737-374)) OR ANY OF THE AFORESAID (COLLECTIVELY, THE "PARTS") AT ANY PARTICULAR TIME INCORPORATED OR INSTALLED IN OR ON SUCH ENGINE OR RELATING TO SUCH ENGINE. Current By 23091406893
- ALL RECORDS, MANUALS AND OTHER DOCUMENTS WHICH SHALL BE MAINTAINED IN THE ENGLISH LANGUAGE (WHETHER IN PAPER FORM OR IN A COMPUTER/ELECTRONIC READABLE FORM) RELATING TO THE ENGINE AND ANY PART RELATING THERETO.
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- ANY AND ALL MONEYS OR OTHER COMPENSATION FROM TIME TO TIME PAYABLE IN RESPECT OF ANY REQUISITION OF TITLE OR OTHER COMPULSORY ACQUISITION, REQUISITION, APPROPRIATION, EXPROPRIATION, DEPRIVATION OR CONFISCATION FOR ANY REASON OF THE ENGINE OR ANY PART THEREOF.

Search ID #: Z17062919

- 4 ALL LEASES, SUBLEASES OR OTHER CONTRACTS PURSUANT TO WHICH THE DEBTOR SHALL LEASE, SUBLEASE, CHARTER, OR PART WITH POSSESSION OF THE ENGINE AND ANY PAYMENTS UNDER SUCH LEASES, SUBLEASES OR OTHER CONTRACTS, INCLUDING ANY INTEREST OF THE DEBTOR IN ANY SUBLEASE OF THE ENGINE AND ANY FURTHER SUBLEASES AND OTHER CONTRACTS PURSUANT TO WHICH SUBSEQUENT SUBLESSORS GIVE POSSESSION OF THE ENGINE TO THE ULTIMATE OPERATOR THEREOF.
ALL WARRANTIES, REPRESENTATIONS, INDEMNITIES, SERVICE CONTRACTS, PRODUCT SUPPORT OR OTHER AGREEMENTS OF ANY NATURE IN RESPECT OF OR THAT SHALL APPLY TO THE ENGINE OR ANY PART HEREOF FROM ANY MANUFACTURER, VENDOR, CONTRACTOR OR SUPPLIER THEREOF.
ALL RIGHT, TITLE AND INTEREST UNDER ANY TRUST AGREEMENT RELATING TO THE ENGINE, INCLUDING ANY TRUST ESTATE CREATED THEREBY AND ALL RIGHTS TO ANY OF THE FOREGOING COLLATERAL THEREUNDER.
ALL REPLACEMENTS, RENEWALS, ADDITIONS AND ACCESSIONS TO AND SUBSTITUTIONS FOR ANY OF THE FOREGOING COLLATERAL.
PROCEEDS: ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED GOODS, INVENTORY, INVESTMENT PROPERTY, INSTRUMENTS, DOCUMENTS OF TITLE, CHATTEL PAPER, INTANGIBLES AND MONEY, ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT OF ALBERTA AND, REGULATIONS THEREUNDER, DERIVED DIRECTLY OR INDIRECTLY FROM ANY SALE OF, DISPOSAL OF OR DEALING WITH THE ENGINE OR ANY PART THEREOF.
- Current By
23091406893

Result Complete

This is **Exhibit “41”** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



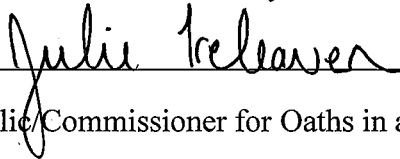
Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barister & Solicitor

Lynx Air Holdings Corporation and 1263343 Alberta Inc. dba Lynx Air
Consolidated Cash Flow Statement
For the 2 week period ending March 2, 2024

(C\$ 000s)	Week 1	Week 2	2 Week
<i>Week Ending</i>	24-Feb	2-Mar	Total
Operating receipts			
Revenue	\$ 1,723	\$ 503	2,226
Other	-	-	-
Total - Operating receipts	1,723	503	2,226
Operating disbursements			
Operating costs	(2,069)	(503)	(2,572)
Payroll and employee related expenses	-	(2,088)	(2,088)
Lease payments	-	-	-
Maintenance reserves	-	-	-
SG&A expense	(86)	(787)	(873)
Professional fees	-	(460)	(460)
Total - Operating disbursements	(2,155)	(3,838)	(5,994)
Net change in cash from operations	(432)	(3,335)	(3,768)
Financing			
Interim Financing - Draw (repayment)	1,000	-	1,000
Interim Financing - Interest and fees	-	-	-
Net change in cash from financing	1,000	-	1,000
Net change in cash			
Opening cash	4,000	4,568	4,000
Net change in cash from operations	(432)	(3,335)	(3,768)
Net change in cash from financing	1,000	-	1,000
Ending Cash	\$ 4,568	\$ 1,232	\$ 1,232

This is **Exhibit “42”** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.

A handwritten signature in cursive script, reading "Julie Treleaven", is written over a horizontal line.

Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barister & Solicitor

COURT FILE NUMBER

Clerk's Stamp

COURT

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF LYNX AIR HOLDINGS CORPORATION
and 1263343 ALBERTA INC. dba LYNX AIR

DOCUMENT

CONSENT TO ACT AS MONITOR

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

OSLER, HOSKIN & HARCOURT LLP

Barristers & Solicitors
Brookfield Place, Suite 2700
225 6 Ave SW
Calgary, AB T2P 1N2

Solicitors: Randal Van de Mosselaer / Julie Treleaven

Telephone: (403) 260-7000

Facsimile: (403) 260-7024

Email: RVandemosselaer@osler.com / JTreleaven@osler.com

File Number: 1246361

FTI Consulting Canada Inc. does hereby consent to act as Monitor under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, in respect of these proceedings, if so appointed by this Honourable Court.

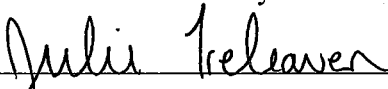
DATED at the City of Calgary, in the Province of Alberta, this 21st day of February, 2024.

FTI CONSULTING CANADA INC.

Per: 

Deryck Helkaa, CPA, CA, CIRP, LIT
Senior Managing Director

This is **Exhibit “43”** to the Affidavit of Michael Woodward
sworn before me this 22 day of February 2024.



Notary Public/Commissioner for Oaths in and for Alberta

Julie Laura Treleaven
Barrister & Solicitor

**INTERIM FINANCING TERM SHEET
made as of February 21, 2024**

*WHEREAS the Borrower (as defined below) has requested that the Interim Lender (as defined below) provide financing to fund certain of the Borrower's cash requirements during the pendency of the Credit Parties' (as defined below) proceedings (the "**CCAA Proceedings**") under the Companies' Creditors Arrangement Act (Canada) (the "**CCAA**") to be commenced before the Court of King's Bench of Alberta (the "**Court**") in accordance with the terms and conditions set forth herein;*

NOW THEREFORE, the parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby irrevocably acknowledged), agree as follows:

1. **BORROWER:** Lynx Air Holdings Corporation (the "**Borrower**").
2. **LENDER:** Indigo Northern Ventures LP (in its capacity as lender under the Interim Facility, the "**Interim Lender**").
3. **GUARANTOR:** 1263343 Alberta Inc., doing business as Lynx Air (the "**Guarantor**", and together with the Borrower, collectively, the "**Credit Parties**" and, individually, a "**Credit Party**").
4. **DEFINED TERMS:** Capitalized terms used in this Interim Financing Term Sheet have the meanings given thereto in Schedule "**A**".
5. **PURPOSE:** To provide for the short-term liquidity needs of the Credit Parties pursuant to the Agreed Budget (as defined below) and for other uses in accordance with the Agreed Budget and Section 19 herein while the Credit Parties are under CCAA protection pursuant to the CCAA Proceedings to be commenced before the Court, as more fully set forth herein.
6. **INTERIM FACILITY, MAXIMUM AMOUNT AND UPFRONT FEE:** A super priority (debtor-in-possession), interim, non-revolving credit facility (the "**Interim Facility**") up to a maximum principal amount to be determined by the Credit Parties, the Interim Lender and the Monitor (the "**Maximum Amount**") in increments as set out in the Agreed Budget, subject to the terms and conditions contained herein. Interim Advances (as defined below) shall be deposited into the Borrower Bank Account and utilized by the Credit Parties in accordance with the terms hereof.

An upfront fee in the amount of 3% of the Maximum Amount shall be payable to the Interim Lender, in connection with the establishment of the Interim Facility (the "**Upfront Fee**"). The Upfront Fee shall be earned upon the execution of this Term Sheet, payable on the Maturity Date, and secured by the Interim Lender Charge.

Interim advances shall be made to the Borrower from the Interim Facility (such advances being referred to herein as "**Interim Advances**", and "**Interim Advance**" means each such advance) by the Interim Lender in accordance with the conditions set out in Sections 10 and 11 hereof.

7. **CLOSING DATE**

The earlier of (i) the date of the first Interim Advance (the "**Initial Advance**"); and (ii) the date in which the Interim Lender confirms in writing to the Borrower that all Initial Funding Conditions have been satisfied (the "**Closing Date**").

8. **DOCUMENTATION:**

All of the obligations of the Credit Parties under or in connection with the Interim Facility, this Interim Financing Term Sheet, the Guarantee, and any other documentation in respect of the Interim Facility that is requested by the Interim Lender (the "**Interim Financing Credit Documentation**") each of which shall be acceptable in form and substance to the Interim Lender and shall be secured by the Interim Lender Charge.

9. **GUARANTEE:**

The Interim Financing Obligations will be guaranteed by unlimited guarantees by the Guarantor of all obligations of the Borrower in the form attached hereto (the "**Guarantee**").

10. **CONDITIONS PRECEDENT TO THE INITIAL ADVANCE:**

The Interim Lender's agreement to make the Initial Advance to the Borrower is subject to the satisfaction of the following conditions precedent (these conditions, the "**Initial Funding Conditions**"), as determined by the Interim Lender:

1. The Court shall have issued the Initial Order on or before February 23, 2024 (the "**Outside Date**"), satisfactory to the Interim Lender and substantially in the form attached hereto on notice to such parties as are acceptable to the Interim Lender approving this Interim Financing Term Sheet, the Interim Facility and granting the Interim Lender a charge on all of the property of the Borrower (the "**Interim Lender Charge**"), to a maximum amount to be determined by the Credit Parties, the Interim Lender and the Monitor securing all obligations owing by the Credit Parties to the Interim Lender under this Interim Financing Term Sheet, the Interim Financing Credit Documentation, and, without limitation, all principal of the Interim Advances, interest thereon and Interim Financing Fees and Expenses (collectively, the "**Interim Financing Obligations**"), which shall have priority over all Liens other than the Permitted Priority Liens and the Lessor Liens, and providing that the Interim Lender Charge shall be valid and effective to secure all of the obligations of the

Credit Parties to the Interim Lender hereunder, without the necessity of making any registrations or filings, and the Initial Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified in a way that adversely impacts the rights and interests of the Interim Lender, as determined by the Interim Lender, without the consent of the Interim Lender;

2. The Interim Lender shall be satisfied that the Credit Parties have complied with and are continuing to comply in all material respects with all applicable laws, regulations and policies in relation to their businesses other than as may be permitted under a Restructuring Court Order or as to which any enforcement in respect of non-compliance is stayed by a Restructuring Court Order, provided the issuance of such Restructuring Court Order does not result in the occurrence of an Event of Default;

3. The Interim Lender shall have received the Agreed Budget;

4. The Interim Lender shall have received a written request for an Interim Advance from the Borrower, substantially in the form attached hereto, which shall be executed by an officer of the Borrower, and shall certify, *inter alia*, that the requested Interim Advance is within the Maximum Amount, is consistent with the Agreed Budget, and that the Borrower and the other Credit Parties are in compliance with this Interim Financing Term Sheet and the Restructuring Court Orders;

5. The requested Interim Advance shall not cause the aggregate amount of all outstanding Interim Advances to exceed the Maximum Amount or be greater than the amount shown on the Agreed Budget as at the date of such Interim Advance;

6. The Upfront Fee and all Interim Financing Fees and Expenses for which invoices have been provided to the Borrower, shall have been paid, or will be paid from the proceeds of the requested Interim Advance within such period of time as is acceptable to the Interim Lender;

7. All of the representations and warranties of the Credit Parties as set forth herein are true and accurate at the time of such Interim Advance and the Interim Lender shall have received an officer's certificate of the Borrower certifying same;

8. No Default or Event of Default has occurred, or will occur as a result of the requested Interim Advance;

9. The Interim Lender is satisfied that no Material Adverse Change shall have occurred after the date of the issuance of the Initial Order;

10. There are no Liens ranking in priority to the Interim Lender Charge, other than the Permitted Priority Liens and the Lessor Liens;

11. The Initial Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified in a manner that materially adversely impacts the rights and interests of the Interim Lender, as determined by the Interim Lender, without the consent of the Interim Lender; and

For greater certainty, the Interim Lender shall not be obligated to make any Interim Advance or otherwise make available funds pursuant to this Interim Financing Term Sheet unless and until all the foregoing conditions have been satisfied and all the foregoing documentation and confirmations have been obtained (for certainty, each of the same as a condition precedent to each Interim Advance), each in form and content satisfactory to the Interim Lender.

12. No Credit Party, nor any shareholder of any Credit Party, shall have commenced or be continuing any action, application, petition, arbitration or litigation against the Interim Lender.

11. CONDITIONS TO SUBSEQUENT ADVANCES

The Interim Lender's agreement to make subsequent Interim Advances to the Borrower is subject to the satisfaction of the following conditions precedent (these conditions, the "**Funding Conditions**"), as determined by the Interim Lender:

1. The Court shall have issued the ARIO, in a form satisfactory to the Interim Lender, including:
 - (a) increasing the Interim Lender Charge in favour of the Interim Lender to an amount to be determined by the Credit Parties, the Interim Lender and the Monitor;
 - (b) elevating the Interim Lender Charge to have priority over the Lessor Liens;
 - (c) authorizing the Interim Lender to effect registrations, filings and recordings wherever it deems appropriate regarding the Interim Lender Charge;
 - (d) providing that the increased Interim Lender Charge shall be valid and effective to secure all of the obligations of the Credit Parties to the Interim Lender hereunder, without the necessity of the making of any registrations or filings and whether or not any other documents have been executed by the Credit Parties;
 - (e) declaring that the granting of the Interim Lender Charge and all other documents executed and delivered to the Interim Lender as contemplated herein, including, without limitation, all actions taken to perfect, record and register the Interim Lender Charge, do not constitute conduct meriting an oppression remedy, settlement, fraudulent preference, fraudulent conveyance or other challengeable or reviewable transaction under any applicable federal or provincial legislation; and
 - (f) provisions restricting the granting of any additional liens or encumbrances on the assets of the Credit Parties, other than as permitted herein and the Interim Lender Charge; and
2. The Initial Funding Conditions continue to be satisfied.
3. The Credit Parties shall be in compliance with any timetables established from time to time by them and approved by the Court and the Interim Lender with respect to any Sales Process (defined below)

or any similar process;

12. COSTS AND EXPENSES

The Borrower shall pay all of the Interim Lender's legal fees (on a solicitor-client, full indemnity basis) and out-of-pocket disbursements and any costs of realization or enforcement, in each case in connection with or otherwise related to the Interim Facility, the Interim Lender Charge, the Interim Financing Credit Documentation, or the CCAA Proceedings (collectively, the "**Interim Financing Fees and Expenses**") and such payment shall be made forthwith upon receipt of the applicable invoice.

13. INTERIM FACILITY SECURITY AND DOCUMENTATION

All Interim Financing Obligations shall be secured by the Interim Lender Charge.

The Interim Lender Charge shall be a priority Lien, subordinate only to the Permitted Priority Liens and, until the issuance of the ARIO, the Lessor Liens.

Except as set out in the Agreed Budget, the Borrower shall not effect, and shall not permit to occur, any distribution of funds (whether from proceeds of the Interim Facility or otherwise) from a Credit Party to any subsidiary or affiliate that is not a Credit Party.

14. PERMITTED LIENS AND PRIORITY:

All Collateral will be free and clear of all Liens, except for the Permitted Liens.

Notwithstanding anything to the contrary in the NSA, Interim Advances and all Interim Financing Obligations under this Interim Financing Term Sheet and the Interim Financing Credit Documentation and any repayment proceeds received pursuant thereto shall not be subject to the priority nor the distribution provisions set out in the NSA.

15. MONITOR:

The Court-appointed monitor in the CCAA Proceedings shall be FTI Consulting Canada Inc. (the "**Monitor**"). The Monitor shall be authorized to have direct discussions with the Interim Lender, and the Interim Lender shall be entitled to receive information from the Monitor as may be requested by the Interim Lender from time to time.

16. REPAYMENT:

The Interim Facility shall be repayable in full on the earlier of: (i) the occurrence of any Event of Default hereunder which is continuing and has not been cured; (ii) the implementation of a plan of compromise or arrangement within the CCAA Proceedings (a "**Plan**") which has been approved by the requisite majorities of the Credit Parties' creditors and by an order entered by the Court; (iii) the closing of a Court-approved Sale within the CCAA Proceedings which has been approved by orders entered by the Court; (iv) conversion of the CCAA Proceedings

into a proceeding under the *Bankruptcy and Insolvency Act* (Canada) ("**BIA**"); and (v) April 15, 2024 (the earliest of such dates being the "**Maturity Date**").

The commitment in respect of the Interim Facility shall expire on the Maturity Date and all amounts outstanding under the Interim Facility shall be repaid in full no later than the Maturity Date, without the Interim Lender being required to make demand upon the Borrower or to give notice that the Interim Facility has expired and the obligations are due and payable. The order of the Court sanctioning any Plan shall not discharge or otherwise affect in any way any of the obligations of the Borrower and the Guarantor to the Interim Lender under the Interim Facility, other than after the permanent and indefeasible payment in cash to the Interim Lender of all obligations under the Interim Facility on or before the date the Plan is implemented.

17. AGREED BUDGET AND REVISED BUDGETS:

Attached hereto is the current weekly line-item budget covering the period of at least 13 weeks following the date of this Interim Financing Term Sheet (together with all updates thereto approved by the Interim Lender, the "**Agreed Budget**"). The Agreed Budget sets forth expected receipts and all operating and capital expenditures to be made during each calendar week and in the aggregate for the period of time covered by the Agreed Budget.

On Wednesday of each week by 5:00 p.m. (Calgary time), commencing on the Wednesday of the calendar week following the Closing Date, the Borrower shall deliver to the Interim Lender: (a) a report showing actual cash receipts and actual expenditures for each line item in the Agreed Budget covering the previous week and comparing the foregoing amounts with the budgeted cash receipts and budgeted expenditures, respectively, set forth in the Agreed Budget for such line item during such one week period, and (b) an update and extension to the Agreed Budget (the "**Revised Budget**") for the period commencing from the end of the previous week through and including 13 weeks thereafter, which shall reflect the Borrower's good faith projections and be in form and detail consistent with the initial Agreed Budget and subject to the approval of the Interim Lender. The Borrower shall, and shall use commercially reasonable efforts, if requested by the Interim Lender, to cause the Monitor to participate on weekly conference calls with the Interim Lender, and its advisors, to discuss the ongoing restructuring process, including any sale process in respect of the sale of all or substantially all of the assets of the Credit Parties.

The Borrower shall ensure that when measured as of each Variance Testing Date, the following cash flow test (the "**Cash Flow Test**") for each of the components of the Agreed Budget is met:

1. The Borrower's total expenditures for the prior week period shall not have exceeded 110% of the amount of total expenditures for such prior week period as set forth in the Agreed Budget.
2. The Borrower's net cash receipts for the prior week period shall not be less than 90% of the amount of cash receipts for such prior week period as set forth in the Agreed Budget.
3. The Borrower shall provide detailed reconciliation (quantitative explanations of the budget-to-actual variances) for each variable line item of the Agreed Budget as well as for any other line item variances outside of the management's direct control (foreign exchange gains/losses) that impact the overall consolidated financial results (the "**Budget Variance Report**").

Notwithstanding any other provision in this Section 17, the Borrower shall be permitted to incur extraordinary expenses not otherwise permitted under the Cash Flow Test with the consent of the Interim Lender.

18. AVAILABILITY UNDER INTERIM FACILITY:

Provided that no Default or Event of Default has occurred, each Interim Advance shall be made by the Interim Lender to the Borrower within two (2) Business Days after satisfaction, as determined by the Interim Lender of all of the applicable Funding Conditions set out in this Interim Financing Term Sheet. No more than one Interim Advance will be available in any week.

Interim Advances shall be available to the Borrower in U.S. Dollars. Each Interim Advance shall be in a minimum aggregate amount that is no less than U.S. \$250,000 and in excess thereof in integral multiples of U.S. \$25,000 and in accordance with the Agreed Budget.

All proceeds of Interim Advances shall be deposited into the Borrower Bank Account. The Borrower Bank Account shall be subject to a priority Lien in favour of the Interim Lender, subordinate only to the Permitted Priority Liens.

19. USE OF PROCEEDS:

The proceeds of the Interim Facility shall only be used: (i) to finance operating expenses, restructuring costs in the CCAA Proceedings, professional fees (including fees of legal counsel to the Credit Parties, the Monitor and the Monitor's legal counsel), and for general corporate

purposes of the Credit Parties, all in accordance with the Agreed Budget, subject to permitted expenditure variances referenced in Section 17(1) and (2), and (ii) to pay fees and expenses related to the Interim Facility, the CCAA Proceedings, provided that no proceeds from the Interim Facility or the Collateral shall be used other than in accordance with this Interim Financing Term Sheet unless otherwise agreed in writing by the Interim Lender.

20. EVIDENCE OF INDEBTEDNESS:

The Interim Lender's accounts and records constitute, in the absence of manifest error, conclusive evidence of the indebtedness of the Borrower to the Interim Lender pursuant to the Interim Facility.

21. INTEREST RATE AND DEFAULT INTEREST RATE:

The Interim Advances shall bear interest at a rate per annum equal to 20% (the "**Interest Rate**"). Such interest shall accrue daily and shall be payable in-kind, in arrears, on each Interest Payment Date for each Interim Advance for the period from and including the date upon which the Interim Lender advances such Interim Advance to the Borrower to and including the day such Interim Advance is repaid or paid, as the case may be, and shall be calculated on the principal amount of each Interim Advance outstanding during such period and on the basis of the actual number of days elapsed in a year of 365 or 366 days, as applicable. Interest payable in-kind in accordance with this Section 21 shall be accrued as indebtedness under the Interim Financing Facility, payable on the Maturity Date, and secured by the Interim Lender Charge.

Overdue amounts of principal, interest and any fee or other amounts payable under the Interim Facility shall bear interest at a rate of the Interest Rate plus an additional 3% per annum (the "**Default Interest Rate**") from the date that such amount is due until the date that such amounts are paid.

During any period in which an Event of Default has occurred and is continuing, the Default Interest Rate shall apply to all Interim Advances, interest, the Upfront Fee, Interim Financing Fees and Expenses and any other amounts owing hereunder.

22. CURRENCY:

Unless otherwise stated, all monetary denominations shall be in U.S. Dollars. Any payment under this Agreement which any Credit Party pays to the Interim Lender in a currency other than U.S. Dollars (the "**Other Currency**"), whether voluntarily or pursuant to an order or judgment of a court or tribunal of any jurisdiction, will only discharge the Credit Parties' liability under this Agreement to the extent of the Equivalent Amount in U.S. Dollars of the Other Currency so paid.

23. REPRESENTATIONS AND WARRANTIES:

Each of the Credit Parties represent and warrant to the Interim Lender, upon which the Interim Lender relies on entering into this Interim Financing Term Sheet and the other Interim Financing Credit Documentation, that:

- (a) The transactions contemplated by this Interim Financing Term Sheet and the other Interim Financing Credit Documentation, subject to Court approval:
 - (i) are within the powers of each of the Credit Parties;
 - (ii) have been duly authorized by all necessary corporate authority, and, if required, shareholder approval of each of the Credit Parties;
 - (iii) have been duly executed and delivered by or on behalf of each of the Credit Parties;
 - (iv) constitute legal, valid, and binding obligations of each of the Credit Parties; and
 - (v) do not require the consent or approval of, registration or filing with, or any other action by, any Governmental Authority, other than filings which may be made to register or otherwise record the Interim Lender Charge.
- (b) The activities of the Credit Parties have been conducted in material compliance with all applicable provincial, state and federal laws, subject to the provisions of the CCAA, and any Restructuring Court Order, unless: (i) otherwise ordered by the Court, or (ii) the sanctions for non-compliance are stayed by a Restructuring Court Order.
- (c) Each of the Credit Parties has maintained its obligations for payroll, source deductions, goods

and services tax, harmonized sales tax, and any other liabilities that have, or could have, a statutory priority to registered contractual security interests, as applicable, and is not in arrears in respect of payment of these obligations.

- (d) The Agreed Budget and each Revised Budget are believed by the Credit Parties to be reasonable at the time made and prepared in good faith.
- (e) No Default or Event of Default has occurred and is continuing.

24. AFFIRMATIVE COVENANTS:

The Credit Parties covenant and agree to perform and do each of the following until the Interim Financing Obligations are permanently and indefeasibly repaid in full and the Interim Facility is terminated:

- (a) Allow the Interim Lender or its respective agents and advisors, on reasonable notice during regular business hours, to enter on and inspect each of the Credit Parties' assets and properties, and provide the Interim Lender or its respective agents or advisors, on reasonable notice and during normal business hours, full access to the books and records of the Credit Parties' and cause management thereof to fully co-operate with the Interim Lender or its respective agents and advisors, as applicable.
- (b) Use reasonable efforts to keep the Interim Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Credit Parties, including (without limitation) the development of a Plan or a Restructuring Option.
- (c) Deliver to the Interim Lender periodic reporting packages and other information requested by the Interim Lender from time to time, including (i) Budget Variance Reports as set forth above; (ii) a reasonable period of time prior to filing with the Court, copies of all pleadings, motions, applications, judicial or financial information and other documents filed by or on behalf of any Credit Party with the Court including, for certainty, with respect to the CCAA Proceedings; (iii) notice of material events, including, without limitation, defaults, new litigation or changes in status of ongoing litigation, regulatory and other filings and any other event that could reasonably be expected to result in a Material Adverse Change; and (iv) without limiting the foregoing, the Credit Parties

shall deliver to the Interim Lender copies of any financial reporting provided to the Monitor in a timely manner and forthwith provide to the Interim Lender any reports or commentary received from the Monitor regarding the financial position of the Credit Parties.

- (d) Use the proceeds of the Interim Facility only for the purposes described in Section 19, and in a manner consistent with the restrictions set out herein.
- (e) Comply with the provisions of the Court orders made in the CCAA Proceedings applicable to the Credit Parties (collectively, the "**Restructuring Court Orders**" and each a "**Restructuring Court Order**"); provided that if any such Restructuring Court Order contravenes this Interim Financing Term Sheet or any other Interim Financing Credit Documentation so as to materially adversely impact the rights or interests of the Interim Lender, as determined by the Interim Lender, the same shall be an Event of Default hereunder.
- (f) Preserve, renew and keep in full force its respective corporate existence and its respective material licenses, permits, approvals, and other authorizations required in respect of its business, properties, assets or any activities or operations carried out therein, unless otherwise agreed by the Interim Lender.
- (g) Conduct all activities in a manner consistent with the Agreed Budget and the Revised Budget, as applicable.
- (h) Forthwith notify the Interim Lender of the occurrence of any Default or Event of Default, including an Updated Budget Default.

- (i) Provide to the Interim Lender regular updates regarding the status of the CCAA Proceedings including, without limitation, reports on the progress of any Plan, Restructuring Option, or Court-approved Sale and any information which may otherwise be confidential (unless the information relates to a Sales Process in which the Interim Lender actively participating as a bidder) subject to same being maintained as confidential by the Interim Lender and respond to all inquiries of the Interim Lender as soon as reasonably possible.
- (j) Diligently pursue any sales efforts (a "**Sales Process**") determined by the Credit Parties in consultation with the Monitor and the Interim Lender to be in the best interests of the Credit Parties in a manner satisfactory to the Interim Lender.
- (k) Comply in all respects with all laws to which it may be subject, if failure so to comply would (i) materially impair its ability to perform its obligations under this Interim Financing Term Sheet or the other Interim Financing Credit Documentation; (ii) have a significantly unfavourable effect on their activities, their assets and their financial situation; or (iii) constitute a breach of any Court Order.

25. NEGATIVE COVENANTS:

The Credit Parties covenant and agree not to do the following, other than with the prior written consent of the Interim Lender:

- (a) Transfer, lease, or otherwise dispose of all or any part of its property, assets or undertaking over Cdn. \$100,000 at any one time, or through a series of related transactions over Cdn. \$250,000 in the aggregate after the date hereof, without the prior written consent of the Interim Lender.
- (b) Make any payment of principal or interest in respect of existing (pre-filing) debt or obligation, other than as may be permitted by a Restructuring Court Order and that does not result in an Event of Default and is provided for in the Agreed Budget or Revised Budget, as applicable.
- (c) Create or permit to exist indebtedness (including guarantees thereof or indemnities or other financial assistance in respect thereof) other than existing (pre-filing) debt, debt contemplated by this Interim Financing Term Sheet, the Agreed Budget

and post-filing trade payables.

- (d) Make any payments not consistent with the Agreed Budget.
- (e) Make or give any additional financial assurances, in the form of bonds, letters of credit, guarantees or otherwise, to any person (including, without limitation, any Governmental Authority).
- (f) Create, permit to exist or seek or support a motion by another party to provide to any third party a Lien on the Collateral which is senior to or *pari passu* with the Interim Lender Charge, other than the Permitted Priority Liens.
- (g) Change its name, amalgamate, consolidate with or merge into, or enter into any similar transaction with any other entity.
- (h) Make any payment in respect of post-employment benefit payments.
- (i) Enter into any sale and leaseback agreement.
- (j) Cease (or threaten to cease) to carry on their business or activities as currently being conducted or modify or alter in any material manner the nature and type of their operations, business or the manner in which such business is conducted, without the express written consent of the Interim Lender.
- (k) Amend or terminate any agreement to which any Credit Party is a party.

26. INDEMNITY AND RELEASE:

The Credit Parties agree, on a joint and several basis, to indemnify and hold harmless the Interim Lender and its respective directors, officers, partners, employees, agents, attorneys, advisors and affiliates (all such Persons and entities being referred to hereafter as "**Indemnified Persons**") from and against any and all actions, suits, proceedings (including any investigations or inquiries), claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against or involve any Indemnified Person (collectively, "**Claims**") as a result of or arising out of or in any way related to or resulting from this Interim Financing Term Sheet and the other Interim Financing Credit Documentation (regardless of whether such Claim is made in the CCAA Proceedings or any other proceeding, including a bankruptcy or

insolvency proceeding) and, upon demand, to pay and reimburse any Indemnified Person for any legal or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding (including, without limitation, any inquiry or investigation) or claim (whether or not any Indemnified Person is a party to any action or proceeding out of which any such expenses arise); provided, however, the Credit Parties shall not be obligated to indemnify pursuant to this Section any Indemnified Person against any loss, claim, damage, expense or liability (a) to the extent it resulted from the gross negligence or wilful misconduct of such Indemnified Person as finally determined by a court of competent jurisdiction, or (b) to the extent arising from any dispute solely among Indemnified Persons other than any claims arising out of any act or omission on the part of a Credit Party. The Credit Parties shall not be responsible or liable to any Indemnified Person or any other person for consequential or punitive damages. Each of the Indemnified Persons undertakes to repay any and all costs paid to such Indemnified Person in accordance with this Section 26 if it is ultimately determined that such Indemnified Person is not entitled to be indemnified therefor.

The indemnities granted under Interim Financing Credit Documentation shall survive any termination of the Interim Facility.

27. EVENTS OF DEFAULT:

The occurrence of any one or more of the following events without the Interim Lender's prior written consent shall constitute an event of default ("**Event of Default**") under this Interim Financing Term Sheet:

- (a) the issuance of an order of the Court (including any Restructuring Court Order) or any other court of competent jurisdiction:
 - (i) terminating or dismissing the CCAA Proceedings, or lifting the stay in the CCAA Proceedings to permit (A) the enforcement of any Lien against a Credit Party, or a material portion of their respective property, assets or undertaking, or (B) the appointment of a receiver and manager, receiver, interim receiver or similar official or the making of a bankruptcy order against a Credit Party;
 - (ii) granting any Lien which is senior to or *pari passu* with the Interim Lender Charge,

other than the Priority Charge;

- (iii) staying, reversing, vacating or otherwise modifying this Interim Financing Term Sheet, the Interim Financing Credit Documentation, or any Restructuring Court Order in a manner materially adverse to the interests of the Interim Lender, as determined by the Interim Lender;
 - (iv) materially adversely impacting the rights and interests of the Interim Lender, as determined by the Interim Lender;
 - (v) directing any Credit Party to pay any post-employment benefits;
- (b) the filing of any pleading by any Credit Party seeking any of the matters set forth in clause (a) above or failure of the Credit Parties to diligently oppose any party that brings an application or motion for the relief set out in paragraph (a) above and/or fails to secure the dismissal of such motion or application within 10 days from the date such application or motion is brought.
- (c) any update in the Revised Budget or Budget Variance Report contemplates or forecasts an adverse change or changes from the then existing Agreed Budget and such change(s) constitute a Material Adverse Change, or any update in the Revised Budget or any Budget Variance Report forecasts that borrowings under the Interim Facility will exceed the Maximum Amount at any time (unless and until the Interim Lender consents to increase the Maximum Amount) (each, an "**Updated Budget Default**"), or the Credit Parties do not meet the Cash Flow Test at any time;
- (d) the occurrence of a Material Adverse Change;
- (e) any representation or warranty by a Credit Party in this Interim Financing Term Sheet or any other Interim Financing Credit Documentation shall be incorrect or misleading in any material respect when made;
- (f) borrowings under the Interim Facility exceed the Maximum Amount at any time without the prior consent of the Interim Lender;
- (g) any material violation or breach of any Restructuring Court Order upon receipt by a Credit

Party of notice from the Interim Lender of such violation or breach;

- (h) any proceeding, motion or application is commenced or filed by any of the Credit Parties, or if commenced by another party, supported or otherwise consented to by any Credit Party, seeking the invalidation, subordination or other challenging of the terms of the Interim Facility, the Interim Lender Charge, this Interim Financing Term Sheet or any of the other Interim Financing Credit Documentation or, unless the Plan or Restructuring Option provides for repayment in full of the Interim Facility, the approval of any Plan or Restructuring Option which does not have the prior written consent of the Interim Lender;
- (i) any Plan is sanctioned or any Restructuring Option is consummated by any of the Credit Parties that is not consistent with or contravenes any provision of Interim Financing Term Sheet or any of the other Interim Financing Credit Documentation in a manner that is materially adverse to the interests of the Interim Lender, as determined by the Interim Lender, or would reasonably be expected to materially adversely affect the interests of the Interim Lender, as determined by the Interim Lender, unless the Interim Lender has consented thereto;
- (j) if any Credit Party pays or agrees to pay any of the legal, consulting or other professional fees and/or disbursements not otherwise listed on the Agreed Budget without the prior consent of the Interim Lender;
- (k) failure of the Borrower to pay any principal amount owing under this Interim Financing Term Sheet when due;
- (l) failure of the Borrower to pay any interest or fees or any portion thereof owing under this Interim Financing Term Sheet or any other Interim Financing Credit Documentation when due and such default shall remain unremedied for a period of two (2) Business Days after written notice from the Interim Lender to the Borrower that such amount is overdue;
- (m) failure of any Credit Party to perform or comply with any other term or covenant under this Interim Financing Term Sheet or any other Interim Financing Credit Documentation, and (except in

the case of Section 25(k), which shall have no cure period) such default shall continue unremedied for a period of three (3) Business Days;

- (n) if any Credit Party commences an action or takes any other proceeding to obtain any form of relief against the Interim Lender or any affiliate thereof, including, without limitation, a proceeding to recover damages or to obtain payment of any amounts purported to be owing by the Interim Lender, or the Pre-Filing Creditor or any affiliate thereof to any Credit Party or any affiliate thereof if the Interim Lender, any Pre-Filing Creditor or such affiliate disputes any of the same; and
- (o) the expiration of the stay issued under the CCAA Proceedings.

28. REMEDIES:

Upon the occurrence of an Event of Default, and subject to the Restructuring Court Orders, the Interim Lender may elect to terminate its commitment to make Interim Advances to the Borrower hereunder and declare the obligations in respect of this Interim Financing Credit Documentation to be immediately due and payable and cease making any further Interim Advances. Without limiting the foregoing remedies, upon the occurrence of an Event of Default, the Interim Lender may elect to permanently reduce the Maximum Amount. In addition, upon the occurrence of an Event of Default, the Interim Lender may, subject to any Restructuring Court Order:

- (a) apply to the Court for the appointment of a receiver, an interim receiver or a receiver and manager over the Collateral, or for the appointment of a trustee in bankruptcy of the Credit Parties;
- (b) set-off or combine any amounts then owing by the Interim Lender to any of the Credit Parties against the obligations of any of the Credit Parties to the Interim Lender hereunder or under any other Interim Financing Credit Documentation;
- (c) apply to the Court, on notice to the Credit Parties, for an order or orders, on terms satisfactory to the Monitor and the Interim Lender, providing the Monitor with the power, in the name of and on behalf of the Credit Parties, to take all necessary steps in the CCAA Proceedings;
- (d) subject to obtaining prior approval from the Court, exercise the powers and rights of a secured party

under the *Personal Property Security Act* (Alberta), or any legislation of similar effect; and

- (e) subject to obtaining prior approval from the Court, exercise all such other rights and remedies under the Interim Financing Credit Documentation, the Restructuring Court Orders and applicable law.

- 29. INTERIM LENDER'S APPROVALS:** Any consent, approval, instruction or other expression of the Interim Lender shall be in the Interim Lender's sole and absolute discretion, unless otherwise provided in this Interim Financing Term Sheet and shall be delivered by any written instrument, including by way of electronic mail, by the Interim Lender, or its counsel, pursuant to the terms of this Interim Financing Term Sheet.
- 30. TERMINATION BY THE CREDIT PARTIES:** At any time following the indefeasible payment in full in immediately available funds of all of the outstanding Interim Financing Obligations, the Credit Parties shall be entitled to terminate this Interim Financing Term Sheet upon notice to the Interim Lender.
- 31. AMENDMENTS, WAIVERS, ETC.:** No waiver or delay on the part of the Interim Lender in exercising any right or privilege under this Interim Financing Term Sheet or any Interim Financing Credit Documentation, will operate as a waiver thereof unless made in writing by the Interim Lender and delivered in accordance with the terms thereof, and then such waiver shall be effective only in the specific instance and for the specific purpose given.
- 32. ASSIGNMENT:** The Interim Lender may assign this Interim Financing Term Sheet and its rights and obligations hereunder, in whole or in part, or grant a participation in its respective rights and obligations hereunder, (i) at any time to an affiliate; (ii) prior to the occurrence of an Event of Default, subject to the consent of the Borrower, not to be unreasonably withheld; and (iii) following the occurrence of an Event of Default, to any person acceptable to the Interim Lender (subject in all cases to providing the Monitor with reasonable evidence that such assignee has the financial capacity to fulfill the obligations of the applicable Interim Lender hereunder). None of this Interim Financing Term Sheet, any other Interim Financing Credit Documentation, nor any right or obligation hereunder may be assigned by any Credit Party.
- 33. COUNTERPARTS AND FACSIMILE SIGNATURES:** This Interim Financing Term Sheet may be executed in any number of counterparts and by facsimile or other electronic transmission, each of which when executed and delivered shall be deemed to be an original and which when taken together shall constitute one and the same instrument. Any party may execute this Interim Financing

Term Sheet by signing any counterpart of it.

34. NOTICES:

Any notice, request or other communication hereunder to any of the parties shall be in writing and be well and sufficiently given if delivered to:

In the case of the Credit Parties:

Osler, Hoskin & Harcourt LLP
Brookfield Place, Suite 2700,
225 6 Ave SW, Calgary, AB T2P 1N2

Attention: Randal Van de Mosselaer
Email: rvandemosselaer@osler.com

In the case of the Interim Lender:

Blake, Cassels & Graydon LLP
855 2 St SW #3500
Calgary, AB T2P 4J8

Attention: Kelly Bourassa/Chris Burr
Email: kelly.bourassa@blakes.com/
chris.burr@blakes.com

In the case of the Monitor:

FTI Consulting Canada Inc.
520 5th Ave SW. Suite 1610
Calgary, AB T2P 3R7
Attention: Deryck Helkaa
Email: deryck.helkaa@fticonsulting.com

35. GOVERNING LAW:

This Interim Financing Credit Documentation shall be governed by, and construed in accordance with, the laws of the Province of Alberta and the federal laws of Canada applicable therein.

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

BORROWER:

LYNX AIR HOLDINGS CORPORATION

By: _____
Name: Jim Sullivan
Title: Interim Chief Executive Officer

GUARANTOR:

1263343 ALBERTA INC.

By: _____
Name: Jim Sullivan
Title: Interim Chief Executive Officer

INTERIM LENDER:

**INDIGO NORTHERN VENTURES LP, by its
general partner, INDIGO NORTHERN VENTURES
GP, LLC**

By: _____
Name: William A. Franke
Title: Managing Member

SCHEDULE "A"

DEFINED TERMS

"Administration Charge" means the administration charge on the Collateral in an aggregate amount not to exceed Cdn. \$500,000.

"Agreed Budget" has the meaning given thereto in Section 17.

"Agreement" means this Interim Financing Term Sheet and any schedules, exhibits or attachments thereto.

"ARIO" means, in the event the Initial Order is granted, an amended and restated Initial Order (as may be further amended or amended and restated from time to time) granted by the Court.

"Borrower" has the meaning given thereto in Section 1.

"Borrower Bank Account" means the following account to which payments and transfers under the Interim Financing Term Sheet are to be affected:

Account:	Lynx Air Holdings Corporation
Bank:	ATB Financial Calgary Stephen Ave Branch 102 8 Ave SW Calgary AB T2P 1B3
Bank Code:	0219
Transit /Branch	07609
Account:	00390932879
Swift Code:	ATBRCA6EXXX

"Business Day" means a day, excluding Saturday and Sunday, on which banking institutions are open for the transaction of commercial business in Calgary, Alberta and Phoenix, Arizona.

"CCAA" has the meaning given thereto in the preamble.

"CCAA Proceedings" has the meaning given thereto in the preamble.

"Cdn. Dollars" and the symbol **"Cdn. \$"** each mean lawful money of Canada.

"Claims" has the meaning given thereto in Section 26.

"Closing Date" has the meaning given thereto in Section 7.

"Collateral" means all present and future assets and property of the Credit Parties, real and personal, tangible or intangible, and whether now owned or which are hereafter acquired or otherwise become the property of a Credit Party.

"Court" has the meaning given thereto in the preamble.

"Court-approved Sale" means the sale of all or substantially all of the assets of the Borrower pursuant to a sale approved by the Court.

"Credit Parties" has the meaning given thereto in Section 3.

"Default" means any event or condition which, with the giving of notice, lapse of time or upon a declaration or determination being made (or any combination thereof), would constitute an Event of Default.

"Default Interest Rate" has the meaning given thereto in Section 21.

"Equivalent Amount" means, with respect to any two currencies, the amount obtained in one such currency when an amount in the other currency is converted into the first currency using the spot rate of exchange for such conversion as quoted by the Bank of Canada at the close of business on the Business Day that such conversion is to be made (or, if such conversion is to be made before close of business on such Business Day, then at close of business on the immediately preceding Business Day)

"Event of Default" has the meaning given thereto in Section 27.

"Fifth Bridge NPA" means the fifth bridge note purchase agreement dated as of February 7, 2024 among, the Credit Parties and Interim Lender, amended, restated or modified.

"Filing Date" means the date in which the Initial Order is granted.

"First Bridge NPA" means the bridge note purchase agreement dated as of February 24, 2023 among, the Credit Parties and Interim Lender, amended, restated or modified.

"Fourth Bridge NPA" means the fourth bridge note purchase agreement dated as of February 2, 2024 among, the Credit Parties and Interim Lender, amended, restated or modified.

"Funding Conditions" has the meaning given thereto in Section 11.

"Governmental Authority" means any federal, provincial, state, regional, municipal or local government or any department, agency, board, tribunal or authority thereof or other political subdivision thereof and any entity or Person exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government or the operation thereof.

"Guarantee" has the meaning given thereto in Section 9.

"Guarantor" has the meaning given thereto in Section 3.

"Indemnified Persons" has the meaning given thereto in Section 26.

"Initial Advance" has the meaning given thereto in Section 7.

"Initial Funding Conditions" has the meaning given thereto in Section 10.

"Initial Order" means the initial order anticipated to be granted by the Court on February 22, 2024 pursuant to which the Credit Parties will become subject to the CCAA Proceedings.

"Interest Payment Date" means the third day of each month; provided that, in any case, on the Maturity Date or, if applicable, any earlier date on which the Interim Facility is fully cancelled or permanently reduced in full, shall be an Interest Payment Date with respect to all Interim Advances then outstanding under the Interim Facility.

"Interim Advance" and **"Interim Advances"** have the meanings given thereto in Section 6.

"Interim Facility" has the meaning given thereto in Section 6.

"Interim Financing Credit Documentation" has the meaning given thereto in Section 8.

"Interim Financing Fees and Expenses" has the meaning given thereto in Section 12.

"Interim Financing Obligations" has the meaning given thereto in Section 10.

"Interim Lender" has the meaning given thereto in Section 2.

"Interim Lender Charge" has the meaning given thereto in Section 10.

"Lessor Liens" means, collectively, the interests of the aircraft lessor or financier as described in paragraphs 70 and 71 of the Woodward Affidavit.

"Liens" means all mortgages, charges, pledges, hypothecs, assignments by way of security, conditional sales or other title retention arrangements, security created under the *Bank Act* (Canada), liens, encumbrances, security interests or other interests in property, howsoever created or arising, whether fixed or floating, perfected or not, which secure payment or performance of an obligation and, including, in any event:

- (a) deposits or transfers of cash, marketable securities or other financial assets under any agreement or arrangement whereby such cash, securities or assets may be withdrawn, returned or transferred only upon fulfilment of any condition as to the discharge of any other indebtedness or other obligation to any creditor;
- (b) (i) rights of set-off or (ii) any other right of or arrangement of any kind with any creditor, which in any case are made, created or entered into, as the case may be, for the purpose of or having the effect (directly or indirectly) of (A) securing indebtedness, (B) preferring some holders of indebtedness over other holders of indebtedness or (C) having the claims of any creditor be satisfied prior to the claims of other creditors with or from the proceeds of any properties, assets or revenues of any kind now owned or later acquired (other than, with respect to (C) only, rights of set-off granted or arising in the ordinary course of business); and
- (c) absolute assignments of accounts receivable,

in each of the foregoing cases, granted by the Credit Parties or against the Collateral.

"Material Adverse Change" means any event, circumstance, occurrence or change which results, or which would reasonably be expected to result, in a material adverse change in:

- (a) the ability of any Credit Party to perform any material obligation under this Interim Financing Term Sheet and any other Interim Financing Credit Documentation or any Restructuring Court Order, or the ability of any Credit Party to carry out a Plan or Restructuring Option;
- (b) the validity or enforceability of any of the Interim Lender Charge or the ranking of any of the Liens granted thereby or the material rights or remedies intended or purported to be granted to the Interim Lender under or pursuant to such Interim Lender Charge; or
- (c) the business, operations, assets, condition (financial or otherwise) or results of operations of the Credit Parties, on a consolidated basis.

"Maturity Date" has the meaning given thereto in Section 16.

"Maximum Amount" has the meaning attributed thereto in Section 6.

"Monitor" has the meaning given thereto in Section 15.

"NSA" means the noteholders' and shareholders' agreement originally dated as of December 20, 2018 by and between the Borrower, the Subsidiaries, Indigo, the Noteholders and the Shareholders (in each case, as defined therein), as amended from time to time.

"Original NPA" means the note purchase agreement dated as of December 20, 2018 among, the Credit Parties and Interim Lender, amended, restated or modified.

"Outside Date" has the meaning given thereto in Section 10.

"Permitted Liens" means (i) the Interim Lender Charge; (ii) any charges created under the Initial Order or other order of the Court in the CCAA Proceedings subsequent in priority to the Interim Lender Charge, the limit and priority of each of which shall be acceptable to the Interim Lender; (iii) valid and perfected Liens existing prior to the date hereof; (iv) inchoate statutory Liens arising after the Filing Date in respect of any accounts payable arising after the Filing Date in the ordinary course of business, provided to pay all such amounts are paid as and when due; and (v) the Permitted Priority Liens.

"Permitted Priority Liens" means: (a) the Priority Charge; (b) statutory super-priority Liens for unpaid employee source deductions; and (c) such other Liens as may be agreed to in writing by the Interim Lender. For greater certainty, except as expressly set forth herein, Liens arising from the construction, repair, maintenance and/or improvement of real or personal property, shall not be **"Permitted Priority Liens"**.

"Person" includes any natural person, corporation, company, limited liability company, trust, joint venture, association, incorporated organization, partnership, Governmental Authority or other entity;

"Plan" has the meaning given thereto in Section 16.

"Pre-Filing Credit Documentation" includes the Original NPA, the First Bridge NPA, the Second Bridge NPA, the Third Bridge NPA, the Fourth Bridge NPA, the Fifth Bridge NPA, and each other agreement or document entered into or executed pursuant to any of the foregoing and any document evidencing indebtedness owing by any of the Credit Parties to the Pre-Filing Creditor.

"Pre-Filing Creditor" means the Interim Lender.

"Priority Charge" means the Administration Charge.

"Restructuring Court Order" and **"Restructuring Court Orders"** have the meanings given thereto in Section 24(e).

"Restructuring Option" means any transaction involving the refinancing of a Credit Party, the sale of all or substantially all of the assets of any Credit Party or any other restructuring of the Credit Parties' businesses and operations, including any liquidation, bankruptcy or other insolvency proceeding in respect of any of Credit Party.

"Revised Budget" has the meaning given thereto in Section 17.

"Sales Process" has the meaning given thereto in Section 24(j).

"Second Bridge NPA" means the second bridge note purchase agreement dated as of October 26, 2023 among, the Credit Parties and Interim Lender, amended, restated or modified.

"Third Bridge NPA" means the third bridge note purchase agreement dated as of January 12, 2024 among, the Credit Parties and Interim Lender, amended, restated or modified.

"Updated Budget Default" has the meaning given thereto in Section 27(c).

"Upfront Fee" has the meaning given thereto in Section 6.

"U.S. Dollars" and the symbol **"U.S. \$"** and the symbol **"\$"** each mean lawful money of the United States of America.

"Variance Testing Date" means, collectively, the first Wednesday occurring after the Closing Date and each Wednesday thereafter.

"Woodward Affidavit" means the affidavit of Michael Woodward sworn February 22, 2024 in respect of the CCAA Proceedings.