

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

FORM 10-Q

(MARK ONE)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarter ended June 30, 2023

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

PSQ HOLDINGS, INC.  
(F/K/A COLOMBIER ACQUISITION CORP.)  
(Exact Name of Registrant as Specified in Its Charter)

Delaware	001-40457	86-2062844
(State or other jurisdiction of incorporation)	(Commission File Number)	(I.R.S. Employer Identification Number)
222 Lakeview Avenue, Suite 800 West Palm Beach, FL (Address of principal executive offices)	333401	(Zip Code)

Registrant's telephone number, including area code: (877) 776-2402

Not Applicable

(Former name or former address, if changed since last report)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Class A common stock, par value \$0.0001 per share	PSQH	New York Stock Exchange
Redeemable warrants, each whole warrant exercisable for one share of Class A common stock at an exercise price of \$11.50 per share	PSQH WS	New York Stock Exchange

Indicate by checkmark whether the issuer (1) filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act during the past 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See definitions of "large accelerated filer", "accelerated filer", "smaller reporting company", and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

As of August 8, 2023, there were 26,044,298 shares of Class A common stock, \$0.0001 par value and 3,213,678 shares of Class C common stock, \$0.0001 par value, issued and outstanding.

EXPLANATORY NOTE

On July 19, 2023 (the "Closing Date"), PSQ Holdings, Inc., a Delaware corporation (f/k/a Colombier Acquisition Corp., the "Company"), consummated (the "Closing") the previously announced Business Combination (as defined below) pursuant to that certain Agreement and Plan of Merger (the "Merger Agreement"), dated as of February 27, 2023, by and among the Company, Colombier-Liberty Acquisition, Inc., a Delaware corporation and a wholly-owned subsidiary of the Company ("Merger Sub"), and Colombier Sponsor, LLC (the "Sponsor"), a Delaware limited liability company, in its capacity as Purchaser Representative (the "Purchaser Representative"), for the purposes set forth in the Merger Agreement, and PSQ Holdings, Inc. (with the transactions contemplated by the Merger Agreement, the "Business Combination"). Please see Note 1 – Description of Organization, Business Operations and Liquidity for additional detail regarding the Business Combination.

**PSQ HOLDINGS, INC.  
(f/k/a Colombier Acquisition Corp.)**

**QUARTERLY REPORT ON FORM 10-Q FOR THE QUARTER ENDED JUNE 30, 2023  
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**PART I - FINANCIAL INFORMATION**

**Item 1. Interim Condensed Consolidated Financial Statements.**

**PSQ HOLDINGS, INC.  
(f/k/a Colombier Acquisition Corp.)  
CONDENSED CONSOLIDATED BALANCE SHEETS**

	June 30, 2023 (Unaudited)	December 31, 2022
<b>ASSETS</b>		
Current assets:		
Cash	\$ 1,201,271	\$ 195,339
Prepaid expenses	48,713	179,386
Total current assets	1,249,984	374,725
Marketable securities held in Trust Account	175,879,326	174,948,027
<b>Total Assets</b>	<b>\$ 177,129,310</b>	<b>\$ 175,322,752</b>
<b>LIABILITIES AND STOCKHOLDERS' DEFICIT</b>		
Current liabilities:		
Accrued expenses	\$ 3,450,180	\$ 585,750
Income taxes payable	957,982	524,777
Total current liabilities	4,408,162	1,110,527
Warrant liabilities	8,816,500	1,030,500
Deferred underwriting fee payable	6,037,500	6,037,500
<b>Total liabilities</b>	<b>19,262,162</b>	<b>8,178,527</b>
<b>Commitments (Note 6)</b>		
Class A common stock subject to possible redemption, \$ 0.0001 par value; 17,250,000 shares issued and outstanding at redemption values of \$10.13 and \$10.03 per share as of June 30, 2023 and December 31, 2022, respectively	174,819,222	173,034,002
<b>Stockholders' Deficit</b>		
Preferred stock, \$0.0001 par value; 1,000,000 shares authorized, none issued and outstanding	—	—
Class A common stock; \$0.0001 par value; 80,000,000 shares authorized (excluding 17,250,000 shares subject to possible redemption) as of June 30, 2023 and December 31, 2022	—	—
Class B common stock, \$0.0001 par value; 20,000,000 shares authorized; 4,312,500 shares issued and outstanding as of June 30, 2023 and December 31, 2022	431	431
Accumulated deficit	(16,952,505)	(5,890,208)
<b>Total Stockholders' Deficit</b>	<b>(16,952,074)</b>	<b>(5,889,777)</b>
<b>TOTAL LIABILITIES AND STOCKHOLDERS' DEFICIT</b>	<b>\$ 177,129,310</b>	<b>\$ 175,322,752</b>

The accompanying notes are an integral part of the unaudited condensed consolidated financial statements.

**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS  
(UNAUDITED)**

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2023	2022	2023	2022
Operating and formation costs	\$ 2,829,054	\$ 248,757	\$ 4,378,470	\$ 541,117
Loss from operations	<u>(2,829,054)</u>	<u>(248,757)</u>	<u>(4,378,470)</u>	<u>(541,117)</u>
Other income (loss):				
Interest earned on marketable securities held in Trust Account	2,044,560	225,971	3,882,689	237,106
Change in fair value of warrant liabilities	<u>(6,297,500)</u>	<u>1,980,664</u>	<u>(7,786,000)</u>	<u>4,846,916</u>
Total other income (loss)	<u>(4,252,940)</u>	<u>2,206,635</u>	<u>(3,903,311)</u>	<u>5,084,022</u>
Income (loss) before provision for income taxes	(7,081,994)	1,957,878	(8,281,781)	4,542,905
Provision for income taxes	<u>(542,735)</u>	<u>(13,352)</u>	<u>(995,296)</u>	<u>(13,352)</u>
<b>Net (loss) income</b>	<b><u>\$ (7,624,729)</u></b>	<b><u>\$ 1,944,526</u></b>	<b><u>\$ (9,277,077)</u></b>	<b><u>\$ 4,529,553</u></b>
Basic and diluted weighted average shares outstanding, Class A common stock	17,250,000	17,250,000	17,250,000	17,250,000
<b>Basic and diluted net (loss) income per share, Class A common stock</b>	<b><u>\$ (0.35)</u></b>	<b><u>\$ 0.09</u></b>	<b><u>\$ (0.43)</u></b>	<b><u>\$ 0.21</u></b>
Basic and diluted weighted average shares outstanding, Class B common stock	4,312,500	4,312,500	4,312,500	4,312,500
<b>Basic and diluted net (loss) income per share, Class B common stock</b>	<b><u>\$ (0.35)</u></b>	<b><u>\$ 0.09</u></b>	<b><u>\$ (0.43)</u></b>	<b><u>\$ 0.21</u></b>

The accompanying notes are an integral part of the unaudited condensed consolidated financial statements.

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**PSQ HOLDINGS, INC.  
(f/k/a Colombier Acquisition Corp.)**  
**CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' DEFICIT**

**FOR THE THREE AND SIX MONTHS ENDED JUNE 30, 2023**

	Class B Common Stock		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Deficit
	Shares	Amount			
<b>Balance – January 1, 2023</b>	<b>4,312,500</b>	<b>\$ 431</b>	<b>\$ —</b>	<b>\$ (5,890,208)</b>	<b>\$ (5,889,777)</b>
Change in value of common stock subject to redemption	—	—	—	(333,395)	(333,395)
Net loss	—	—	—	(1,652,348)	(1,652,348)
<b>Balance - March 31, 2023 (Unaudited)</b>	<b>4,312,500</b>	<b>431</b>	<b>\$ —</b>	<b>\$ (7,875,951)</b>	<b>\$ (7,875,520)</b>
Change in value of common stock subject to redemption	—	—	—	(1,451,825)	(1,451,825)
Net loss	—	—	—	(7,624,729)	(7,624,729)
<b>Balance – June 30, 2023 (Unaudited)</b>	<b>4,312,500</b>	<b>\$ 431</b>	<b>\$ —</b>	<b>\$ (16,952,505)</b>	<b>\$ (16,952,074)</b>

**FOR THE THREE AND SIX MONTHS ENDED JUNE 30, 2022**

	Class B Common Stock		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Deficit
	Shares	Amount			
<b>Balance – January 1, 2022</b>	<b>4,312,500</b>	<b>\$ 431</b>	<b>\$ —</b>	<b>\$ (11,152,409)</b>	<b>\$ (11,151,978)</b>
Net income	—	—	—	2,585,027	2,585,027
<b>Balance – March 31, 2022 (Unaudited)</b>	<b>4,312,500</b>	<b>431</b>	<b>\$ —</b>	<b>\$ (8,567,382)</b>	<b>\$ (8,566,951)</b>
Net income	—	—	—	1,944,526	1,944,526
<b>Balance – June 30, 2022 (Unaudited)</b>	<b>4,312,500</b>	<b>\$ 431</b>	<b>\$ —</b>	<b>\$ (6,622,856)</b>	<b>\$ (6,622,425)</b>

The accompanying notes are an integral part of the unaudited condensed consolidated financial statements.

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**PSQ HOLDINGS, INC.  
(f/k/a Colombier Acquisition Corp.)**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS  
(UNAUDITED)**

	For the Six Months Ended June 30,	
	2023	2022
<b>Cash Flows from Operating Activities:</b>		
Net (loss) income	\$ (9,277,077)	\$ 4,529,553
Adjustments to reconcile net (loss) income to net cash used in operating activities:		
Interest earned on marketable securities held in Trust Account	(3,882,689)	(237,106)
Change in fair value of derivative warrant liabilities	7,786,000	(4,846,916)
Changes in operating assets and liabilities:		
Prepaid expenses	130,673	171,930
Accrued expenses	2,864,430	13,352
Income taxes payable	433,205	(190,781)
<b>Net cash used in operating activities</b>	<b>(1,945,458)</b>	<b>(559,968)</b>
<b>Cash Flows from Investing Activities:</b>		
Cash withdrawn from Trust Account to pay franchise and income taxes	951,390	—
Cash withdrawn from Trust Account for working capital purposes	2,000,000	—
<b>Net cash provided by investing activities</b>	<b>2,951,390</b>	<b>—</b>
<b>Net Change in Cash</b>	<b>1,005,932</b>	<b>(559,968)</b>
Cash – Beginning of the period	195,339	841,226
<b>Cash – End of period</b>	<b>\$ 1,201,271</b>	<b>\$ 281,258</b>
<b>Non-Cash Investing and Financing Activities:</b>		
Re-measurement for Class A common stock to redemption value	<u>\$ 1,785,220</u>	<u>\$ —</u>

The accompanying notes are an integral part of the unaudited condensed consolidated financial statements.

**PSQ HOLDINGS, INC.**  
(f/k/a **Colombier Acquisition Corp.**)  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**JUNE 30, 2023**  
**(UNAUDITED)**

**NOTE 1. DESCRIPTION OF ORGANIZATION, BUSINESS OPERATIONS AND LIQUIDITY**

**Business Combination**

On February 27, 2023, PSQ Holdings, Inc. (f/k/a Colombier Acquisition Corp., the "Company"), PublicSq. Inc., a Delaware corporation (f/k/a PSQ Holdings, Inc., "PublicSq."), Colombier-Liberty Acquisition, Inc., a Delaware corporation and a wholly-owned subsidiary of the Company ("Merger Sub"), and Colombier Sponsor, LLC (the "Sponsor"), a Delaware limited liability company, in its capacity as Purchaser Representative (the "Purchaser Representative"), for the purposes set forth in the Merger Agreement (as defined below), entered into an Agreement and Plan of Merger (the "Merger Agreement").

On July 17, 2023, Colombier received requests to redeem a total of 14,286,259 Colombier public shares, representing 83% of the total public shares of Colombier outstanding prior to the Redemption Deadline. Following the redemption, 2,963,741 public shares of Colombier were outstanding.

At the special meeting of the stockholders held on July 19, 2023 (the "Special Meeting"), the Company's stockholders voted to approve the proposals outlined in the final prospectus and definitive proxy statement filed by the Company with the U.S. Securities and Exchange Commission (the "SEC") on June 30, 2023 (the "Proxy Statement/Prospectus"), including, among other things, the adoption of the Merger Agreement and approval of the transactions contemplated by the Merger Agreement, including the merger of Merger Sub with and into PublicSq., with PublicSq. continuing as the surviving corporation and as a wholly-owned subsidiary the Company, and the issuance of the Company's common stock as consideration thereunder (the "Merger" and, together with the other transactions contemplated by the Merger Agreement, the "Business Combination"). In addition, on July 19, 2023, following the conclusion of the Special Meeting, the Business Combination, including the Merger, was completed (the "Closing").

In connection with the Closing, the Company changed its name from Colombier Acquisition Corp. to PSQ Holdings, Inc.

**Prior to the Business Combination**

As of June 30, 2023, the Company was a blank check company incorporated in Delaware on February 12, 2021. The Company was formed for the purpose of effectuating a merger, capital stock exchange, asset acquisition, stock purchase, reorganization or other similar business combination with one or more businesses.

As of June 30, 2023, the Company had one subsidiary, Colombier-Liberty Acquisition, Inc., a direct, wholly owned subsidiary of the Company incorporated in Delaware on February 16, 2023 (see Note 6).

The Company was not limited to a particular industry or sector for purposes of consummating a business combination. The Company was an early stage and emerging growth company and, as such, the Company was subject to all of the risks associated with early stage and emerging growth companies.

All activity for the period February 12, 2021 (inception) through June 30, 2023 relates to the Company's formation, initial public offering (the "Initial Public Offering"), identifying a target company for a business combination, and activities in connection with the proposed acquisition of PublicSq. (see Note 6). The Company did not generate any operating revenues. The Company generated non-operating income in the form of interest income from the proceeds derived from the Initial Public Offering. The Company had elected December 31 as its fiscal year end.

The registration statement for the Company's Initial Public Offering was declared effective on June 8, 2021. On June 11, 2021, the Company consummated the Initial Public Offering of 15,000,000 units (the "Units" and, with respect to the shares of Class A common stock included in the Units being offered, the "Public Shares"), generating gross proceeds of \$150,000,000, which is described in Note 3.

Simultaneously with the closing of the Initial Public Offering, the Company consummated the sale of 5,250,000 warrants (the "Private Placement Warrants") at a price of \$1.00 per Private Placement Warrant in a private placement to the Sponsor, generating gross proceeds of \$ 5,250,000, which is

described in Note 4.

At the closing of the Initial Public Offering on June 11, 2021, due to a clerical error, the Trust Account (as defined below) was overfunded by \$ 1,240,000. The overfunded amount was transferred to the Company's operating account on June 14, 2021.

Following the closing of the Initial Public Offering on June 11, 2021, an amount of \$ 150,000,000 (\$10.00 per Unit) from the net proceeds of the sale of the Units in the Initial Public Offering and the sale of the Private Placement Warrants was placed in a trust account (the "Trust Account") which was invested in U.S. government securities within the meaning set forth in Section 2(a)(16) of the Investment Company Act of 1940, as amended (the "Investment Company Act"), with a maturity of 180 days or less, or in any open-ended investment company that holds itself out as a money market fund meeting the conditions of Rule 2a-7 of the Investment Company Act, as determined by the Company, until the earlier of: (i) the completion of a business combination or (ii) the distribution of the funds in the Trust Account to the Company's stockholders, as described below, except that interest earned on the Trust Account can be released to the Company to fund working capital requirements, subject to an annual limit of \$1,000,000, and to pay its tax obligations ("Permitted Withdrawals").

**PSQ HOLDINGS, INC.**  
(f/k/a **Colombier Acquisition Corp.**)  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**JUNE 30, 2023**  
**(UNAUDITED)**

In connection with the Company's Initial Public Offering, the underwriters fully exercised their over-allotment option on July 1, 2021, resulting in the issuance of an additional 2,250,000 Units for an aggregate amount of \$22,500,000. In connection with the underwriters' full exercise of their over-allotment option, the Company also consummated the sale of an additional 450,000 Private Placement Warrants at \$1.00 per Private Placement Warrant, generating total proceeds of \$450,000. A total of \$ 22,500,000 was deposited into the Trust Account, bringing the aggregate proceeds held in the Trust Account to \$172,500,000.

Transaction costs amounted to \$9,947,799, consisting of \$3,450,000 of underwriting fees, \$6,037,500 of deferred underwriting fees and \$ 460,299 of other offering costs.

Pursuant to the Investment Management Trust Agreement dated June 8, 2021, in January 2023, the Company withdrew \$1,000,000 and \$389,298 from the trust account for fiscal year 2022 working capital purposes and fiscal year 2021 and fiscal year 2022 tax obligations, respectively. Additionally, in March 2023, the Company withdrew \$1,000,000 from the Trust Account for fiscal year 2023 working capital purposes.

**Liquidity and Capital Resources**

At June 30, 2023, the Company had cash of \$ 1,201,271 and working capital deficit of \$ 2,098,073 (after adding back \$100,000 in franchise tax payable as that liability, which is included in "accrued expenses" in the accompanying balance sheet, and may be settled using earnings from the Trust Account; \$2,124 of franchises taxes paid out of an operating cash account not yet reimbursed from the Trust Account; and \$ 957,982 in accrued income tax payable, which may be settled using earnings from the Trust Account).

The Company's liquidity needs up to June 30, 2023 were satisfied through the proceeds of \$ 25,000 from the sale of 4,312,500 shares of the Company's Class B common stock, par value \$0.0001 to the Sponsor (the "Founder Shares"), a loan of \$ 46,975 under an unsecured and non-interest bearing promissory note from a related party, and from the net proceeds from the consummation of the Initial Public Offering and the sale of the Private Placement Warrants held outside of the Trust Account. See "Note 5. Related Party Transactions" for more information regarding the sale of the Founder Shares and the promissory note.

Additionally, to fund working capital, the Company had permitted certain withdrawals from the Trust Account up to an annual limit of \$ 1,000,000. The Company was able to withdraw additional funds to pay income tax and franchise tax obligations. These Permitted Withdrawals are limited to only the interest that has been earned in excess of the initial deposit made upon the consummation of the Initial Public Offering. In the six months ended June 30, 2023, the Company withdrew \$2,951,390 to pay for income taxes and working capital expenses.

On July 19, 2023, the Company used substantially all of the funds held in the Trust Account to complete the Business Combination and substantial doubt about the Company's ability to continue as a going concern was alleviated. Funds held in the Trust Account were also used to fund the redemption of publicly held shares of Class A common stock.

**Risks and Uncertainties**

Various social and political circumstances in the U.S. and around the world (including wars and other forms of conflict, rising trade tensions between the United States and China, and other uncertainties regarding actual and potential shifts in the U.S. and foreign, trade, economic and other policies with other countries, terrorist acts, security operations and catastrophic events such as fires, floods, earthquakes, tornadoes, hurricanes and global health epidemics), may also contribute to increased market volatility and economic uncertainties or deterioration in the U.S. and worldwide. Specifically, the rising conflict between Russia and Ukraine, and resulting market volatility could adversely affect the Company's ability to complete a business combination. In response to the conflict between Russia and Ukraine, the U.S. and other countries have imposed sanctions or other restrictive actions against Russia.

On August 16, 2022, the Inflation Reduction Act of 2022 (the "IR Act") was signed into federal law. The IR Act provides for, among other things, a new U.S. federal 1% excise tax on certain repurchases of stock by publicly traded U.S. domestic corporations and certain U.S. domestic subsidiaries of publicly traded foreign corporations occurring on or after January 1, 2023. The excise tax is imposed on the repurchasing corporation itself, not its shareholders from which shares are repurchased. The amount of the excise tax is generally 1% of the fair market value of the shares repurchased at the time of the repurchase. However, for purposes of calculating the excise tax, repurchasing corporations are permitted to net the fair market value of certain new stock issuances against the fair market value of stock repurchases during the same taxable year. In addition, certain exceptions apply to the excise tax. The U.S. Department of the Treasury (the "Treasury") has been given authority to provide regulations and other guidance to carry out and prevent the abuse or avoidance of the excise tax.

Any redemption or other repurchase occurring after December 31, 2022 in connection with a business combination, extension vote or otherwise may be subject to the excise tax. Whether and to what extent the Company would be subject to the excise tax in connection with a business combination, extension vote or otherwise would depend on a number of factors, including (i) the fair market value of the redemptions and repurchases in connection with the Business Combination, extension or otherwise, (ii) the structure of a business combination, (iii) the nature and amount of any "PIPE" or other equity issuances in connection with a business combination (or otherwise issued not in connection with a business combination but issued within the same taxable year of a business combination) and (iv) the content of regulations and other guidance from the Treasury. In addition, because the excise tax would be payable by the Company and not by the redeeming holder, the mechanics of any required payment of the excise tax have not been determined. The foregoing could cause a reduction in the cash available on hand to complete a business combination and in the Company's ability to complete a business combination.

## NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

### ***Basis of Presentation***

The accompanying unaudited condensed consolidated financial statements of the Company have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP") for interim financial information and in accordance with the instructions to Form 10-Q and Article 8 of Regulation S-X of the SEC. Certain information or footnote disclosures normally included in financial statements prepared in accordance with GAAP have been condensed or omitted, pursuant to the rules and regulations of the SEC for interim financial reporting. Accordingly, they do not include all the information and footnotes necessary for a complete presentation of financial position, results of operations, or cash flows. In the opinion of management, the accompanying unaudited condensed consolidated financial statements include all adjustments, consisting of a normal recurring nature, which are necessary for a fair presentation of the financial position, operating results and cash flows for the periods presented.

The accompanying unaudited condensed consolidated financial statements should be read in conjunction with the Company's Annual Report on Form 10-K as filed with the SEC on March 24, 2023. The interim results for the three and six months ended June 30, 2023 are not necessarily indicative of the results to be expected for the year ended December 31, 2023 or for any future periods.

### ***Emerging Growth Company***

The Company is an "emerging growth company," as defined in Section 2(a) of the Securities Act of 1933 (the "Securities Act"), as modified by the Jumpstart Our Business Startups Act of 2012 (the "JOBS Act"), and it may take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not emerging growth companies including, but not limited to, not being required to comply with the independent registered public accounting firm attestation requirements of Section 404 of the Sarbanes-Oxley Act of 2002, reduced disclosure obligations regarding executive compensation in its periodic reports and proxy statements, and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved.

Further, Section 102(b)(1) of the JOBS Act exempts emerging growth companies from being required to comply with new or revised financial accounting standards until private companies (that is, those that have not had a Securities Act registration statement declared effective or do not have a class of securities registered under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) are required to comply with the new or revised financial accounting standards. The JOBS Act provides that a company can elect to opt out of the extended transition period and comply with the requirements that apply to non-emerging growth companies but any such election to opt out is irrevocable. The Company has elected not to opt out of such extended transition period which means that when a standard is issued or revised and it has different application dates for public or private companies, the Company, as an emerging growth company, can adopt the new or revised standard at the time private companies adopt the new or revised standard. This may make comparison of the Company's financial statement with another public company which is neither an emerging growth company nor an emerging growth company which has opted out of using the extended transition period difficult or impossible because of the potential differences in accounting standards used.

The Company will remain an emerging growth company until the earliest of (i) the last day of the first fiscal year (a) following the fifth anniversary of the completion of the Initial Public Offering, (b) in which the Company's total annual gross revenue is at least \$1.235 billion or (c) when the Company is deemed to be a large accelerated filer, which means the market value of the Company's common stock that is held by non-affiliates exceeds \$700.0 million as of the prior June 30th and (ii) the date on which the Company has issued more than \$1.0 billion in non-convertible debt securities during the prior three-year period.

**PSQ HOLDINGS, INC.  
(f/k/a Colombier Acquisition Corp.)**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**JUNE 30, 2023**  
**(UNAUDITED)**

### ***Principles of Consolidation***

The accompanying condensed consolidated financial statements include the accounts of the Company and its wholly owned subsidiary. All significant intercompany balances and transactions have been eliminated in consolidation.

### ***Use of Estimates***

The preparation of the condensed consolidated financial statements in conformity with GAAP requires the Company's management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the condensed consolidated financial statements and the reported amounts of revenues and expenses during the reporting period.

Making estimates requires management to exercise significant judgment. It is at least reasonably possible that the estimate of the effect of a condition, situation or set of circumstances that existed at the date of the financial statements, which management considered in formulating its estimate, could change in the near term due to one or more future confirming events. One of the more significant accounting estimates included in these condensed consolidated financial statements is the determination of the fair value of the warrant liabilities. Such estimates may be subject to change as more current information becomes available and accordingly the actual results could differ significantly from those estimates.

### ***Cash and Cash Equivalents***

The Company considers all short-term investments with an original maturity of three months or less when purchased to be cash equivalents. Cash held outside of the trust was \$1,201,271 and \$195,339 at June 30, 2023 and December 31, 2022, respectively. The Company did not have any cash

equivalents as of June 30, 2023 and December 31, 2022.

#### **Marketable Securities Held in Trust Account**

At June 30, 2023 and December 31, 2022, substantially all of the assets held in the Trust Account were held in money market funds, which are invested primarily in U.S. Treasury securities. For the six months ended June 30, 2023 and 2022, the Company withdrew \$2,951,390 and \$0 from the Trust Account to fund Permitted Withdrawals, respectively.

All of the Company's investments held in the Trust Account are classified as trading securities. Trading securities are presented on the balance sheet at fair value at the end of each reporting period. Gains and losses resulting from the change in fair value of investments held in Trust Account are included in interest earned on marketable securities held in Trust Account in the accompanying statements of operations. The estimated fair values of investments held in Trust Account are determined using available market information.

#### **Warrant Liabilities**

The Company does not use derivative instruments to hedge exposures to cash flow, market, or foreign currency risks. The Company evaluates all of its financial instruments, including issued share purchase warrants, to determine if such instruments are derivatives or contain features that qualify as embedded derivatives, pursuant to Financial Accounting Standards Board's ("FASB") Accounting Standards Codification Topic 815-40, "Derivatives and Hedging" ("ASC 815-40"). The classification of derivative instruments, including whether such instruments should be recorded as liabilities or as equity, is re-assessed at the end of each reporting period. The Company accounts for the Public Warrants (as defined in Note 4) and the Private Placement Warrants (collectively, with the Public Warrants, the "Warrants") in accordance with the guidance contained in ASC 815-40 under which the Warrants do not meet the criteria for equity treatment and must be recorded as liabilities. Accordingly, the Company classifies the Warrants as liabilities at their fair value and adjusts the Warrants to fair value at each reporting period. This liability is subject to re-measurement at each balance sheet date until exercised, and any change in fair value is recognized in the statements of operations. The Warrants for periods where no observable traded price was available are valued using a binomial/lattice model. For periods subsequent to the detachment of the Public Warrants from the Units, the Public Warrant quoted market price will be used as the fair value as of each relevant date.

#### **Class A Common Stock Subject to Possible Redemption**

The Company accounts for its Class A common stock subject to possible redemption in accordance with the guidance in ASC 480 "Distinguishing Liabilities from Equity." Shares of Class A common stock subject to mandatory redemption is classified as a liability instrument and is measured at fair value. Conditionally redeemable common stock (including common stock that features redemption rights that is either within the control of the holder or subject to redemption upon the occurrence of uncertain events not solely within the Company's control) is classified as temporary equity. At all other times, common stock is classified as stockholders' equity. The Company's Class A common stock features certain redemption rights that are considered to be outside of the Company's control and subject to occurrence of uncertain future events. Accordingly, as of June 30, 2023 and December 31, 2022, 17,250,000 shares of Class A common stock subject to possible redemption is presented at redemption value as temporary equity, outside of the stockholders' deficit section of the Company's condensed consolidated balance sheets.

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Immediately upon the closing of the Initial Public Offering, the Company recognized the re-measurement from initial book value to redemption amount, which approximates fair value. The change in the carrying value of the redeemable Class A common stock subject to possible redemption resulted in charges against additional paid-in capital (to the extent available), accumulated deficit and Class A common stock.

The Company recognizes changes in redemption value immediately as they occur and adjusts the carrying value of redeemable common stock to equal the redemption value at the end of each reporting period. Increases or decreases in the carrying amount of redeemable common stock are affected by charges against additional paid in capital (to the extent available), accumulated deficit and Class A Common stock.

At June 30, 2023 and December 31, 2022, the Class A Common stock subject to possible redemption reflected in the condensed consolidated balance sheets are reconciled in the following table:

Gross proceeds	\$ 172,500,000
Less:	
Proceeds allocated to Public Warrants	(5,462,500)
Class A common stock issuance costs	(9,447,180)
Plus:	
Re-measurement of carrying value to redemption value	14,909,680
<b>Class A common stock subject to possible redemption, December 31, 2021</b>	<b>172,500,000</b>
Plus:	
Re-measurement of carrying value to redemption value	534,002
<b>Class A common stock subject to possible redemption, December 31, 2022</b>	<b>173,034,002</b>
Plus:	
Re-measurement of carrying value to redemption value	333,395
<b>Class A common stock subject to possible redemption, March 31, 2023</b>	<b>173,367,397</b>
Plus:	
Re-measurement of carrying value to redemption value	1,451,825
<b>Class A common stock subject to possible redemption, June 30, 2023</b>	<b>\$ 174,819,222</b>

#### **Offering Costs**

The Company complies with the requirements of the Accounting Standards Codification Topic 340-10-S99-1 and SEC Staff Accounting Bulletin ("SAB") Topic 5A – Expenses of Offering. Offering costs consist of underwriting, legal, accounting and other expenses incurred through the Initial Public Offering that are directly related to the Initial Public Offering. Offering costs are allocated to the separable financial instruments issued in the Initial Public Offering based on a relative fair value basis, compared to total proceeds received. Offering costs associated with derivative warrant liabilities are expensed as incurred, presented as non-operating expenses in the statement of operations. Offering costs associated with the issuance of Public Shares amounting to \$9,618,180 are included in the re-measurement for Class A common stock subject to redemption amount. The Company paid the underwriters a cash fee of \$3,450,000 at the Initial Public Offering date. In addition, the underwriters were entitled to a deferred fee of \$ 0.35 per Unit, or \$6,037,500. The deferred

fee was to be payable to the underwriters from the amounts held in the Trust Account solely in the event that the Company completes a business combination, subject to the terms of the Underwriting Agreement (as defined below). In connection with the Company's Business Combination, the UW Representative (as defined below) agreed, pursuant to a letter agreement dated March 9, 2023, that in the Company's discretion, the Company could reallocate a portion of the "Deferred Discount," as such term is defined in the Underwriting Agreement, to one or more third parties not participating in the Initial Public Offering; provided that the UW Representative is paid at least an agreed minimum amount of the Deferred Discount at the closing, if any, of the Business Combination. Offering costs associated with the derivative warrant liabilities amounting to \$290,432 in the second quarter of 2021, and \$39,187 in the third quarter of 2021, totaling \$329,619 for the period from February 12, 2021 (inception) through December 31, 2021, were expensed to the statement of operations. The Company classifies deferred underwriting commissions as non-current liabilities as their liquidation is not reasonably expected to require the use of current assets or require the creation of current liabilities.

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**Income Taxes**

The Company accounts for income taxes under ASC 740, "Income Taxes." ("ASC 740"), which requires the recognition of deferred tax assets and liabilities for both the expected impact of differences between the unaudited condensed consolidated financial statements and tax basis of assets and liabilities and for the expected future tax benefit to be derived from tax loss and tax credit carry forwards. ASC 740 additionally requires a valuation allowance to be established when it is more likely than not that all or a portion of deferred tax assets will not be realized. As of June 30, 2023 and December 31, 2022, the Company's deferred tax asset had a full valuation allowance recorded against it. The Company's effective tax rate was (8.06)% and 0.68% for the three months ended June 30, 2023 and 2022, respectively, and ( 12.55)% and 0.29% for the six months ended June 30, 2023 and 2022, respectively. The effective tax rate differs from the statutory tax rate of 21% for the three and six months ended June 30, 2023 and 2022, due to changes in fair value in warrant liability, M&A expenses subsequent to signing of a letter of intent ("LOI"), and the valuation allowance on the deferred tax assets.

ASC 740 also clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements and prescribes a recognition threshold and measurement process for financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. For those benefits to be recognized, a tax position must be more-likely-than-not to be sustained upon examination by taxing authorities. ASC 740 also provides guidance on derecognition, classification, interest and penalties, accounting in interim period, disclosure and transition.

The Company recognizes accrued interest and penalties related to unrecognized tax benefits as income tax expense. There were no unrecognized tax benefits and no amounts accrued for interest and penalties as of June 30, 2023 and December 31, 2022. The Company is currently not aware of any issues under review that could result in significant payments, accruals or material deviation from its position.

The Company has identified the United States as its only "major" tax jurisdiction. The Company is subject to income taxation by major taxing authorities since inception. These examinations may include questioning the timing and amount of deductions, the nexus of income among various tax jurisdictions and compliance with federal and state tax laws. The Company's management does not expect that the total amount of unrecognized tax benefits will materially change over the next twelve months.

**Net (loss) income per Common Share**

Net (loss) income per common share is computed by dividing net income (loss) by the weighted average number of common shares outstanding for the period. Re-measurement associated with the redeemable shares of Class A common stock is excluded from (loss) income per common share as the redemption value approximates fair value.

The calculation of diluted (loss) income per common share does not consider the effect of the warrants issued in connection with the (i) Initial Public Offering, and (ii) the private placement to purchase an aggregate of 11,450,000 shares of common stock in the calculation of diluted (loss) income per common share, since the exercise of the warrants is contingent upon the occurrence of future events. For the periods ended June 30, 2023 and 2022, the Company did not have any other dilutive securities or other contracts that could, potentially, be exercised or converted into shares of common stock and then share in the earnings of the Company. As a result, diluted net (loss) income per common stock is the same as basic net (loss) income per common share for the period presented.

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The following table reflects the calculation of basic and diluted net (loss) income per common share (in dollars, except per share amounts):

	For the Three Months Ended June 30,				For the Six Months Ended June 30,			
	2023		2022		2023		2022	
	Class A	Class B	Class A	Class B	Class A	Class B	Class A	Class B
<b>Basic and diluted net (loss) income per common share</b>								
<i>Numerator:</i>								
Allocation of net (loss) income	\$ (6,099,783)	\$ (1,524,946)	\$ 1,555,621	\$ 388,905	\$ (7,421,662)	\$ (1,855,415)	\$ 3,623,642	\$ 905,911
<i>Denominator:</i>								
Basic and diluted weighted average shares outstanding	<u>17,250,000</u>	<u>4,312,500</u>	<u>17,250,000</u>	<u>4,312,500</u>	<u>17,250,000</u>	<u>4,312,500</u>	<u>17,250,000</u>	<u>4,312,500</u>

Basic and diluted net (loss) income per common share	\$ (0.35)	\$ (0.35)	\$ 0.09	\$ 0.09	\$ (0.43)	\$ (0.43)	\$ 0.21	\$ 0.21
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#### **Concentration of Credit Risk**

Financial instruments that potentially subject the Company to concentrations of credit risk consist of cash accounts in a financial institution, which, at times may exceed the Federal Depository Insurance Coverage of \$250,000, and investments held in the Trust Account. As of June 30, 2023 and December 31, 2022, the Company has not experienced losses on these accounts and management believes the Company is not exposed to significant risks on such accounts.

#### **Fair Value of Financial Instruments**

The fair value of the Company's assets and liabilities, which qualify as financial instruments under ASC 820, "Fair Value Measurement," approximates the carrying amounts represented in the accompanying condensed consolidated balance sheets, primarily due to their short-term nature, except for warrant liabilities (see Note 9).

#### **Derivative Financial Instruments**

The Company evaluates its financial instruments to determine if such instruments are derivatives or contain features that qualify as embedded derivatives in accordance with ASC 815-40, "Derivatives and Hedging". Derivative instruments are initially recorded at fair value on the grant date and re-valued at the end of each reporting period, with changes in the fair value reported in the statement of operations. Derivative assets and liabilities are classified in the balance sheet as current or non-current based on whether or not net-cash settlement or conversion of the instrument could be required within 12 months of the balance sheet date.

#### **Recent Accounting Standards**

Management does not believe that any recently issued, but not yet effective, accounting standards, if currently adopted, would have a material effect on the Company's condensed consolidated financial statements.

#### **NOTE 3. INITIAL PUBLIC OFFERING**

Pursuant to the Initial Public Offering, the Company sold 17,250,000 Units, inclusive of 2,250,000 Units sold to the underwriters on July 1, 2021 upon the underwriters' election to fully exercise their over-allotment option, at a purchase price of \$10.00 per Unit, generating gross proceeds of \$172.5 million. Each Unit consists of one share of the Company's Class A common stock and one-third of one redeemable warrant ("Public Warrant"). Each Public Warrant entitles the holder to purchase one share of Class A common stock at an exercise price of \$11.50 per whole share (see Note 8).

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#### **NOTE 4. PRIVATE PLACEMENT**

Simultaneously with the closing of the Initial Public Offering, the Sponsor purchased an aggregate of 5,250,000 Private Placement Warrants at a price of \$1.00 per Private Placement Warrant, for an aggregate purchase price of \$5,250,000, in a private placement. On July 1, 2021, in connection with the underwriters' election to fully exercise their over-allotment option, the Company sold an additional 450,000 Private Placement Warrants to the Sponsor, at a price of \$1.00 per Private Placement Warrant, generating gross proceeds of \$450,000. Each Private Placement Warrant is exercisable to purchase one Class A common stock at a price of \$11.50 per share, subject to adjustment (see Note 8). A portion of the proceeds from the Private Placement Warrants were added to the proceeds from the Initial Public Offering to be held in the Trust Account.

#### **NOTE 5. RELATED PARTY TRANSACTIONS**

##### **Founder Shares**

On February 15, 2021, the Sponsor purchased the Founder Shares for an aggregate price of \$25,000. The Founder Shares include an aggregate of up to 562,500 shares subject to forfeiture by the Sponsor to the extent that the underwriter's over-allotment is not exercised in full or in part, so that the Sponsor will collectively own, on an as-converted basis, 20% of the Company's issued and outstanding shares after the Initial Public Offering (assuming the Sponsor does not purchase any Public Shares in the Initial Public Offering). As a result of the underwriters' election to fully exercise their over-allotment option on July 1, 2021, 562,500 Founder Shares are no longer subject to forfeiture.

The Sponsor has agreed, subject to certain limited exceptions, not to transfer, assign or sell any of the Founder Shares until the earlier to occur of: (A) one year after the completion of a business combination or (B) subsequent to a business combination, (x) if the last reported sale price of the Class A common stock equals or exceeds \$12.00 per share (as adjusted for stock splits, stock dividends, reorganizations, recapitalizations and the like) for any 20 trading days within any 30-trading day period commencing at least 150 days after a business combination, or (y) the date on which the Company completes a liquidation, merger, capital stock exchange or other similar transaction that results in all of the Company's stockholders having the right to exchange their shares of common stock for cash, securities or other property. In connection with the Business Combination, the Sponsor transferred the Founder Shares to members of the Sponsor on July 19, 2023.

##### **Administrative Services Agreement**

The Company entered into an agreement, commencing on June 8, 2021, through the earlier of the Company's consummation of a business combination and its liquidation, to pay an affiliate of the Sponsor a total of up to \$10,000 per month for office space, administrative and support services. For the three and six months ended June 30, 2023, the Company incurred \$30,000 and \$60,000 in fees for these services, respectively, of which \$6,733 is included in accrued expenses in the accompanying condensed consolidated balance sheets. For the three and six months ended June 30, 2022, the Company incurred \$30,000 and \$60,000 in fees for these services, respectively, of which such amounts are included in accrued expenses in the accompanying condensed consolidated balance sheets.

##### **Promissory Note — Related Party**

On February 23, 2021, the Sponsor agreed to loan the Company an aggregate of up to \$300,000 to cover expenses related to the Initial Public Offering pursuant to a promissory note (the "Promissory Note"). The Promissory Note was non-interest bearing and was payable on the earlier of (i) December

31, 2021, or (ii) the consummation of the Initial Public Offering. The outstanding balance under the Promissory Note of \$46,975 was repaid at the closing of the Initial Public Offering on June 11, 2021.

#### **Related Party Loans**

In order to finance transaction costs in connection with a business combination, the Sponsor or an affiliate of the Sponsor or certain of the Company's directors and officers were entitled, but are not obligated, to loan the Company funds as may have been required ("Working Capital Loans"). No Working Capital Loans were made in connection with the Business Combination. As of June 30, 2023 and December 31, 2022, no related party loans were outstanding.

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#### **NOTE 6. COMMITMENTS AND CONTINGENCIES**

##### **Registration Rights**

Pursuant to a registration rights agreement entered into on June 11, 2021, the holders of the Founder Shares and Private Placement Warrants (and any shares of Class A common stock issuable upon the exercise of the Private Placement Warrants and upon conversion of the Founder Shares) are entitled to registration rights requiring the Company to register such securities for resale (in the case of the Founder Shares, only after conversion to shares of the Company's Class A common stock). The holders of these securities will be entitled to make up to three demands, excluding short form registration demands, that the Company register such securities. In addition, the holders have certain "piggy-back" registration rights with respect to registration statements filed subsequent to the completion of a business combination and rights to require the Company to register for resale such securities pursuant to Rule 415 under the Securities Act. However, the registration rights agreement will provide that the Company will not be required to effect or permit any registration or cause any registration statement to become effective until termination of the applicable lock-up period. The registration rights agreement does not contain liquidated damages or other cash settlement provisions resulting from delays in registering the Company's securities. The Company will bear the expenses incurred in connection with the filing of any such registration statements.

##### **Underwriting Agreement**

The Company granted the underwriters a 45-day option to purchase up to 2,250,000 additional Units to cover over-allotments at the Initial Public Offering price, less the underwriting discounts and commissions. On July 1, 2021, the underwriters elected to fully exercise the over-allotment option to purchase an additional 2,250,000 Units at a price of \$10.00 per Unit.

Pursuant to the Underwriting Agreement, dated June 8, 2021 (the "Underwriting Agreement"), entered into by us and the Representative of our underwriters for the Initial Public Offering (the "UW Representative"), the underwriters were entitled to a deferred fee of \$0.35 per Unit, or \$6,037,500. The deferred fee was to be payable to the underwriters from the amounts held in the Trust Account solely in the event that the Company completes a business combination, subject to the terms of the Underwriting Agreement. In connection with the Company's Business Combination, the UW Representative agreed, pursuant to a letter agreement dated March 9, 2023, that in the Company's discretion, the Company could reallocate a portion of the "Deferred Discount," as such term is defined in the Underwriting Agreement, to one or more third parties not participating in the Initial Public Offering; provided that the UW Representative is paid at least an agreed minimum amount of the Deferred Discount at the closing, if any, of the Business Combination.

The Company agreed to pay for the FINRA-related fees and expenses of the underwriters' legal counsel and certain diligence and other fees, which such fees and expenses are capped at an aggregate of \$50,000. The Company also reimbursed the underwriters for background checks on the Company's directors, director nominees and executive officers.

##### **PublicSq. Merger Agreement**

On February 27, 2023, the Company, PublicSq., the Merger Sub, and the Sponsor, a Delaware limited liability company, in its capacity as Purchaser Representative, for the purposes set forth in the Merger Agreement, entered into the Merger Agreement.

At the Special Meeting held on July 19, 2023, the Company's stockholders voted to approve the proposals outlined in the Proxy Statement/Prospectus, including, among other things, the adoption of the Merger Agreement and approval of the transactions contemplated by the Merger Agreement, including the merger of Merger Sub with and into PublicSq., with PublicSq. continuing as the surviving corporation and as a wholly-owned subsidiary the Company, and the issuance of the Company's common stock as consideration thereunder. In addition, on July 19, 2023, the Closing was completed.

In connection with the Closing, the Company changed its name from Colombier Acquisition Corp. to PSQ Holdings, Inc.

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#### **NOTE 7. STOCKHOLDERS' DEFICIT**

**Preferred Stock** — The Company is authorized to issue 1,000,000 shares of \$0.0001 par value preferred stock. At June 30, 2023 and December 31, 2022, there were no shares of preferred stock issued or outstanding .

**Class A Common Stock** — The Company is authorized to issue up to 80,000,000 shares of Class A, \$0.0001 par value common stock. Holders of the Company's common stock are entitled to one vote for each share. At June 30, 2023 and December 31, 2022, there were 17,250,000 shares of Class A common stock issued and outstanding, including Class A common stock subject to possible redemption which are presented as temporary equity.

**Class B Common Stock** — The Company is authorized to issue up to 20,000,000 shares of Class B, \$0.0001 par value common stock. Holders of the Company's common stock are entitled to one vote for each share. At June 30, 2023 and December 31, 2022, there were 4,312,500 shares of Class B common stock issued and outstanding.

Holders of Class A common stock and Class B common stock will vote together as a single class on all other matters submitted to a vote of stockholders, except as required by law.

The shares of Class B common stock will automatically convert into shares of Class A common stock at the time of a business combination, or earlier at the option of the holder, on a one-for-one basis, subject to adjustment as provided herein. In the case that additional shares of Class A common stock, or equity-linked securities, are issued or deemed issued in excess of the amounts issued in the Initial Public Offering and related to the closing of a business combination, the ratio at which the shares of Class B common stock will convert into shares of Class A common stock will be adjusted (unless the holders of a majority of the issued and outstanding shares of the Company's Class B common stock agree to waive such anti-dilution adjustment with respect to any such issuance or deemed issuance) so that the number of shares of Class A common stock issuable upon conversion of all shares of Class B common stock will equal, in the aggregate, on an as-converted basis, 20% of the sum of all shares of common stock issued and outstanding upon the completion of the Initial Public Offering, plus all shares of the Company's Class A common stock and equity-linked securities issued or deemed issued in connection with a business combination, excluding any shares or equity-linked securities issued, or to be issued, to any seller in a business combination.

#### **NOTE 8. WARRANT LIABILITIES**

At June 30, 2023 and December 31, 2022, there are 5,750,000 Public Warrants outstanding. Public Warrants may only be exercised for a whole number of shares. No fractional shares will be issued upon exercise of the Public Warrants. The Public Warrants will become exercisable on the later of (a) 30 days after the consummation of a business combination or (b) 12 months from the closing of the Initial Public Offering. The Public Warrants will expire five years from the consummation of a business combination or earlier upon redemption or liquidation.

The Company will not be obligated to deliver any Class A common stock pursuant to the exercise of a Public Warrant and will have no obligation to settle such Public Warrant exercise unless a registration statement under the Securities Act covering the issuance of the Class A common stock issuable upon exercise of the Public Warrants is then effective and a prospectus relating thereto is current, subject to the Company satisfying its obligations with respect to registration. No warrant will be exercisable and the Company will not be obligated to issue shares of Class A common stock upon exercise of a warrant unless Class A common stock issuable upon such warrant exercise has been registered, qualified or deemed to be exempt under the securities laws of the state of residence of the registered holder of the warrants.

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The Company has agreed that as soon as practicable, but in no event later than 15 business days after the closing of a business combination, it will use its commercially reasonable efforts to file with the SEC a registration statement covering the issuance, under the Securities Act, of the Class A common stock issuable upon exercise of the warrants. The Company will use its commercially reasonable efforts to cause the same to become effective within 60 business days after the closing of a business combination and to maintain the effectiveness of such registration statement, and a current prospectus relating thereto, until the expiration of the warrants in accordance with the provisions of the warrant agreement. If any such registration statement has not been declared effective by the 60th business day following the closing of a business combination, holders of the warrants will have the right, during the period beginning on the 61st business day after the closing of a business combination and ending upon such registration statement being declared effective by the SEC, and during any other period when the company fails to have maintained an effective registration statement covering the issuance of the shares of Class A common stock issuable upon exercise of the warrants, to exercise such warrants on a "cashless basis." Notwithstanding the above, if the shares of Class A common stock are, at the time of any exercise of a warrant, not listed on a national securities exchange such that they satisfy the definition of a "covered security" under Section 18(b)(1) of the Securities Act, the Company may, at its option, require holders of Public Warrants who exercise their warrants to do so on a "cashless basis" in accordance with Section 3(a)(9) of the Securities Act and, in the event the Company so elect, the Company will not be required to file or maintain in effect a registration statement, but will use its commercially reasonable efforts to register or qualify the shares under applicable blue sky laws to the extent an exemption is not available.

- in whole and not in part;
- at a price of \$0.01 per warrant;
- upon not less than 30 days' prior written notice of redemption given after the warrants become exercisable to each warrant holder; and
- if, and only if, the reported last sale price of the Class A common stock equals or exceeds \$18.00 per share (as adjusted for stock splits, stock dividends, reorganizations, recapitalizations and the like) for any 20 trading days within a 30-trading day period commencing once the warrants become exercisable and ending three business days before the Company sends the notice of redemption to the warrant holders.

If and when the warrants become redeemable by the Company, the Company may exercise its redemption right even if it is unable to register or qualify the underlying securities for sale under all applicable state securities laws.

If the Company calls the Public Warrants for redemption, management will have the option to require all holders that wish to exercise the Public Warrants to do so on a "cashless basis," as described in the warrant agreement. The exercise price and number of shares of Class A common stock issuable upon exercise of the warrants may be adjusted in certain circumstances including in the event of a stock dividend, or recapitalization, reorganization, merger or consolidation. However, except as described below, the warrants will not be adjusted for issuance of Class A common stock at a price below its exercise price. Additionally, in no event will the Company be required to net cash settle the warrants. If the Company is unable to complete a business combination within the Combination Period and the Company liquidates the funds held in the Trust Account, holders of warrants will not receive any of such funds with respect to their warrants, nor will they receive any distribution from the Company's assets held outside of the Trust Account with the respect to such warrants. Accordingly, the warrants may expire worthless.

At June 30, 2023 and December 31, 2022, there are 5,700,000 Private Placement warrants outstanding. The Private Placement Warrants are identical to the Public Warrants underlying the Units sold in the Initial Public Offering, except that the Private Placement Warrants and the common stock issuable upon the exercise of the Private Placement Warrants will not be transferable, assignable or salable until 30 days after the completion of a business combination, subject to certain limited exceptions. Additionally, the Private Placement Warrants will be exercisable on a cashless basis and will be non-redeemable so long as they are held by the initial purchasers or their permitted transferees. If the Private Placement Warrants are held by someone other than the initial purchasers or their permitted transferees, the Private Placement Warrants will be redeemable by the Company and exercisable by such holders on the same basis as the Public Warrants.

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**NOTE 9. FAIR VALUE MEASUREMENTS**

The Company follows the guidance in ASC 820 for its financial assets and liabilities that are re-measured and reported at fair value at each reporting period, and non-financial assets and liabilities that are re-measured and reported at fair value at least annually.

The fair value of the Company's financial assets and liabilities reflects management's estimate of amounts that the Company would have received in connection with the sale of the assets or paid in connection with the transfer of the liabilities in an orderly transaction between market participants at the measurement date. In connection with measuring the fair value of its assets and liabilities, the Company seeks to maximize the use of observable inputs (market data obtained from independent sources) and to minimize the use of unobservable inputs (internal assumptions about how market participants would price assets and liabilities). The following fair value hierarchy is used to classify assets and liabilities based on the observable inputs and unobservable inputs used in order to value the assets and liabilities:

Level 1: Quoted prices in active markets for identical assets or liabilities. An active market for an asset or liability is a market in which transactions for the asset or liability occur with sufficient frequency and volume to provide pricing information on an ongoing basis.

Level 2: Observable inputs other than Level 1 inputs. Examples of Level 2 inputs include quoted prices in active markets for similar assets or liabilities and quoted prices for identical assets or liabilities in markets that are not active.

Level 3: Unobservable inputs based on the Company's assessment of the assumptions that market participants would use in pricing the asset or liability.

The following table presents information about the Company's assets that are measured at fair value on a recurring basis at June 30, 2023 and December 31, 2022, and indicates the fair value hierarchy of the valuation inputs the Company utilized to determine such fair value:

<b>Description</b>	<b>Level</b>	<b>June 30, 2023</b>		<b>December 31, 2022</b>	
		<b>Level</b>	<b>Level</b>	<b>Level</b>	<b>Level</b>
<b>Assets:</b>					
Marketable securities held in Trust Account	1	\$ 175,879,326	1	\$ 174,948,027	
<b>Liabilities:</b>					
Warrant liability – Public Warrants	1	\$ 4,427,500	1	\$ 517,500	
Warrant liability – Private Placement Warrants	3	4,389,000	3	513,000	

The Warrants were accounted for as liabilities in accordance with ASC 815-40 and are presented within warrant liabilities in the accompanying balance sheets. The warrant liabilities are measured at fair value at inception and on a recurring basis, with changes in fair value presented within the statements of operations.

The Warrants were valued using a binomial lattice model, which is considered to be a Level 3 fair value measurement. The binomial lattice model's primary unobservable input utilized in determining the fair value of the Warrants is the expected volatility of the common stock. The expected volatility as of the Initial Public Offering date was derived from observable public warrant pricing on comparable 'blank-check' companies without an identified target. For periods subsequent to the detachment of the Public Warrants from the Units, the close price of the Public Warrant price will be used as the fair value as of each relevant date.

The following table provides quantitative information regarding Level 3 fair value measurements:

	<b>June 30, 2023</b>	<b>December 31, 2022</b>
Stock price	\$ 10.27	\$ 9.94
Exercise price	\$ 11.50	\$ 11.50
Expected term (in years)	1.49	4.50
Volatility	18.8%	10.60%
Risk-free rate	5.07%	4.68%
Dividend yield	0.0%	0.00%

**PSQ HOLDINGS, INC.**  
**(f/k/a Colombier Acquisition Corp.)**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**JUNE 30, 2023**  
**(UNAUDITED)**

The following contains additional information regarding the other inputs used in the pricing model:

- Term – the expected life of the warrants was assumed to be equivalent to their remaining contractual term.
- Risk-free rate – the risk-free interest rate is based on the U.S. treasury yield curve in effect on the date of valuation equal to the remaining expected life of the Warrants.
- Dividend yield – the dividend yield percentage is zero because the Company does not currently pay dividends, nor does it intend to do so during the expected term of the Private Placement Warrants.

The following table presents the changes in the fair value of Level 3 warrant liabilities:

	Private Placement	Public	Warrant Liabilities
Fair value as of December 31, 2022	\$ 513,000	—	\$ 513,000
Change in fair value	741,000	—	741,000
<b>Fair value as of March 31, 2023</b>	<b>1,254,000</b>	—	<b>1,254,000</b>
Change in fair value	3,135,000	—	3,135,000
<b>Fair value as of June 30, 2023</b>	<b>\$ 4,389,000</b>	—	<b>\$ 4,389,000</b>

	Private Placement	Public	Warrant Liabilities
Fair value as of December 31, 2021	3,032,325	—	3,032,325
Change in fair value	(2,519,325)	—	(2,519,325)
<b>Fair value as of December 31, 2022</b>	<b>513,000</b>	—	<b>513,000</b>

Transfers to/from Levels 1, 2 and 3 are recognized at the end of the reporting period in which a change in valuation technique or methodology occurs.

#### NOTE 10. SUBSEQUENT EVENTS

The Company evaluated subsequent events and transactions that occurred after the balance sheet date up to the date that the condensed financial statements were issued. Based upon this review, other than the below, the Company did not identify any subsequent events that would have required adjustment or disclosure in the condensed consolidated financial statements.

##### *The Business Combination*

On February 27, 2023, the Company, PublicSq., the Merger Sub, and the Sponsor, a Delaware limited liability company, in its capacity as Purchaser Representative, for the purposes set forth in the Merger Agreement, entered into the Merger Agreement.

On July 17, 2023, Colombier received requests to redeem a total of 14,286,259 Colombier public shares, representing 83% of the total public shares of Colombier outstanding prior to the Redemption Deadline. Following the redemption, 2,963,741 public shares of Colombier were outstanding.

At the Special Meeting held on July 19, 2023, the Company's stockholders voted to approve the proposals outlined in the Proxy Statement/Prospectus, including, among other things, the adoption of the Merger Agreement and approval of the transactions contemplated by the Merger Agreement, including the merger of Merger Sub with and into PublicSq., with PublicSq. continuing as the surviving corporation and as a wholly-owned subsidiary the Company, and the issuance of the Company's common stock as consideration thereunder. In addition, on July 19, 2023, the Closing was completed.

In connection with the Closing, the Company changed its name from Colombier Acquisition Corp. to PSQ Holdings, Inc.

#### Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

References to "we," "us" or the "Company" refer to Colombier Acquisition Corp prior to the closing of the Business Combination. References to our "management" or our "management team" refer to our officers and directors, and references to the "Sponsor" refer to Colombier Sponsor, LLC. The following discussion and analysis of the Company's financial condition and results of operations should be read in conjunction with our condensed consolidated financial statements and the related notes thereto contained elsewhere in this Quarterly Report on Form 10-Q. Certain information contained in the discussion and analysis set forth below includes forward-looking statements that involve risks and uncertainties.

##### Cautionary Note Regarding Forward-Looking Statements

This Quarterly Report on Form 10-Q includes "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act") that are not historical facts and involve risks and uncertainties that could cause actual results to differ materially from those expected and projected. All statements, other than statements of historical fact included in this Quarterly Report on Form 10-Q including, without limitation, statements in this "Management's Discussion and Analysis of Financial Condition and Results of Operations" regarding the completion of the Proposed Business Combination (as defined below), the Company's financial position, business strategy and the plans and objectives of management for future operations, are forward-looking statements. Words such as "expect," "believe," "anticipate," "intend," "estimate," "seek" and variations and similar words and expressions are intended to identify such forward-looking statements. Such forward-looking statements relate to future events or future performance, but reflect management's current beliefs, based on information currently available. A number of factors could cause actual events, performance or results to differ materially from the events, performance and results discussed in the forward-looking statements. For information identifying important factors that could cause actual results to differ materially from those anticipated in the forward-looking statements, please refer to the Risk Factors section of the Company's final prospectus and definitive proxy statement filed with the U.S. Securities and Exchange Commission (the "SEC") on June 30, 2023 (the "Proxy Statement/Prospectus"). The Company's securities filings can be accessed on the EDGAR section of the SEC's website at [www.sec.gov](http://www.sec.gov). Except as expressly required by applicable securities law, the Company disclaims any intention or obligation to update or revise any forward-looking statements whether as a result of new information, future events or otherwise.

##### Overview

We are a former blank check company incorporated under the laws of the State of Delaware on February 12, 2021 for the purpose of effectuating a merger, capital stock exchange, asset acquisition, stock purchase, reorganization or other similar business combination with one or more businesses (the "business combination"). Our sponsor is Colombier Sponsor, LLC, a Delaware limited liability company (the "Sponsor").

We completed our initial public offering (the "Initial Public Offering") on June 11, 2021 and completed a business combination on July 19, 2023 as further described in Note 1 – Description of Organization, Business Operations and Liquidity and Note 10 – Subsequent Events, to our condensed financial information contained elsewhere in this Quarterly Report on Form 10-Q.

##### Recent Developments

On February 27, 2023, PSQ Holdings, Inc. (f/k/a Colombier Acquisition Corp., the "Company"), PublicSq. Inc., a Delaware corporation (f/k/a PSQ Holdings, Inc., "PublicSq."), Colombier-Liberty Acquisition, Inc., a Delaware corporation and a wholly-owned subsidiary of the Company ("Merger Sub"), and the Sponsor, in its capacity as Purchaser Representative (the "Purchaser Representative"), for the purposes set forth in the Merger Agreement (as defined below), entered into an Agreement and Plan of Merger (the "Merger Agreement").

On July 17, 2023, Colombier received requests to redeem a total of 14,286,259 Colombier public shares, representing 83% of the total public shares of Colombier outstanding prior to the Redemption Deadline. Following the redemption, 2,963,741 public shares of Colombier were outstanding.

At the special meeting of the stockholders held on July 19, 2023 (the "Special Meeting"), the Company's stockholders voted to approve the proposals outlined in the Proxy Statement/Prospectus filed by the Company with the SEC on June 30, 2023, including, among other things, the adoption of the Merger Agreement and approval of the transactions contemplated by the Merger Agreement, including the merger of Merger Sub with and into PublicSq., with PublicSq. continuing as the surviving corporation and as a wholly-owned subsidiary the Company, and the issuance of the Company's common stock as consideration thereunder (the "Merger" and, together with the other transactions contemplated by the Merger Agreement, the "Business Combination"). In addition, on July 19, 2023, following the conclusion of the Special Meeting, the Business Combination, including the Merger, was completed (the "Closing").

In connection with the Closing, the Company changed its name from Colombier Acquisition Corp. to PSQ Holdings, Inc.

## **Results of Operations**

As of June 30, 2023, we have neither engaged in any operations nor generated any revenues. Our only activities from February 12, 2021 (inception) through June 30, 2023 were organizational activities, activities related to our Initial Public Offering, identifying a target company for a business combination, and activities in connection with the acquisition of PublicSq., as described below. We do not expect to generate any operating revenues until after the completion of our Business Combination. We generate non-operating income in the form of interest income on marketable securities held in our trust account (the "Trust Account"). We incur expenses as a result of being a public company (for legal, financial reporting, accounting and auditing compliance), as well as due diligence expenses.

For the three months ended June 30, 2023, we had a net loss of \$7,624,729, which consists of change in fair value of warrant liabilities of \$6,297,500, formation and operating costs of \$2,829,054 and provision for income taxes of \$542,735, offset by interest earned on marketable securities held in the Trust Account of \$2,044,560.

For the three months ended June 30, 2022, we had a net income of \$1,944,526, which consists of interest earned on marketable securities held in the Trust Account of \$225,971 and the change in fair value of warrant liabilities of \$1,980,664, offset by formation and operating costs of \$248,757 and provision for income taxes of \$13,352.

For the six months ended June 30, 2023, we had a net loss of \$9,277,077, which consists of change in fair value of warrant liabilities of \$7,786,000, formation and operating costs of \$4,378,470 and provision for income taxes of \$995,296, offset by interest earned on marketable securities held in the Trust Account of \$3,882,689.

For the six months ended June 30, 2022, we had a net income of \$4,529,553, which consists of interest earned on marketable securities held in the Trust Account of \$237,106 and the change in fair value of warrant liabilities of \$4,846,916, offset by formation and operating costs of \$541,117 and provision for income taxes of \$13,352.

## **Liquidity, Capital Resources and Results of Operations**

### *Liquidity*

On February 15, 2021, the Sponsor purchased 4,312,500 shares of our Class B common stock (the "Founder Shares") for an aggregate price of \$25,000. At the time of the purchase, the Founder Shares included an aggregate of up to 562,500 shares subject to forfeiture by the Sponsor to the extent that the underwriter's over-allotment option was not exercised in full or in part, so that the Sponsor would collectively own, on an as-converted basis, 20% of our issued and outstanding shares after the Initial Public Offering (assuming the Sponsor did not purchase any Public Shares in the Initial Public Offering). As a result of the underwriters' election to fully exercise their over-allotment option on July 1, 2021 (as discussed below), 562,500 Founder Shares are no longer subject to forfeiture.

On June 11, 2021, we completed the Initial Public Offering of 15,000,000 Units, at \$10.00 per Unit, generating gross proceeds of \$150,000,000. Simultaneously with the closing of the Initial Public Offering, we completed the sale of 5,250,000 warrants in a private placement to our Sponsor (the "Private Placement Warrants") at a price of \$1.00 per Private Placement Warrant, generating gross proceeds of \$5,250,000.

On July 1, 2021, in connection with the underwriters' exercise of their over-allotment option in full, we consummated the sale of an additional 2,250,000 Units at a price of \$10.00 per Unit, generating total gross proceeds of \$22,500,000. In addition, we also consummated the sale of an additional 450,000 Private Placement Warrants at \$1.00 per warrant, generating total gross proceeds of \$450,000.

Following the Initial Public Offering, the full exercise of the over-allotment option and the sale of the Private Placement Warrants, a total of \$172,500,000 was placed in the Trust Account. We incurred \$9,947,799 in Initial Public Offering-related costs, including \$3,450,000 of underwriting fees, \$6,037,500 of deferred underwriting fees payable upon completion of an initial business combination, and \$460,299 of other costs.

For the six months ended June 30, 2023, cash used in operating activities was \$1,945,458. Net loss of \$9,277,077 was affected by interest earned on marketable securities held in the Trust Account of \$3,882,689 and the change in fair value of warrant liabilities of \$7,786,000. Changes in operating assets and liabilities provided \$3,428,308 of cash for operating activities.

For the six months ended June 30, 2022, cash used in operating activities was \$559,968. Net income of \$4,529,553 was affected by interest earned on marketable securities held in the Trust Account of \$237,106 and the change in fair value of warrant liabilities of \$4,846,916. Changes in operating assets and liabilities used \$5,499 of cash for operating activities.

As of June 30, 2023, we had marketable securities held in the Trust Account of \$175,879,326 (including \$3,379,326 of interest income) consisting of money market funds, which are invested primarily in U.S. Treasury securities. Through June 30, 2023, we have withdrawn \$2,951,390 from the Trust Account for tax and working capital purposes.

In July 2023, we used substantially all of the funds held in the Trust Account, including any amounts representing interest earned on the Trust Account (less income taxes payable), to complete our Business Combination.

At June 30, 2023, the Company had cash of \$1,201,271 and working capital deficit of \$2,098,073 (after adding back \$100,000 in franchise tax payable as

that liability, which is included in "accrued expenses" in the accompanying balance sheet, and may be settled using earnings from the Trust Account; \$2,124 of franchises taxes paid out of an operating cash account not yet reimbursed from the Trust Account; and \$957,982 in accrued income tax payable, which may be settled using earnings from the Trust Account).

Our liquidity needs up to June 30, 2023 were satisfied through the proceeds of \$25,000 from the sale of the Founder Shares, a loan of \$46,975 under an unsecured and non-interest bearing promissory note, and the net proceeds from the consummation of the Initial Public Offering, and the sale of the Private Placement Warrants held outside of the Trust Account. See "Note 5. Related Party Transactions" to our condensed consolidated financial statements for more information regarding our borrowings and indebtedness.

Additionally, to fund working capital requirements, we have permitted withdrawals from the Trust Account up to an annual limit of \$1,000,000, and we may withdraw additional funds to pay income tax and franchise tax obligations ("Permitted Withdrawals"). These Permitted Withdrawals are limited to only the interest available that has been earned in excess of the initial deposit in the Trust Account upon consummation of the Initial Public Offering. In the six months ended June 30, 2023, we withdrew \$2,951,390 from the Trust Account. Specifically, during the three months ended March 31, 2023, we withdrew \$2,000,000 and \$389,298 from the Trust Account for fiscal year 2022 working capital purposes and fiscal year 2021 and fiscal year 2022 tax obligations, respectively. Additionally, in March 2023, we withdrew \$1,000,000 from the Trust Account for fiscal year 2023 working capital purposes. In addition, in April 2023 and May 2023, we withdrew \$545,692 and \$16,399 from Trust Account for fiscal year 2023 tax obligations, respectively.

On July 19, 2023, the previously announced Business Combination closed and substantial doubt about our ability to continue as a going concern was alleviated.

#### **Off-Balance Sheet Arrangements**

As of June 30, 2023, we have no obligations, assets or liabilities which would be considered off-balance sheet arrangements as of June 30, 2023. We do not participate in transactions that create relationships with unconsolidated entities or financial partnerships, often referred to as variable interest entities, which would have been established for the purpose of facilitating off-balance sheet arrangements. We have not entered into any off-balance sheet financing arrangements, established any special purpose entities, guaranteed any debt or commitments of other entities, or purchased any non-financial assets.

#### **Going Concern**

The Company's liquidity needs up to December 31, 2022 were satisfied through the proceeds of \$25,000 from the sale of the Founder Shares, a loan of \$46,975 under an unsecured and non-interest bearing promissory note from a related party, and from the net proceeds from the consummation of the Initial Public Offering and the sale of the Private Placement Warrants held outside of the Trust Account.

In connection with our assessment of going concern considerations in accordance with the FASB Accounting Standards Codification Topic 205-40, "Presentation of Financial Statements - Going Concern," we determined that if the Company did not complete a Business Combination by September 11, 2023, then the Company would cease all operations except for the purpose of liquidating. The Company consummated the Business Combination on July 19, 2023, prior to the mandatory liquidation date of September 11, 2023, and as such the ability of the Company, as Colombier Acquisition Corp. to continue as a going concern is no longer applicable. No adjustments have been made to the carrying amounts of assets or liabilities should the Company be required to liquidate after September 11, 2023.

#### **Contractual Obligations**

As of June 30, 2023, we do not have any long-term debt, capital lease obligations, operating lease obligations or long-term liabilities, other than an agreement to pay an affiliate of the Sponsor a monthly fee of \$10,000 for office space, administrative and support services. We began incurring these fees on June 8, 2021 and continued to incur these fees monthly until the completion of the Business Combination on July 19, 2023. For the three and six months ended June 30, 2023, the Company incurred \$30,000 and \$60,000 in fees for these services, respectively, of which \$6,733 is included in accrued expenses in the accompanying condensed consolidated balance sheets. For the three and six months ended June 30, 2022, the Company incurred \$30,000 and \$60,000 in fees for these services, respectively, of which such amounts are included in accrued expenses in the accompanying condensed consolidated balance sheets.

#### ***Underwriting Agreement***

Pursuant to the Underwriting Agreement, dated June 8, 2021 (the "Underwriting Agreement"), entered into by us and the Representative of our underwriters for the Initial Public Offering (the "UW Representative"), the underwriters were entitled to a deferred fee of \$0.35 per Unit, or \$6,037,500. In connection with the Business Combination, the UW Representative agreed, pursuant to a letter agreement dated March 9, 2023, that in our discretion, we could reallocate a portion of the "Deferred Discount," as such term is defined in the Underwriting Agreement, to one or more third parties not participating in the Initial Public Offering; provided that the UW Representative is paid at least an agreed minimum amount of the Deferred Discount at the closing, if any, of the Business Combination.

The terms of our Amended and Restated Certificate of Incorporation (the "Charter") provide that we have 24 months from the date of our Initial Public Offering (the "IPO Date") to complete a business combination, or 27 months from the IPO Date if we have entered into a letter of intent, agreement in principle or definitive agreement for an initial business combination within 24 months from the IPO Date (the "Completion Window"). As a result of our entering into the Merger Agreement, among other parties, on February 27, 2023 (prior to the 24-month anniversary of the IPO Date), our Completion Window was automatically extended from June 11, 2023 to September 11, 2023 in accordance with the terms of our Charter.

#### **Critical Accounting Policies**

The preparation of condensed consolidated financial statements and related disclosures in conformity with accounting principles generally accepted in the United States of America ("GAAP") requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the condensed financial statements, and income and expenses during the periods reported. Actual results could materially differ from those estimates. We have identified the following critical accounting policies:

#### ***Warrant Liabilities***

As of June 30, 2023, we account for the Warrants in accordance with the guidance contained in ASC 815-40, under which the Warrants do not meet the criteria for equity treatment and must be recorded as liabilities. Accordingly, we classify the Warrants as liabilities at their fair value and adjusts the Warrants to fair value at each reporting period. This liability is subject to re-measurement at each balance sheet date until exercised, and any change in fair value is recognized in the statements of operations. For periods where no observable traded price was available, the Warrants are valued using a binomial/lattice model. For periods subsequent to the detachment of the Warrants from the Units, the Warrant quoted market price will be used as the fair value as of each relevant date.

*Class A Common Stock Subject to Possible Redemption*

As of June 30, 2023, we account for our Class A common stock subject to possible conversion in accordance with the guidance in ASC 480, "Distinguishing Liabilities from Equity." Shares of Class A common stock subject to mandatory redemption are classified as a liability instrument and measured at fair value. Conditionally redeemable common stock (including common stock that features redemption rights that are either within the control of the holder or subject to redemption upon the occurrence of uncertain events not solely within our control) is classified as temporary equity. At all other times, common stock is classified as stockholders' equity. Our Class A common stock, which we also refer to as "Public Shares," features certain redemption rights that are considered to be outside of our control and subject to occurrence of uncertain future events. Accordingly, Class A common stock subject to possible redemption is presented at redemption value as temporary equity, outside of the stockholders' deficit section of our condensed consolidated balance sheets.

Immediately upon the closing of the Initial Public Offering, we recognized the re-measurement from initial book value to redemption amount, which approximates fair value. The change in the carrying value of the redeemable Class A common stock subject to possible redemption resulted in charges against additional paid-in capital (to the extent available) and accumulated deficit and Class A common stock.

We recognize changes in redemption value immediately as they occur and adjust the carrying value of redeemable common stock to equal the redemption value at the end of each reporting period. Increases or decreases in the carrying amount of redeemable common stock are affected by charges against additional paid in capital and accumulated deficit.

*Net (Loss) Income Per Common Share*

Net (loss) income per common share is computed by dividing net (loss) income by the weighted average number of common shares outstanding for the period. Re-measurement associated with the redeemable shares of Class A common stock is excluded from income (loss) per common share as the redemption value approximates fair value.

The calculation of diluted (loss) income per common share does not consider the effect of the warrants issued in connection with the (i) Initial Public Offering, and (ii) the private placement to purchase an aggregate of 11,450,000 shares of common stock in the calculation of diluted (loss) income per common share, since the exercise of the warrants is contingent upon the occurrence of future events. For the periods ended June 30, 2023 and 2022, we did not have any dilutive securities or other contracts that could, potentially, be exercised or converted into shares of common stock and then share in our earnings. As a result, diluted net (loss) income per common stock is the same as basic net (loss) income per common share for the period presented.

*Recent Accounting Standards*

As of June 30, 2023, management does not believe that any recently issued, but not yet effective, accounting standards, if currently adopted, would have a material effect on our condensed consolidated financial statements.

**Item 3. Quantitative and Qualitative Disclosures About Market Risk**

As a smaller reporting company, we are not required to provide the information required by this Item.

**Item 4. Controls and Procedures**

*Evaluation of Disclosure Controls and Procedures*

Disclosure controls and procedures are controls and other procedures that are designed to ensure that information required to be disclosed in our reports filed or submitted under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed in our reports filed or submitted under the Exchange Act is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer or persons performing similar functions, as appropriate, to allow timely decisions regarding required disclosure.

*Evaluation of Disclosure Controls and Procedures*

As required by Rules 13a-15 and 15d-15 under the Exchange Act, our Chief Executive Officer and Chief Financial Officer carried out an evaluation of the effectiveness of the design and operation of disclosure controls and procedures as of June 30, 2023. Based on this evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that our disclosure controls and procedures were not effective, due solely to the material weakness in our internal control over financial reporting related to the Company's accounting for complex financial instruments. As a result, we performed additional analysis as deemed necessary to ensure that our financial statements were prepared in accordance with GAAP. Accordingly, management believes that the financial statements included in this Quarterly Report on Form 10-Q present fairly in all material respects our financial position, results of operations and cash flows for the period presented.

Management intends to implement remediation steps to improve our disclosure controls and procedures and our internal control over financial reporting. Specifically, we intend to expand and improve our review process for complex securities and related accounting standards. We plan to further improve this process by enhancing access to accounting literature, identification of third-party professionals with whom to consult regarding complex accounting applications, and consideration of additional staff with the requisite experience and training to supplement existing accounting professionals.

*Changes in Internal Control Over Financial Reporting*

There were no changes in our internal control over financial reporting that occurred during the most recent fiscal quarter of the fiscal year covered by this Quarterly Report that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

**PART II - OTHER INFORMATION**

**Item 1. Legal Proceedings**

None.

## **Item 1A. Risk Factors**

As a result of closing of the Business Combination on July 19, 2023, the risk factors previously disclosed Part I, Item 1A of our Annual Report on Form 10-K for the fiscal year ended December 31, 2022 no longer apply. For risk factors relating to our business following the Business Combination, please refer to the section "Risk Factors" in the Proxy Statement/Prospectus with respect to the Business Combination, filed with the SEC on June 30, 2023. Any of these factors could result in a significant or material adverse effect on the Company's results of operations or financial condition. Additional risk factors not presently known to us or that we currently deem immaterial may also impair the Company's business or results of operations. We may disclose changes to such factors or disclose additional factors from time to time in the Company's future filings with the SEC.

## **Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.**

On June 11, 2021, we consummated the Initial Public Offering of 15,000,000 Units. The Units were sold at an offering price of \$10.00 per unit, generating total gross proceeds of \$150,000,000. B. Riley Securities, Inc. acted as sole book-running manager, of the Initial Public Offering. The securities in the offering were registered under the Securities Act on registration statement on Form S-1 (No. 333-254492). The SEC declared the registration statements effective on June 8, 2021.

Simultaneous with the consummation of the Initial Public Offering, the Sponsor consummated the private placement of an aggregate of 5,250,000 warrants at a price of \$1.00 per Private Placement Warrant, generating total proceeds of \$5,250,000. Each whole Private Warrant is exercisable to purchase one share of common stock at an exercise price of \$11.50 per share. The issuance was made pursuant to the exemption from registration contained in Section 4(a)(2) of the Securities Act.

The Private Warrants are identical to the warrants underlying the Units sold in the Initial Public Offering, except that the Private Warrants are not transferable, assignable, or salable until after the completion of a business combination, subject to certain limited exceptions.

On July 1, 2021, the underwriters exercised their over-allotment option in full, resulting in the sale of an additional 2,250,000 Units for gross proceeds of \$22,500,000, less the underwriters' discount of \$450,000. In connection with the underwriters' full exercise of their over-allotment option, the Company also consummated the sale of an additional 450,000 Private Placement Warrants at \$1.00 per Private Placement Warrant, generating total proceeds of \$450,000. A total of \$22,500,000 was deposited into the Trust Account, bringing the aggregate proceeds held in the Trust Account to \$172,500,000.

Of the gross proceeds received from the Initial Public Offering, the exercise of the over-allotment option and the Private Placement Warrants, an aggregate of \$150,000,000 was placed in the Trust Account.

We paid a total of \$3,000,000 in underwriting discounts and commissions and \$460,299 for other costs and expenses related to the Initial Public Offering.

For a description of the use of the proceeds generated in our Initial Public Offering, see Part I, Item 2 of this Quarterly Report on Form 10-Q.

## **Item 3. Defaults Upon Senior Securities**

None.

## **Item 4. Mine Safety Disclosures**

Not applicable.

## **Item 5. Other Information**

None.

## **Item 6. Exhibits**

The following exhibits are filed as part of, or incorporated by reference into, this Quarterly Report on Form 10-Q.

No.	Description of Exhibit
2.1	<a href="#">Agreement and Plan of Merger, dated as of February 27, 2023, by and among Colombier Acquisition Corp., PSQ Holdings, Inc., Colombier-Liberty Acquisition, Inc. and Colombier Sponsor LLC (incorporated herein by reference to the Registrant's Current Report on Form 8-K filed on February 28, 2023).</a>
3.1	<a href="#">Restated Certificate of Incorporation of PSQ Holdings, Inc.</a>
3.2	<a href="#">Amended and Restated Bylaws of PSQ Holdings, Inc.</a>
10.2	<a href="#">Form of Company Stockholder Support Agreement, dated as of February 27, 2023, by and among Colombier Acquisition Corp., PSQ Holdings, Inc. and the holders party thereto (incorporated herein by reference to the Registrant's Current Report on Form 8-K filed on February 28, 2023).</a>
10.3	<a href="#">Sponsor Support Agreement, dated as of February 27, 2023, by and among Colombier Acquisition Corp., PSQ Holdings, Inc. and Colombier Sponsor LLC (incorporated herein by reference to the Registrant's Current Report on Form 8-K filed on February 28, 2023).</a>
10.4	<a href="#">Form of Lock-Up Agreement, dated as of February 27, 2023, by and among Colombier Acquisition Corp., Colombier Sponsor LLC and the holders party thereto (incorporated herein by reference to the Registrant's Current Report on Form 8-K filed on February 28, 2023).</a>
31.1*	<a href="#">Certification of Chief Executive Officer Pursuant to Securities Exchange Act Rules 13a-14(a), as adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>
31.2*	<a href="#">Certification of Chief Financial Officer Pursuant to Securities Exchange Act Rules 13a-14(a), as adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>
32.1*	<a href="#">Certification of Chief Executive Officer Pursuant to 18 U.S.C. Section 1350, as adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>
32.2*	<a href="#">Certification of Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>
101.INS	Inline XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.
101.SCH	Inline XBRL Taxonomy Extension Schema Document.
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB	Inline XBRL Taxonomy Extension Labels Linkbase Document.
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document.
104	Cover Page Interactive Data File (Embedded within the Inline XBRL document and included in Exhibit).

**SIGNATURES**

In accordance with the requirements of the Exchange Act, the registrant caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

**PSQ HOLDINGS, INC.**

Date: August 9, 2023

By: /s/ Michael Seifert

Name: Michael Seifert

Title: President and Chief Executive Officer  
(Principal Executive Officer)

Date: August 9, 2023

By: /s/ Brad Searle

Name: Brad Searle

Title: Chief Financial Officer  
(Principal Financial and Accounting Officer)

RESTATED CERTIFICATE OF INCORPORATION  
OF  
PSQ HOLDINGS, INC.

PSQ Holdings, Inc., a corporation organized and existing under the General Corporation Law of the State of Delaware, does hereby certify as follows:

1. The original certificate of incorporation of the corporation was filed with the Secretary of State of the State of Delaware on February 12, 2021 under the name "Colombier Acquisition Corp.".

2. The initial certificate of incorporation was amended and restated by the amended and restated certificate of incorporation of said corporation filed with the Secretary of State of the State of Delaware on June 9, 2021 (as amended, the "Existing Certificate").

3. This Restated Certificate of Incorporation (this "Restated Certificate of Incorporation"), which changes the name of the corporation to PSQ Holdings, Inc. and amends and restates the Existing Certificate in its entirety, has been duly adopted in accordance with Sections 228, 242 and 245 of the General Corporation Law of the State of Delaware.

4. The text of the Existing Certificate is hereby amended and restated in its entirety to read as follows:

**FIRST:** The name of the Corporation is PSQ Holdings, Inc. (hereinafter sometimes referred to as the "Corporation").

**SECOND:** The address of the Corporation's registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle, 19801. The name of its registered agent at that address is The Corporation Trust Company.

**THIRD:** The nature of the business or purposes to be conducted or promoted by the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

**FOURTH:** The total number of shares of all classes of stock that the Corporation shall have authority to issue is 590,000,000 shares, consisting of (a) 540,000,000 shares of Common Stock, \$0.0001 par value per share ("Common Stock"), which shall be designated into two series consisting of (i) 500,000,000 shares of Class A common stock (the "Class A Common Stock"), and (ii) 40,000,000 shares of Class C common stock (the "Class C Common Stock" and together with the Class A Common Stock, the "Common Stock"), and (b) 50,000,000 shares of Preferred Stock, \$0.0001 par value per share ("Preferred Stock"). For the avoidance of doubt, the naming of any series of Common Stock as a "Class" shall not in any manner alter the fact that such series is a series of capital stock and not a class of capital stock for purposes of the General Corporation Law of the State of Delaware, this Restated Certificate of Incorporation or the Bylaws. Effective immediately upon the filing of this Restated Certificate with the Secretary of State of the State of Delaware, each share of Class B Common Stock of the Corporation, par value \$0.0001 per share (the "Prior Class B Common Stock"), that was issued and outstanding immediately prior to the filing of this Restated Certificate of Incorporation, shall automatically, without any further action of the holder thereof or the Corporation, be reclassified as, and converted into, one share of Class A Common Stock. All certificates previously representing shares of Prior Class B Common Stock shall hereafter represent the corresponding number of shares of Class A Common Stock.

The following is a statement of the designations and the powers, preferences and rights, and the qualifications, limitations or restrictions thereof in respect of each class of capital stock of the Corporation.

**A COMMON STOCK.**

**1. General.** The voting, dividend and liquidation rights of the holders of the Common Stock are subject to and qualified by the powers, preferences and rights of the Preferred Stock of any series as may be designated by the Board of Directors upon any issuance of the Preferred Stock of any series. Except as otherwise provided in this Restated Certificate of Incorporation or required by applicable law, shares of Class A Common Stock and Class C Common Stock shall have the same rights and powers, rank equally (including as to dividends and distributions, and upon any liquidation, dissolution or winding up of the Corporation), share ratably and be identical in all respects and as to all matters.

**2. Voting.**

2.1 Except as otherwise expressly provided by this Restated Certificate of Incorporation or as provided by law, the holders of shares of Class A Common Stock and Class C Common Stock shall (a) at all times vote together as a single class on all matters (including the election of directors) submitted to a vote of the stockholders of the Corporation, (b) be entitled to notice of any stockholders' meeting in accordance with the Bylaws of the Corporation (the "Bylaws") and (c) be entitled to vote upon such matters and in such manner as may be provided by applicable law; provided, however, that, except as otherwise required by law, holders of shares of Class A Common Stock and Class C Common Stock shall not be entitled to vote on any amendment to this Restated Certificate of Incorporation (including any certificate of designations relating to any series of Preferred Stock) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together as a class with the holders of one or more other such series, to vote thereon pursuant to this Restated Certificate of Incorporation (including any certificate of designations relating to any series of Preferred Stock).

2.2 Except as otherwise expressly provided herein or required by applicable law, on any matter that is submitted to a vote of the stockholders of the Corporation:

(a) each holder of Class A Common Stock shall have the right to one (1) vote per share of Class A Common Stock held of record by such holder as of the applicable record date; and

(b) each holder of Class C Common Stock shall have the right to a number of votes (rounded up to the nearest whole number) per share of Class C Common Stock held of record by such holder as of the applicable record date equal to (i) (x) the total number of shares of Class A Common Stock entitled to vote on such matter as of the applicable record date, plus (y) one hundred (100); divided by (ii) the total number of shares of Class C Common Stock issued and outstanding as of the applicable record date.

2.4 Subject to the rights of the holders of any series of Preferred Stock, the number of authorized shares of Class A Common Stock or Class C Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a

majority of the voting power of the outstanding shares of capital stock of the Corporation entitled to vote thereon, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law of the State of Delaware, and no vote of the holders of the Class A Common Stock or Class C Common Stock voting separately as a class shall be required therefor.

### 3. Dividends; Subdivisions; Combinations; Reclassifications.

3.1 Dividends may be declared and paid on the Common Stock from funds lawfully available therefor if, as and when determined by the Board of Directors and subject to any preferential dividend or other rights or preferences of any then outstanding shares of Preferred Stock.

3.2 Shares of Class A Common Stock and Class C Common Stock shall be treated equally, identically and ratably, on a per share basis, with respect to any dividends or distributions as may be declared or paid from time to time by the Board of Directors; provided, however, that, notwithstanding anything to the contrary set forth in this Restated Certificate of Incorporation, in the event that a dividend is paid in the form of shares of Class A Common Stock or Class C Common Stock (or securities (including options, warrants or other rights) convertible into, or exercisable or exchangeable for such shares), the holders of Class A Common Stock shall receive shares of Class A Common Stock (or securities (including options, warrants or other rights) convertible into, or exercisable or exchangeable for such shares, as the case may be) and holders of Class C Common Stock shall receive shares of Class C Common Stock (or securities (including options, warrants or other rights) convertible into, or exercisable or exchangeable for such shares, as the case may be), with holders of shares of Class A Common Stock and Class C Common Stock receiving, on a per share basis, an identical number of shares of Class A Common Stock or Class C Common Stock (or securities (including options, warrants or other rights) convertible into, or exercisable or exchangeable for such shares, as the case may be), as applicable. Notwithstanding the foregoing, the Board may pay or make a disparate dividend or distribution per share of Class A Common Stock or Class C Common Stock (whether in the amount of such dividend or distribution payable per share, the form in which such dividend or distribution is payable, the timing of the payment, or otherwise) (a) if such disparate dividend or distribution is approved in advance by the affirmative vote of the holders of a majority of the voting power of all the then-outstanding shares of Class A Common Stock and the affirmative vote of the holders of a majority of the voting power of all the then-outstanding shares of Class C Common Stock, each voting separately as a class, or (b) if such disparate dividend or distribution (i) is declared in connection with a spin-off or similar transaction and is payable in kind and (ii) the only difference in the securities being distributed to the holders of the Class A Common Stock and Class C Common Stock is that the voting power of such securities is proportionate to the voting power of the shares of such series in the Corporation.

3.3. Shares of Class A Common Stock or Class C Common Stock may not be subdivided, combined or reclassified unless the shares of the other class are concurrently therewith proportionately subdivided, combined or reclassified in a manner that maintains the same proportionate equity ownership between the holders of the outstanding Class A Common Stock and Class C Common Stock on the record date for such subdivision, combination or reclassification.

4. Liquidation. Subject to any preferential liquidation or other rights or preferences of any then outstanding shares of Preferred Stock, upon the dissolution, liquidation or winding up of the Corporation, whether voluntary or involuntary, holders of Class A Common Stock and Class C Common Stock, as such, will be entitled to receive ratably all assets of the Corporation available for distribution to its stockholders.

5. Mergers; Consolidations and Conversions. In the case of any consolidation or merger of the Corporation with or into any other entity or the conversion of the Corporation into another entity, except in connection with a rollover, reinvestment or similar transaction in connection therewith that has been approved by the Board of Directors, each share of Common Stock must be converted in such consolidation, merger or conversion into the right to receive the same securities, cash or other property (including the same rights to elect among different forms of consideration); provided, however, that (a) the foregoing shall not apply to any such consolidation, merger or conversion in which each share of Common Stock remains outstanding as a share of the same class of Common Stock and is not converted into other securities, cash or other property, and (b) shares of one series of Common Stock may be treated different or disproportionately if (i) the only difference in the securities being issued to the holders of the Class A Common Stock and Class C Common Stock is that the voting power of such securities is proportionate to the voting power of the shares of such series in the Corporation or (ii) such consolidation, merger or conversion is approved by the holders of a majority of the outstanding shares of Class A Common Stock and the holders of a majority of the outstanding shares of Class C Common Stock, each voting separately as a class.

### 6. Conversion of Class C Common Stock.

6.1 Optional Conversion. Each share of Class C Common Stock shall be convertible into one (1) fully paid and nonassessable share of Class A Common Stock at the option of the holder thereof at any time upon written notice to the Corporation.

6.2 Automatic Conversion upon Transfer. Each share of Class C Common Stock shall automatically, without further action by the Corporation or the holder thereof, be converted into one (1) fully paid and nonassessable share of Class A Common Stock upon a Transfer (as defined below) of such share of Class C Common Stock, other than a Permitted Transfer (as defined below).

6.3 Automatic Conversion of All Shares of Series C Common Stock. Each share of Class C Common Stock shall automatically, without further action by the Corporation or the holder thereof, be converted into one (1) fully paid and nonassessable share of Class A Common Stock upon the earliest to occur of the following:

- (a) 5:00 p.m., New York City time, on the thirtieth (30<sup>th</sup>) day immediately following such date on which the Founder is no longer serving as at least one of a director or an officer of the Corporation;
- (b) the death or Incapacity of the Founder; and
- (c) such time as the number of outstanding shares of Class C Common Stock is less than 50% the total number of outstanding shares of Class C Common Stock as of immediately following the Effective Time (as defined in the Agreement and Plan of Merger, dated as of February 27, 2023, by and among the Corporation (f/k/a Colombier Acquisition Corp.), Colombier-Liberty Acquisition, Inc., Colombier Sponsor LLC and PublicSq. Inc. (f/k/a PSQ Holdings, Inc.)), as equitably adjusted for stock splits, reverse stock splits, stock dividends, reorganizations, combinations, exchanges of shares or other like changes or transactions with respect to the Common Stock.

6.4 Mechanics of Conversion. Before any holder of Class C Common Stock shall be entitled to convert the same into shares of Class A Common Stock and to receive a certificate or certificates therefor if such shares are to be certificated, such holder shall surrender the certificate or certificates therefor, if any, duly endorsed (or in the case of lost, stolen or destroyed certificate(s), shall notify the Corporation that such certificate(s) have been lost, stolen or destroyed), at the office of the Corporation or of any transfer agent for the Class C Common Stock, and shall give written notice to the

Corporation at such office that such holder elects to convert the same; provided, however, that in the event of an automatic conversion pursuant to Section 6.2 or Section 6.3, the outstanding shares of Class C Common Stock shall be converted automatically without any further action by the Corporation or the holders of such shares and whether or not the certificate(s) representing such shares are surrendered to the Corporation or its transfer agent; and provided, further, that the Corporation shall not be obligated to issue certificate(s) evidencing the shares of Class A Common Stock issuable upon such automatic conversion if such shares are to be certificated unless the certificate(s) evidencing such shares of Class C Common Stock, if any, are either delivered to the Corporation or its transfer agent as provided above, or the holder notifies the Corporation or its transfer agent that such certificate(s) have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such lost, stolen or destroyed certificate(s). The Corporation shall, as soon as practicable after such delivery, or after execution of such agreement in the case of lost, stolen or destroyed certificate(s), issue and deliver at such office to such holder of Class C Common Stock, a certificate or certificates for the number of shares of Class A Common Stock to which the holder shall be entitled, if such shares are to be certificated. In the case of an optional conversion in accordance with Section 6.1, such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Class C Common Stock to be converted, or in the case of an automatic conversion in accordance with Section 6.2 and Section 6.3, on the date of the effectiveness thereof, and the person or persons entitled to receive the shares of Class A Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Class A Common Stock on such date.

**6.5 Additional Information.** If the Corporation has reason to believe that a Transfer giving rise to a conversion of shares of Class C Common Stock into Class A Common Stock has occurred but has not theretofore been reflected on the books of the Corporation, the Corporation may request that the holder of such shares furnish affidavits or other evidence to the Corporation as the Corporation deems necessary to determine whether a conversion of shares of Class C Common Stock to Class A Common Stock has occurred, and if such holder does not within thirty (30) days after the date of such request furnish sufficient evidence to the Corporation (in the manner provided in the request) to enable the Corporation to determine that no such conversion has occurred, any such shares of Class C Common Stock, to the extent not previously converted, shall be automatically converted into shares of Class A Common Stock and the same shall thereupon be registered on the books and records of the Corporation.

**6.6 Effect of Conversion on Payment of Dividends.** Notwithstanding anything to the contrary set forth herein, if the date on which any share of Class C Common Stock is converted into Class A Common Stock occurs after the record date for the determination of the holders of Class C Common Stock entitled to receive any dividend or distribution to be paid on the shares of Class C Common Stock, the holder of such shares of Class C Common Stock as of such record date will be entitled to receive such dividend or distribution on such payment date; provided that, notwithstanding any other provision of this Restated Certificate of Incorporation, to the extent that any such dividend or distribution is payable in shares of Class C Common Stock or securities (including options, warrants or other rights) convertible into, or exercisable or exchangeable for Class C Common Stock, such dividend or distribution shall be deemed to have been declared, and shall be payable in, shares of Class A Common Stock or, if applicable, securities (including options, warrants or other rights), convertible into, or exercisable or exchangeable for Class A Common Stock and no shares of Class C Common Stock or securities (including options, warrants or other things), convertible into, or exercisable or exchangeable for Class C Common Stock shall be issued in payment thereof.

**6.7 Reservation of Stock Issuable Upon Conversion; Reissuance.** The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Class A Common Stock solely for the purpose of effecting the conversion of the shares of Class C Common Stock such number of its shares of Class A Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of Class C Common Stock; and if at any time the number of authorized but unissued shares of Class A Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of Class C Common Stock, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Class A Common Stock to such number of shares as shall be sufficient for such purpose. In the event any shares of Class C Common Stock are converted into shares of Class A Common Stock, the shares of Class C Common Stock so converted automatically shall be retired and shall not be reissued by the Corporation, and all such shares so converted shall upon such conversion cease to be a part of the authorized shares of the Corporation.

#### **6.8 Definitions.**

"Effectiveness Date" shall mean the date of the filing and effectiveness of this Restated Certificate of Incorporation.

"Founder" shall mean Michael Seifert.

"Incapacity" means, with respect to an individual, that (i) such individual is incapable of managing his or her financial affairs under the criteria set forth in the applicable probate code and (ii) that such condition can be expected to result in death or has lasted or can reasonably be expected to last for a continuous period of not less than twelve (12) months as determined by a licensed medical practitioner. In the event of a dispute regarding whether an individual has suffered an Incapacity, no Incapacity of such individual will be deemed to have occurred unless and until an affirmative ruling regarding such Incapacity has been made in a final and non-appealable judgment of a court of competent jurisdiction.

"Parent" of an entity shall mean any entity that directly or indirectly owns or controls a majority of the voting power of the voting securities of such entity.

"Permitted Entity" shall mean: (a) a corporation in which the Founder directly, or indirectly through one or more Permitted Entities, owns shares with sufficient Voting Control in the corporation, or otherwise has legally enforceable rights, such that the Founder retains sole dispositive power and exclusive Voting Control with respect to the shares of Class C Common Stock held by such corporation; (b) a partnership in which the Founder directly, or indirectly through one or more Permitted Entities, owns partnership interests with sufficient Voting Control in the partnership, or otherwise has legally enforceable rights, such that the Founder retains sole dispositive power and exclusive Voting Control with respect to the shares of Class C Common Stock held by such partnership; or (c) a limited liability company in which the Founder directly, or indirectly through one or more Permitted Entities, owns membership or limited liability company interests with sufficient Voting Control in the limited liability company, or otherwise has legally enforceable rights, such that the Founder retains sole dispositive power and exclusive Voting Control with respect to the shares of Class C Common Stock held by such limited liability company, in each case so long as the Transfer to such entity does not involve any direct or indirect payment of cash, securities, property or other consideration (other than an interest in such entity) to the Founder.

"Permitted IRA" shall mean an Individual Retirement Account, as defined in Section 408(a) of the Internal Revenue Code (the "Code"), or a pension, profit sharing, stock bonus or other type of plan or trust of which the Founder is a participant or beneficiary and which satisfies the requirements for qualification under Section 401 of the Code; provided, however, that in each case the Founder has sole dispositive power and exclusive Voting Control with respect to the shares of Class C Common Stock held in such account, plan or trust.

"Permitted Transfer" shall mean, and be restricted to, any Transfer of a share of Class C Common Stock to a Permitted Transferee.

"Permitted Transferee" shall mean (i) the Founder, (ii) any Permitted Trust, (iii) any Permitted Entity and (iv) any Permitted IRA.

"Permitted Trust" shall mean: (a) a trust for the benefit of the Founder and for the benefit of no other person so long as the Transfer to such

trust does not involve any payment of cash, securities, property or other consideration (other than an interest in such trust) to the Founder; (b) a trust for the benefit of the Founder and/or persons other than the Founder so long as the Founder has sole dispositive power and exclusive Voting Control with respect to the shares of Class C Common Stock held by such trust and the Transfer to such trust does not involve any payment of cash, securities, property or other consideration (other than an interest in such trust) to the Founder; or (c) a trust under the terms of which the Founder has retained a "qualified interest" within the meaning of §2702(b)(1) of the Code or a reversionary interest so long as the Founder has sole dispositive power and exclusive Voting Control with respect to the shares of Class C Common Stock held by such trust.

"Transfer" of a share of Class C Common Stock shall mean any sale, assignment, transfer, conveyance, pledge, hypothecation or other transfer or disposition of such share or any legal or beneficial interest in such share, whether or not for value and whether voluntary or involuntary or by operation of law, including, without limitation, the transfer of, or entering into a binding agreement or arrangement with respect to, Voting Control over a share of Class C Common Stock by proxy or otherwise; provided, however, that the following shall not be considered a "Transfer" within the meaning of this Article FOURTH:

- (a) the granting of a revocable proxy to officers or directors of the Corporation at the request of the Board of Directors in connection with actions to be taken at an annual or special meeting of stockholders;
- (b) entering into a voting trust, agreement or arrangement (with or without granting a proxy) solely with stockholders who are holders of Class C Common Stock that (i) is disclosed either in a Schedule 13D filed with the Securities and Exchange Commission or in writing to the Secretary of the Corporation, (ii) either has a term not exceeding one (1) year or is terminable by each holder of the shares subject thereto at any time and (iii) does not involve any payment of cash, securities, property or other consideration to any holder of the shares subject thereto other than the mutual promise to vote shares in a designated manner;
- (c) entering into a voting trust, agreement or arrangement (with or without granting a proxy) pursuant to a written agreement to which the Corporation is a party;
- (d) the pledge of shares of Class C Common Stock by a stockholder that creates a mere security interest in such shares pursuant to a bona fide loan or indebtedness transaction for so long as such stockholder continues to exercise Voting Control over such pledged shares; provided, however, that a foreclosure on such shares or other similar action by the pledgee shall constitute a Transfer unless such foreclosure or similar action qualifies as a Permitted Transfer;
- (e) transferring a share of Class C Common Stock to a broker or other nominee, so long as the Founder or another Permitted Transferee continues to hold sole Voting Control over such share;
- (f) the fact that, as of the Effectiveness Date or at any time after the Effectiveness Date, the spouse of any holder of Class C Common Stock possesses or obtains an interest in such holder's shares of Class C Common Stock arising solely by reason of the application of the community property laws of any jurisdiction, so long as no other event or circumstance shall exist or have occurred that constitutes a Transfer of such shares of Class C Common Stock (including a Transfer by operation of law pursuant to a qualified domestic order or in connection with a divorce settlement or any other court order); or
- (g) in connection with a merger or consolidation of the Corporation with or into any other entity, the conversion of the Corporation into another entity, or in the case of any other transaction having an effect on stockholders substantially similar to that resulting from a merger or consolidation, that has been approved by the Board of Directors, the entering into (x) an agreement or arrangement with respect to any rollover, reinvestment or similar transaction, or (y) a support, voting, tender or similar agreement or arrangement (in each case, with or without the grant of a proxy) that has also been approved by the Board of Directors.

A Transfer shall also be deemed to have occurred with respect to a share of Class C Common Stock held by an entity that is a Permitted Trust, Permitted IRA or Permitted Entity, as of such time that there occurs any act or circumstance that causes such entity to no longer be a Permitted Trust, Permitted IRA or Permitted Entity.

"Voting Control" shall mean, with respect to a share of Class C Common Stock, the exclusive power to vote or direct the voting of such share by proxy, voting agreement or otherwise.

## B PREFERRED STOCK.

Shares of Preferred Stock may be issued from time to time in one or more series, each of such series to have such terms as stated or expressed herein and in the resolution or resolutions providing for the issue of such series adopted by the Board of Directors of the Corporation as hereinafter provided. Any shares of Preferred Stock that may be redeemed, purchased or acquired by the Corporation may be reissued except as otherwise provided by law.

Authority is hereby expressly granted to the Board of Directors from time to time to issue the Preferred Stock in one or more series, and in connection with the creation of any such series, by adopting a resolution or resolutions providing for the issuance of the shares thereof and by filing a certificate of designations relating thereto in accordance with the General Corporation Law of the State of Delaware, to determine and fix the number of shares of such series and such voting powers, full or limited, or no voting powers, and such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, including dividend rights, conversion rights, redemption rights and liquidation preferences, as shall be stated and expressed in such resolutions, all to the full extent now or hereafter permitted by the General Corporation Law of the State of Delaware. Without limiting the generality of the foregoing, the resolutions providing for issuance of any series of Preferred Stock may provide that such series shall be superior or rank equally or be junior to any other series of Preferred Stock to the extent permitted by law. The powers, preferences and relative, participating, optional and other special rights of each series of Preferred Stock, and the qualifications, limitations or restrictions thereof, if any, may differ from those of any and all other series at any time outstanding.

Subject to the rights of the holders of any series of Preferred Stock, the number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares then outstanding) by the affirmative vote of the holders of a majority of the voting power of the outstanding shares of capital stock of the Corporation entitled to vote thereon, voting as a single class, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law of the State of Delaware.

**FIFTH:** Except as otherwise provided herein, the Corporation reserves the right to amend, alter, change or repeal any provision contained in this Restated Certificate of Incorporation, in the manner now or hereafter prescribed by statute and this Restated Certificate of Incorporation, and all rights conferred upon stockholders herein are granted subject to this reservation.

**SIXTH:** In furtherance and not in limitation of the powers conferred upon it by the General Corporation Law of the State of Delaware, and subject to the terms of any series of Preferred Stock, the Board of Directors shall have the power to adopt, amend, alter or repeal the Bylaws of the Corporation by the affirmative vote of a majority of the directors present at any regular or special meeting of the Board of Directors at which a quorum is present. The stockholders may not adopt, amend, alter or repeal the Bylaws of the Corporation, or adopt any provision inconsistent therewith, unless such action is approved, in addition to any other vote required by this Restated Certificate of Incorporation, by the affirmative vote of the holders of at least seventy-five percent (75%) of the voting power of the outstanding shares of capital stock of the Corporation entitled to vote thereon. Notwithstanding any other provisions of law, this Restated Certificate of Incorporation or the Bylaws of the Corporation that may otherwise permit a lesser vote, but in addition to any vote of the holders of shares of any class or series of capital stock of the Corporation required by law or this Restated Certificate of Incorporation, the affirmative vote of the holders of at least seventy-five percent (75%) of the voting power of the outstanding shares of capital stock of the Corporation entitled to vote thereon shall be required to amend or repeal, or to adopt any provision inconsistent with, this Article SIXTH.

**SEVENTH:** To the fullest extent permitted by the General Corporation Law of the State of Delaware, no director or officer of the Corporation shall be personally liable to the Corporation (in the case of directors) or its stockholders (in the case of directors and officers) for monetary damages for any breach of fiduciary duty as a director or officer. No amendment, repeal or elimination of this provision shall apply to or have any effect on its application with respect to any act or omission of a director or officer occurring before such amendment, repeal or elimination. If the General Corporation Law of the State of Delaware is amended to permit further elimination or limitation of the personal liability of directors or officers, then the liability of a director or officer of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law of the State of Delaware as so amended.

**EIGHTH:** The Corporation shall provide indemnification and advancement of expenses as follows:

**1. Actions, Suits and Proceedings Other than by or in the Right of the Corporation.** The Corporation shall indemnify each person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that he or she is or was, or has agreed to become, a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving, or has agreed to serve, at the request of the Corporation, as a director, officer, partner, employee or trustee of, or in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise (including any employee benefit plan) (all such persons being referred to hereafter as an "Indemnitee"), or by reason of any action alleged to have been taken or omitted by an Indemnitee in such capacity, against all expenses (including attorneys' fees), liabilities, losses, judgments, fines (including excise taxes and penalties arising under the Employee Retirement Income Security Act of 1974), and amounts paid in settlement actually and reasonably incurred by or on behalf of Indemnitee in connection with such action, suit or proceeding and any appeal therefrom, if Indemnitee acted in good faith and in a manner which Indemnitee reasonably believed to be in, or not opposed to, the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that Indemnitee did not act in good faith and in a manner which Indemnitee reasonably believed to be in, or not opposed to, the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

**2. Actions or Suits by or in the Right of the Corporation.** The Corporation shall indemnify any Indemnitee who was or is a party to or threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that Indemnitee is or was, or has agreed to become, a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving, or has agreed to serve, at the request of the Corporation, as a director, officer, partner, employee or trustee of, or in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise (including any employee benefit plan), or by reason of any action alleged to have been taken or omitted by an Indemnitee in such capacity, against all expenses (including attorneys' fees) and, to the extent permitted by law, amounts paid in settlement actually and reasonably incurred by or on behalf of Indemnitee in connection with such action, suit or proceeding and any appeal therefrom, if Indemnitee acted in good faith and in a manner which Indemnitee reasonably believed to be in, or not opposed to, the best interests of the Corporation, except that no indemnification shall be made under this Section 2 in respect of any claim, issue or matter as to which Indemnitee shall have been adjudged to be liable to the Corporation, unless, and only to the extent, that the Court of Chancery of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of such liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnity for such expenses (including attorneys' fees) which the Court of Chancery of Delaware or such other court shall deem proper.

**3. Indemnification for Expenses of Successful Party.** Notwithstanding any other provisions of this Article EIGHTH, to the extent that an Indemnitee has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 1 and 2 of this Article EIGHTH, or in defense of any claim, issue or matter therein, or on appeal from any such action, suit or proceeding, Indemnitee shall be indemnified against all expenses (including attorneys' fees) actually and reasonably incurred by or on behalf of Indemnitee in connection therewith. Without limiting the foregoing, to the fullest extent permitted by applicable law, if any action, suit or proceeding is disposed of on the merits or otherwise (including a disposition without prejudice) without (i) the disposition being adverse to Indemnitee, (ii) an adjudication that Indemnitee was liable to the Corporation, (iii) a plea of guilty or nolo contendere by Indemnitee, (iv) an adjudication that Indemnitee did not act in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation, and (v) with respect to any criminal proceeding, an adjudication that Indemnitee had reasonable cause to believe his or her conduct was unlawful, Indemnitee shall be considered for the purposes hereof to have been wholly successful with respect thereto.

**4. Notification and Defense of Claim.** As a condition precedent to an Indemnitee's right to be indemnified under this Article EIGHTH, such Indemnitee must notify the Corporation in writing as soon as practicable of any action, suit, proceeding or investigation involving such Indemnitee for which indemnity will or could be sought. With respect to any action, suit, proceeding or investigation of which the Corporation is so notified, the Corporation will be entitled to participate therein at its own expense and/or to assume the defense thereof at its own expense, with legal counsel reasonably acceptable to Indemnitee. After notice from the Corporation to Indemnitee of its election so to assume such defense, the Corporation shall not be liable to Indemnitee for any legal or other expenses subsequently incurred by Indemnitee in connection with such action, suit, proceeding or investigation, other than as provided below in this Section 4. Indemnitee shall have the right to employ his or her own counsel in connection with such action, suit, proceeding or investigation, but the fees and expenses of such counsel incurred after notice from the Corporation of its assumption of the defense thereof shall be at the expense of Indemnitee unless (i) the employment of counsel by Indemnitee has been authorized by the Corporation, (ii) counsel to Indemnitee shall have reasonably concluded that there may be a conflict of interest or position on any significant issue between the

Corporation and Indemnitee in the conduct of the defense of such action, suit, proceeding or investigation or (iii) the Corporation shall not in fact have employed counsel to assume the defense of such action, suit, proceeding or investigation, in each of which cases the fees and expenses of counsel for Indemnitee shall be at the expense of the Corporation, except as otherwise expressly provided by this Article EIGHTH. The Corporation shall not be entitled, without the consent of Indemnitee, to assume the defense of any claim brought by or in the right of the Corporation or as to which counsel for Indemnitee shall have reasonably made the conclusion provided for in clause (ii) above. The Corporation shall not be required to indemnify Indemnitee under this Article EIGHTH for any amounts paid in settlement of any action, suit, proceeding or investigation effected without its written consent. The Corporation shall not settle any action, suit, proceeding or investigation in any manner which would impose any penalty or limitation on Indemnitee without Indemnitee's written consent. Neither the Corporation nor Indemnitee will unreasonably withhold or delay its consent to any proposed settlement.

**5. Advancement of Expenses.** Subject to the provisions of Section 6 of this Article EIGHTH, in the event of any threatened or pending action, suit, proceeding or investigation of which the Corporation receives notice under this Article EIGHTH, any expenses (including attorneys' fees) incurred by or on behalf of Indemnitee in defending an action, suit, proceeding or investigation or any appeal therefrom shall be paid by the Corporation in advance of the final disposition of such matter; provided, however, that the payment of such expenses incurred by or on behalf of Indemnitee in advance of the final disposition of such matter shall be made only upon receipt of an undertaking by or on behalf of Indemnitee to repay all amounts so advanced in the event that it shall ultimately be determined by final judicial decision from which there is no further right to appeal that Indemnitee is not entitled to be indemnified by the Corporation as authorized in this Article EIGHTH; and provided further that no such advancement of expenses shall be made under this Article EIGHTH if it is determined (in the manner described in Section 6) that (i) Indemnitee did not act in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Corporation, or (ii) with respect to any criminal action or proceeding, Indemnitee had reasonable cause to believe his or her conduct was unlawful. Such undertaking shall be accepted without reference to the financial ability of Indemnitee to make such repayment.

**6. Procedure for Indemnification and Advancement of Expenses.** In order to obtain indemnification or advancement of expenses pursuant to Section 1, 2, 3 or 5 of this Article EIGHTH, an Indemnitee shall submit to the Corporation a written request therefor. Any such advancement of expenses shall be made promptly, and in any event within 60 days after receipt by the Corporation of the written request of Indemnitee therefor, unless (i) the Corporation has assumed the defense pursuant to Section 4 of this Article EIGHTH (and none of the circumstances described in Section 4 of this Article EIGHTH that would nonetheless entitle the Indemnitee to indemnification for the fees and expenses of separate counsel have occurred) or (ii) the Corporation determines within such 60-day period that Indemnitee did not meet the applicable standard of conduct set forth in Section 1, 2 or 5 of this Article EIGHTH, as the case may be. Any such indemnification, unless ordered by a court, shall be made with respect to requests under Section 1 or 2 only as authorized in the specific case upon a determination by the Corporation that the indemnification of Indemnitee is proper because Indemnitee has met the applicable standard of conduct set forth in Section 1 or 2, as the case may be. Such determination shall be made in each instance (a) by a majority vote of the directors of the Corporation consisting of persons who are not at that time parties to the action, suit or proceeding in question ("disinterested directors"), whether or not a quorum, (b) by a committee of disinterested directors designated by majority vote of disinterested directors, whether or not a quorum, (c) if there are no disinterested directors, or if the disinterested directors so direct, by independent legal counsel (who may, to the extent permitted by law, be regular legal counsel to the Corporation) in a written opinion, or (d) by the stockholders of the Corporation.

**7. Remedies.** Subject to Article TWELFTH, the right to indemnification or advancement of expenses as granted by this Article EIGHTH shall be enforceable by Indemnitee in any court of competent jurisdiction. Neither the failure of the Corporation to have made a determination prior to the commencement of such action that indemnification or advancement of expenses is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Corporation pursuant to Section 6 of this Article EIGHTH that Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct. In any suit brought by Indemnitee to enforce a right to indemnification or advancement of expenses, or brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall have the burden of proving that Indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this Article EIGHTH. Indemnitee's expenses (including attorneys' fees) reasonably incurred in connection with successfully establishing Indemnitee's right to indemnification or advancement of expenses, in whole or in part, in any such proceeding shall also be indemnified by the Corporation to the fullest extent permitted by applicable law. Notwithstanding the foregoing, in any suit brought by Indemnitee to enforce a right to indemnification or advancement of expenses hereunder it shall be a defense that the Indemnitee has not met any applicable standard for indemnification set forth in the General Corporation Law of the State of Delaware or in this Article EIGHTH.

**8. Limitations.** Notwithstanding anything to the contrary in this Article EIGHTH, except as set forth in Section 7 of this Article EIGHTH, the Corporation shall not indemnify, or advance expenses to, an Indemnitee pursuant to this Article EIGHTH in connection with a proceeding (or part thereof) initiated by such Indemnitee unless the initiation thereof was approved by the Board of Directors. Notwithstanding anything to the contrary in this Article EIGHTH, the Corporation shall not indemnify or advance expenses to an Indemnitee to the extent such Indemnitee is reimbursed from the proceeds of insurance, and in the event the Corporation makes any indemnification or advancement payments to an Indemnitee and such Indemnitee is subsequently reimbursed from the proceeds of insurance, such Indemnitee shall promptly refund indemnification or advancement payments to the Corporation to the extent of such insurance reimbursement.

**9. Subsequent Amendment.** No amendment, termination or repeal of this Article EIGHTH or of the relevant provisions of the General Corporation Law of the State of Delaware or any other applicable laws shall adversely affect or diminish in any way the rights of any Indemnitee to indemnification or advancement of expenses under the provisions hereof with respect to any action, suit, proceeding or investigation arising out of or relating to any actions, transactions or facts occurring prior to the final adoption of such amendment, termination or repeal.

**10. Other Rights.** The indemnification and advancement of expenses provided by this Article EIGHTH shall not be deemed exclusive of any other rights to which an Indemnitee seeking indemnification or advancement of expenses may be entitled under any law (common or statutory), agreement or vote of stockholders or disinterested directors or otherwise, both as to action in Indemnitee's official capacity and as to action in any other capacity while holding office for the Corporation, and shall continue as to an Indemnitee who has ceased to be a director or officer, and shall inure to the benefit of the estate, heirs, executors and administrators of Indemnitee. Nothing contained in this Article EIGHTH shall be deemed to prohibit, and the Corporation is specifically authorized to enter into, agreements with officers and directors providing indemnification and expense advancement rights and procedures different from those set forth in this Article EIGHTH. In addition, the Corporation may, to the extent authorized from time to time by its Board of Directors, grant indemnification and expense advancement rights to other employees or agents of the Corporation or other persons serving the Corporation and such rights may be equivalent to, or greater or less than, those set forth in this Article EIGHTH.

**11. Partial Indemnification.** If an Indemnitee is entitled under any provision of this Article EIGHTH to indemnification by the Corporation for some or a portion of the expenses (including attorneys' fees), liabilities, losses, judgments, fines (including excise taxes and penalties arising under the Employee Retirement Income Security Act of 1974) or amounts paid in settlement actually and reasonably incurred by or on behalf of Indemnitee in connection with any action, suit, proceeding or investigation and any appeal therefrom but not, however, for the total amount thereof, the Corporation shall nevertheless indemnify Indemnitee for the portion of such expenses (including attorneys' fees), liabilities, losses, judgments, fines (including excise taxes and penalties arising under the Employee Retirement Income Security Act of 1974) or amounts paid in settlement to which Indemnitee is entitled.

**12. Insurance.** The Corporation may purchase and maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise (including any employee benefit plan) against any expense, liability or loss incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the

power to indemnify such person against such expense, liability or loss under the General Corporation Law of the State of Delaware. Such insurance may include insurance provided directly or indirectly by or through a captive insurance company to the extent permitted by Section 145(g) of the General Corporation Law of the State of Delaware.

**13. Savings Clause.** If this Article EIGHTH or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify each Indemnitee as to any expenses (including attorneys' fees), liabilities, losses, judgments, fines (including excise taxes and penalties arising under the Employee Retirement Income Security Act of 1974) and amounts paid in settlement in connection with any action, suit, proceeding or investigation, whether civil, criminal or administrative, including an action by or in the right of the Corporation, to the fullest extent permitted by any applicable portion of this Article EIGHTH that shall not have been invalidated and to the fullest extent permitted by applicable law.

**14. Definitions.** Terms used herein and defined in Section 145(h) and Section 145(i) of the General Corporation Law of the State of Delaware shall have the respective meanings assigned to such terms in such Section 145(h) and Section 145(i).

NINTH: This Article NINTH is inserted for the management of the business and for the conduct of the affairs of the Corporation.

**1. General Powers.** The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors.

**2. Number of Directors; Election of Directors.** Subject to the rights of holders of any series of Preferred Stock to elect directors, the number of directors of the Corporation shall be established from time to time by the Board of Directors. Election of directors need not be by written ballot, except as and to the extent provided in the Bylaws of the Corporation.

**3. Classes of Directors.** Subject to the rights of holders of any series of Preferred Stock to elect directors, the Board of Directors shall be and is divided into three classes, designated Class I, Class II and Class III. Each class shall consist, as nearly as may be possible, of one-third of the total number of directors constituting the entire Board of Directors. The Initial Class I directors shall be James Rinn and Caroline Carralero, the initial Class II directors shall be Omeed Malik and Blake Masters and the initial Class III directors shall be Michael Seifert, Nick Ayers and Davis Pilot III.

**4. Terms of Office.** Subject to the rights of holders of any series of Preferred Stock to elect directors, each director shall serve for a term ending on the date of the third annual meeting of stockholders following the annual meeting of stockholders at which such director was elected; provided that each director initially assigned to Class I shall serve for a term expiring at the Corporation's annual meeting of the stockholders to be held in 2024; each director initially assigned to Class II shall serve for a term expiring at the Corporation's annual meeting of the stockholders to be held in 2025; and each director initially assigned to Class III shall serve for a term expiring at the Corporation's annual meeting of the stockholders to be held in 2026; provided further, that the term of each director shall continue until the election and qualification of his or her successor and be subject to his or her earlier death, resignation or removal.

**5. Quorum.** The greater of (a) a majority of the directors at any time in office and (b) one-third of the number of directors fixed pursuant to Section 2 of this Article NINTH shall constitute a quorum of the Board of Directors. If at any meeting of the Board of Directors there shall be less than such a quorum, a majority of the directors present may adjourn the meeting from time to time without further notice other than announcement at the meeting, until a quorum shall be present.

**6. Action at Meeting.** Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors unless a greater number is required by law or by this Restated Certificate of Incorporation.

**7. Removal.** Subject to the rights of holders of any series of Preferred Stock, directors of the Corporation may be removed only for cause and only by the affirmative vote of the holders of at least seventy-five percent (75%) of the voting power of the outstanding shares of capital stock of the Corporation entitled to vote thereon.

**8. Vacancies.** Subject to the rights of holders of any series of Preferred Stock, any vacancies or newly-created directorships on the Board of Directors, however occurring, shall be filled only by vote of a majority of the directors then in office, although less than a quorum, or by a sole remaining director and shall not be filled by the stockholders. A director elected to fill a vacancy or to fill a position resulting from a newly-created directorship shall hold office until the next election of the class for which such director shall have been chosen, subject to the election and qualification of a successor and to such director's earlier death, resignation or removal.

**9. Stockholder Nominations and Introduction of Business, Etc.** Advance notice of stockholder nominations for election of directors and other business to be brought by stockholders before a meeting of stockholders shall be given in the manner provided by the Bylaws of the Corporation.

**10. Amendments to Article.** Notwithstanding any other provisions of law, this Restated Certificate of Incorporation or the Bylaws of the Corporation that may otherwise permit a lesser vote, but in addition to any vote of the holders of shares of any class or series of capital stock of the Corporation required by law or this Restated Certificate of Incorporation, the affirmative vote of the holders of at least seventy-five percent (75%) of the voting power of the outstanding shares of capital stock of the Corporation entitled to vote thereon shall be required to amend or repeal, or to adopt any provision inconsistent with, this Article NINTH.

TENTH: Subject to the rights of holders of any outstanding series of Preferred Stock, stockholders of the Corporation may not take any action by consent in lieu of a meeting of stockholders. Notwithstanding any other provisions of law, this Restated Certificate of Incorporation or the Bylaws of the Corporation that may otherwise permit a lesser vote, but in addition to any vote of the holders of shares of any class or series of capital stock of the Corporation required by law or this Restated Certificate of Incorporation, the affirmative vote of the holders of at least seventy-five percent (75%) of the voting power of the outstanding shares of capital stock of the Corporation entitled to vote thereon shall be required to amend or repeal, or to adopt any provision inconsistent with, this Article TENTH.

ELEVENTH: Special meetings of stockholders for any purpose or purposes may be called at any time only by the Chairman of the Board of Directors, the Chief Executive Officer of the Corporation or by the Board of Directors, and may not be called by any other person or persons. Business transacted at any special meeting of stockholders shall be limited to matters relating to the purpose or purposes stated in the notice of meeting. Notwithstanding any other provisions of law, this Restated Certificate of Incorporation or the Bylaws of the Corporation that may otherwise permit a lesser vote, but in addition to any vote of the holders of shares of any class or series of capital stock of the Corporation required by law or this Restated Certificate of Incorporation, the affirmative vote of the holders of at least seventy-five percent (75%) of the voting power of the outstanding shares of capital stock of the Corporation entitled to vote thereon shall be required to amend or repeal, or to adopt any provision inconsistent with, this Article ELEVENTH.

Article ELEVENTH.

**TWELFTH:** (a) Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (or, if the Court of Chancery of the State of Delaware does not have jurisdiction, the federal district court for the District of Delaware) shall, to the fullest extent permitted by law, be the sole and exclusive forum for: (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer, other employee or stockholder of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim arising pursuant to any provision of the General Corporation Law of the State of Delaware or as to which the General Corporation Law of the State of Delaware confers jurisdiction on the Court of Chancery of the State of Delaware, or (iv) any action asserting a claim arising pursuant to any provision of this Restated Certificate of Incorporation or the Bylaws of the Corporation (in each case, as they may be amended from time to time) or governed by the internal affairs doctrine. This paragraph (a) of Article TWELFTH does not apply to claims arising under the Securities Act of 1933 or the Securities Exchange Act of 1934 or any other claim for which the federal courts have exclusive jurisdiction.

(b) Unless the Corporation consents in writing to the selection of an alternative forum, the federal district courts of the United States of America shall, to the fullest extent permitted by law, be the sole and exclusive forum for the resolution of any claims arising under the Securities Act of 1933.

(c) Any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of, and to have consented to, the provisions of this Article TWELFTH.

**THIRTEENTH:** The Corporation expressly elects not to be subject to the provisions of Section 203 of the DGCL.

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IN WITNESS WHEREOF, this Restated Certificate of Incorporation has been executed by its duly authorized officer this 19<sup>th</sup> day of July, 2023.

PSQ HOLDINGS, INC.

By: /s/ Michael Seifert  
Name: Michael Seifert  
Title: Chief Executive Officer

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AMENDED AND RESTATED BYLAWS  
OF  
PSQ HOLDINGS, INC.

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## **ARTICLE I** **STOCKHOLDERS**

**1.1 Place of Meetings.** All meetings of stockholders shall be held at such place, if any, as may be designated from time to time by the Board of Directors (the "Board"), the Chairman of the Board or the Chief Executive Officer or, if not so designated, at the principal executive office of PSQ Holdings, Inc. (the "Corporation"). The Board may, in its sole discretion, determine that a meeting shall not be held at any place, but shall instead be held solely by means of remote communication in a manner consistent with Section 211(a)(2) of the General Corporation Law of the State of Delaware ("DGCL").

**1.2 Annual Meeting.** The annual meeting of stockholders for the election of directors and for the transaction of such other business as may properly be brought before the meeting shall be held on a date and at an hour designated by the Board, the Chairman of the Board or the Chief Executive Officer. The Corporation may postpone, reschedule or cancel any previously scheduled annual meeting of stockholders.

**1.3 Special Meetings.** Special meetings of stockholders for any purpose or purposes may be called at any time only by the Board, and may not be called by any other person or persons. Business transacted at any special meeting of stockholders shall be limited to matters relating to the purpose or purposes stated in the notice of meeting. The Corporation may postpone, reschedule or cancel any previously scheduled special meeting of stockholders.

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

**1.5 Notice of Meetings.** Except as otherwise provided by law, the Certificate of Incorporation or these bylaws, notice of each meeting of stockholders, whether annual or special, shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder of record entitled to vote at such meeting as of the record date for determining the stockholders entitled to notice of the meeting. Without limiting the manner by which notice otherwise may be given to stockholders, any notice shall be effective if given in accordance with Section 232 of the DGCL (Delivery of notice; notice by electronic transmission). The notices of all meetings shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting, and the record date for determining stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting. The notice of a special meeting shall state, in addition, the purpose or purposes for which the meeting is called.

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**1.6 Voting List.** The Corporation shall prepare, no later than the 10<sup>th</sup> day before each meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting (provided, however, if the record date for determining the stockholders entitled to vote is less than 10 days before the meeting date, the list shall reflect the stockholders entitled to vote as of the 10<sup>th</sup> day before the meeting), arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder for any purpose germane to the meeting for a period of 10 days ending on the day before the meeting date: (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (b) during ordinary business hours, at the principal place of business of the Corporation. Except as otherwise provided by law, the stock ledger shall be the only evidence as to who are the stockholders entitled to examine the list of stockholders required by this Section 1.6 or to vote in person or by proxy at any meeting of stockholders.

**1.7 Quorum.** Except as otherwise provided by law, the Certificate of Incorporation or these bylaws, the holders of a majority in voting power of the shares of the capital stock of the Corporation issued and outstanding and entitled to vote at the meeting, present in person, present by means of remote communication in a manner, if any, authorized by the Board in its sole discretion, or represented by proxy, shall constitute a quorum for the transaction of business; provided, however, that where a separate vote by a class or classes or series of capital stock is required by law or the Certificate of Incorporation, the holders of a majority in voting power of the shares of such class or classes or series of the capital stock of the Corporation issued and outstanding and entitled to vote on such matter, present in person, present by means of remote communication in a manner, if any, authorized by the Board in its sole discretion, or represented by proxy, shall constitute a quorum entitled to take action with respect to the vote on such matter. A quorum,

once established at a meeting, shall not be broken by the withdrawal of enough votes to leave less than a quorum.

**1.8 Adjournments.** Any meeting of stockholders may be adjourned from time to time to reconvene at any other time and to any other place at which a meeting of stockholders may be held under these bylaws by the chairman of the meeting. When a meeting is adjourned to another time or place (including an adjournment taken to address a technical failure to convene or continue a meeting using remote communication), notice need not be given of the adjourned meeting if the time, place, if any, thereof, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are (a) announced at the meeting at which the adjournment is taken, (b) displayed, during the time scheduled for the meeting, on the same electronic network used to enable stockholders and proxy holders to participate in the meeting by means of remote communication or (c) set forth in the notice of meeting given in accordance with Section 1.5 hereof. At the adjourned meeting, the Corporation may transact any business that might have been transacted at the original meeting. If the adjournment is for more than 30 days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for determination of stockholders entitled to vote is fixed for the adjourned meeting, the Board shall fix a new record date for determining stockholders entitled to notice of such adjourned meeting that is the same or an earlier date as that fixed for determination of stockholders entitled to vote at such adjourned meeting, and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

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**1.9 Voting and Proxies.** Each stockholder shall have one vote upon the matter in question for each share of stock entitled to vote held of record by such stockholder and a proportionate vote for each fractional share so held, unless otherwise provided by law or the Certificate of Incorporation (including, without limitation, as provided in the Certificate of Incorporation with respect to the Corporation's Class C Common Stock, par value \$0.0001 per share). Each stockholder of record entitled to vote at a meeting of stockholders may vote in person (including by means of remote communications, if any, by which stockholders may be deemed to be present in person and vote at such meeting) or may authorize another person or persons to vote for such stockholder by a proxy executed or transmitted in a manner permitted by the DGCL by the stockholder or such stockholder's authorized officer, director, employee or agent and delivered (including by electronic transmission) to the Secretary of the Corporation. No such proxy shall be voted upon after three years from the date of its execution, unless the proxy expressly provides for a longer period. Any person directly or indirectly soliciting proxies from stockholders of the Corporation must use a proxy card color other than white, the color white being reserved for the exclusive use of the Board of the Corporation.

**1.10 Action at Meeting.** When a quorum is present at any meeting, any matter other than the election of directors to be voted upon by the stockholders at such meeting shall be decided by the vote of the holders of shares of stock having a majority in voting power of the votes cast by the holders of all of the shares of stock present or represented at the meeting and voting affirmatively or negatively on such matter (or if there are two or more classes or series of stock entitled to vote as separate classes, then in the case of each such class or series, the holders of a majority in voting power of the shares of stock of that class or series present or represented at the meeting and voting affirmatively or negatively on such matter), except when a different vote is required by law, the Certificate of Incorporation or these bylaws. When a quorum is present at any meeting, any election by stockholders of directors shall be determined by a plurality of the votes cast by the stockholders entitled to vote on the election.

**1.11 Nomination of Directors.**

(a) Except for any directors entitled to be elected by the holders of preferred stock, only persons who are nominated in accordance with the procedures in this Section 1.11 shall be eligible for election as directors at any meeting of stockholders. Nomination for election to the Board at a meeting of stockholders may be made only (i) by or at the direction of the Board or (ii) by any stockholder of the Corporation who (x) has given timely notice thereof in writing to the Secretary in accordance with the procedures in, and otherwise complies with, Section 1.11(b), (y) is a stockholder of record who is entitled to vote for the election of such nominee on the date of the giving of such notice and on the record date for the determination of stockholders entitled to vote at such meeting and (z) is entitled to vote at such meeting. Notwithstanding the foregoing or anything herein to the contrary, a stockholder of the Corporation may make nominations for election to the Board at a special meeting of stockholders pursuant to the foregoing clause (ii) only if the Board has determined, in accordance with Section 1.3, that directors shall be elected at such special meeting and at such time that the stockholders are not prohibited from filling vacancies or newly created directorships on the Board. The number of nominees a stockholder may nominate for election at a meeting (or in the case of a stockholder giving the notice on behalf of a beneficial owner, the number of nominees a stockholder may nominate for election at the meeting on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such meeting.

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(b) To be timely, a stockholder's notice must be received in writing by the Secretary at the principal executive office of the Corporation as follows: (i) in the case of an election of directors at an annual meeting of stockholders, not less than 90 days nor more than 120 days prior to the first anniversary of the preceding year's annual meeting (which date of the preceding year's annual meeting date shall, for purposes of the Corporation's first annual meeting of stockholders after the consummation of its business combination among Colombier Acquisition Corp., Colombier-Liberty Acquisition, Inc. and PSQ Holdings, Inc., be deemed to have occurred on [\*], 202[3] for all purposes of this Section 1.11 and Section 1.12 of these bylaws); provided, however, that in the event that the date of the annual meeting is advanced by more than 30 days, or delayed by more than 60 days, from the first anniversary of the preceding year's annual meeting, or if no annual meeting was held or deemed to have been held in the preceding year, a stockholder's notice must be so received not earlier than the 120<sup>th</sup> day prior to such annual meeting and not later than the close of business on the later of (A) the 90<sup>th</sup> day prior to such annual meeting and (B) the 10<sup>th</sup> day following the day on which notice of the date of such annual meeting was given or public disclosure of the date of such annual meeting was made, whichever first occurs; or (ii) in the case of an election of directors at a special meeting of stockholders, provided that the Board has determined, in accordance with Section 1.3, that directors shall be elected at such special meeting and the stockholders are not then prohibited from filling vacancies or newly created directorships on the Board, and provided further that the nomination made by the stockholder is for one of the director positions that the Board has determined will be filled at such special meeting, not earlier than the 120<sup>th</sup> day prior to such special meeting and not later than the close of business on the later of (x) the 90<sup>th</sup> day prior to such special meeting and (y) the 10<sup>th</sup> day following the day on which notice of the date of such special meeting was given or public disclosure of the date of such special meeting was made, whichever first occurs. In no event shall the adjournment or postponement of a meeting (or the public disclosure thereof) commence a new time period (or extend any time period) for the giving of a stockholder's notice.

The stockholder's notice to the Secretary shall set forth: (A) as to each proposed nominee (1) such person's name, age, business address and, if known, residence address, (2) such person's principal occupation or employment, (3) the class and series and number of shares of stock of the Corporation that are, directly or indirectly, owned, beneficially or of record, by such person, (4) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among (x) the stockholder, the beneficial owner, if any, on whose behalf the nomination is being made and the respective affiliates and associates of, or others acting in concert with, such stockholder and such beneficial owner (each, a "Stockholder Associated Person"), on the one hand, and (y) each proposed nominee, and his or her respective affiliates and associates, or others acting in concert with such nominee(s), on the other hand, including all

information that would be required to be disclosed pursuant to Item 404 of Regulation S-K if the stockholder making the nomination and any beneficial owner on whose behalf the nomination is made or any Stockholder Associated Person were the "Registrant" for purposes of such Item and the proposed nominee were a director or executive officer of such Registrant, and (5) any other information concerning such person that must be disclosed as to nominees in proxy solicitations pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act"); and (B) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination is being made (1) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, (2) the class and series and number of shares of stock of the Corporation that are, directly or indirectly, owned, beneficially or of record, by such stockholder and such beneficial owner, (3) a description of any material interest related to the nomination of such stockholder, such beneficial owner and/or any Stockholder Associated Person, (4) a description of any agreement, arrangement or understanding between or among such stockholder, such beneficial owner and/or any Stockholder Associated Person and each proposed nominee and any other person or persons (including their names) pursuant to which the nomination(s) are being made or who may participate in the solicitation of proxies or votes in favor of electing such nominee(s), (5) a description of any agreement, arrangement or understanding (including any derivative or short positions, swaps, profit interests, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into by, or on behalf of, such stockholder, such beneficial owner and/or any Stockholder Associated Person, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder, such beneficial owner and/or any Stockholder Associated Person with respect to shares of stock of the Corporation, (6) any other information relating to such stockholder, such beneficial owner and/or any Stockholder Associated Person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for the election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, (7) a representation that such stockholder intends to appear in person or by proxy at the meeting to nominate the person(s) named in its notice, (8) a representation that such stockholder, such beneficial owner and/or any Stockholder Associated Person has complied, and will comply, with all applicable requirements of state law and the Exchange Act with respect to matters set forth in this Section 1.11, and (9) a representation whether such stockholder, such beneficial owner and/or any Stockholder Associated Person intends or is part of a group that intends (x) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock reasonably believed by such stockholder or such beneficial owner to be sufficient to elect the nominee (and such representation shall be included in any such proxy statement and form of proxy) and/or (y) otherwise to solicit proxies or votes from stockholders in support of such nomination (and such representation shall be included in any such solicitation materials). Not later than 10 days after the record date for the meeting, the information required by Items (A)(1)-(5) and (B)(1)-(6) of the prior sentence shall be supplemented by the stockholder giving the notice to provide updated information as of the record date. In addition, to be effective, the stockholder's notice must also be accompanied by the written consent of the proposed nominee to being named in the Corporation's proxy statement and accompanying proxy card as a nominee and to serve as a director if elected. The Corporation may require any proposed nominee to furnish such other information as the Corporation may reasonably require to determine, among other things, the eligibility of such proposed nominee to serve as a director of the Corporation or whether such nominee would be independent under applicable Securities and Exchange Commission and stock exchange rules and the Corporation's publicly disclosed corporate governance guidelines. Notwithstanding anything herein to the contrary, a stockholder shall not have complied with this Section 1.11(b) if the stockholder, beneficial owner and/or any Stockholder Associated Person solicits or does not solicit, as the case may be, proxies or votes in support of such stockholder's nominee in contravention of the representations with respect thereto required by this Section 1.11.

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Such notice must also be accompanied by a representation as to whether or not such stockholder, beneficial owner and/or any Stockholder Associated Person intends to solicit proxies in support of any director nominees other than the Corporation's nominees in accordance with Rule 14a-19 under the Exchange Act, and, where such stockholder, beneficial owner and/or Stockholder Associated Person intends to so solicit proxies, the notice and information required by Rule 14a-19(b) under the Exchange Act. Notwithstanding anything to the contrary in these bylaws, unless otherwise required by law, if any stockholder, beneficial owner and/or Stockholder Associated Person (i) provides notice pursuant to Rule 14a-19(b) under the Exchange Act and (ii) subsequently fails to comply with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3) under the Exchange Act (or fails to timely provide reasonable evidence sufficient to satisfy the Corporation that such stockholder, beneficial owner and/or Stockholder Associated Person has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act in accordance with the following sentence), then the nomination of each of the director nominees proposed by such stockholder, beneficial owner and/or Stockholder Associated Person shall be disregarded, notwithstanding that proxies or votes in respect of the election of such proposed nominees may have been received by the Corporation (which proxies and votes shall be disregarded). Upon request by the Corporation, if any stockholder, beneficial owner and/or Stockholder Associated Person provides notice pursuant to Rule 14a-19(b) under the Exchange Act, such stockholder, beneficial owner and/or Stockholder Associated Person shall deliver to the Corporation, no later than five business days prior to the applicable meeting, reasonable evidence that it has met the requirements of Rule 14a-19(a)(3) under the Exchange Act.

(c) The chairman of any meeting (and, in advance of any meeting, the Board) shall have the power and duty to determine whether a nomination was made in accordance with the provisions of this Section 1.11 (including whether the stockholder, beneficial owner and/or any Stockholder Associated Person did or did not so solicit, as the case may be, proxies or votes in support of such stockholder's nominee in compliance with the representations with respect thereto required by this Section 1.11), and if the chairman (or the Board) should determine that a nomination was not made in accordance with the provisions of this Section 1.11, the chairman shall so declare to the meeting and such nomination shall not be brought before the meeting.

(d) Except as otherwise required by law (including Rule 14a-19 under the Exchange Act), nothing in this Section 1.11 shall obligate the Corporation or the Board to include in any proxy statement, proxy card or other stockholder communication distributed on behalf of the Corporation or the Board the name of or other information with respect to any nominee for director submitted by a stockholder.

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(e) Notwithstanding the foregoing provisions of this Section 1.11, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the meeting to present a nomination, such nomination shall not be brought before the meeting, notwithstanding that proxies in respect of such nominee may have been received by the Corporation. For purposes of this Section 1.11, to be considered a "qualified representative of the stockholder", a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a written instrument executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such written instrument or electronic transmission, or a reliable reproduction of the written instrument or electronic transmission, at the meeting of stockholders.

(f) For purposes of this Section 1.11, "public disclosure" shall include disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

(g) Unless the Corporation elects otherwise, a stockholder's notice to the Corporation of nominations shall be in writing exclusively (and not in an electronic transmission) and shall be delivered exclusively by hand (including, without limitation, overnight courier service) or by certified or registered mail, return receipt requested, and the Corporation shall not be required to accept delivery of any document not in such written form or so delivered.

#### 1.12 Notice of Business at Annual Meetings.

(a) At any annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (i) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board, (ii) otherwise properly brought before the meeting by or at the direction of the Board, or (iii) properly brought before the meeting by a stockholder. For business to be properly brought before an annual meeting by a stockholder, (A) if such business relates to the nomination of a person for election as a director of the Corporation, the procedures in Section 1.11 must be complied with and (B) if such business relates to any other matter, the business must constitute a proper matter under Delaware law for stockholder action and the stockholder must (x) have given timely notice thereof in writing to the Secretary in accordance with the procedures in, and otherwise complied with, Section 1.12(b), (y) be a stockholder of record who is entitled to vote on such business on the date of the giving of such notice and on the record date for the determination of stockholders entitled to vote at such annual meeting and (z) be entitled to vote at such annual meeting.

(b) To be timely, a stockholder's notice must be received in writing by the Secretary at the principal executive office of the Corporation not less than 90 days nor more than 120 days prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is advanced by more than 30 days, or delayed by more than 60 days, from the first anniversary of the preceding year's annual meeting, or if no annual meeting was held or deemed to have been held in the preceding year, a stockholder's notice must be so received not earlier than the 120<sup>th</sup> day prior to such annual meeting and not later than the close of business on the later of (x) the 90<sup>th</sup> day prior to such annual meeting and (y) the 10<sup>th</sup> day following the day on which notice of the date of such annual meeting was given or public disclosure of the date of such annual meeting was made, whichever first occurs. In no event shall the adjournment or postponement of an annual meeting (or the public disclosure thereof) commence a new time period (or extend any time period) for the giving of a stockholder's notice.

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The stockholder's notice to the Secretary shall set forth: (A) as to each matter the stockholder proposes to bring before the annual meeting (1) a brief description of the business desired to be brought before the annual meeting, (2) the text of the proposal (including the exact text of any resolutions proposed for consideration and, in the event that such business includes a proposal to amend the bylaws, the exact text of the proposed amendment), and (3) the reasons for conducting such business at the annual meeting, and (B) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the proposal is being made (1) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, (2) the class and series and number of shares of stock of the Corporation that are, directly or indirectly, owned, beneficially or of record, by such stockholder and such beneficial owner, (3) a description of any material interest of such stockholder, such beneficial owner and/or any Stockholder Associated Person in the business proposed to be brought before the annual meeting, (4) a description of any agreement, arrangement or understanding between or among such stockholder, such beneficial owner, any Stockholder Associated Person and any other person or persons (including their names) in connection with the proposal of such business or who may participate in the solicitation of proxies in favor of such proposal, (5) a description of any agreement, arrangement or understanding (including any derivative or short positions, swaps, profit interests, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into by, or on behalf of, such stockholder, such beneficial owner and/or any Stockholder Associated Person, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder, such beneficial owner and/or any Stockholder Associated Person with respect to shares of stock of the Corporation, (6) any other information relating to such stockholder, such beneficial owner and/or any Stockholder Associated Person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for the business proposed pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, (7) a representation that such stockholder intends to appear in person or by proxy at the annual meeting to bring such business before the meeting, (8) a representation that such stockholder, such beneficial owner and/or any Stockholder Associated Person has complied, and will comply, with all applicable requirements of state law and the Exchange Act with respect to matters set forth in this Section 1.12, and (9) a representation whether such stockholder, such beneficial owner and/or any Stockholder Associated Person intends or is part of a group that intends (x) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal (and such representation shall be included in any such proxy statement and form of proxy) and/or (y) otherwise to solicit proxies or votes from stockholders in support of such proposal (and such representation shall be included in any such solicitation materials). Not later than 10 days after the record date for the meeting, the information required by Items (A)(3) and (B)(1)-(6) of the prior sentence shall be supplemented by the stockholder giving the notice to provide updated information as of the record date. Notwithstanding anything in these bylaws to the contrary, no business shall be conducted at any annual meeting of stockholders except in accordance with the procedures in this Section 1.12; provided that any stockholder proposal that complies with Rule 14a-8 of the proxy rules (or any successor provision) promulgated under the Exchange Act and is to be included in the Corporation's proxy statement for an annual meeting of stockholders shall be deemed to comply with the notice requirements of this Section 1.12. Notwithstanding anything herein to the contrary, a stockholder shall not have complied with this Section 1.12(b) if the stockholder, beneficial owner and/or any Stockholder Associated Person solicits or does not solicit, as the case may be, proxies or votes in support of such stockholder's proposal in contravention of the representations with respect thereto required by this Section 1.12.

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(c) The chairman of any annual meeting (and, in advance of any annual meeting, the Board) shall have the power and duty to determine whether business was properly brought before the annual meeting in accordance with the provisions of this Section 1.12 (including whether the stockholder, beneficial owner and/or any Stockholder Associated Person did or did not so solicit, as the case may be, proxies or votes in support of such stockholder's proposal in compliance with the representation with respect thereto required by this Section 1.12), and if the chairman (or the Board) should determine that business was not properly brought before the annual meeting in accordance with the provisions of this Section 1.12, the chairman of the meeting shall so declare to the meeting and such business shall not be brought before the annual meeting.

(d) Except as otherwise required by law, nothing in this Section 1.12 shall obligate the Corporation or the Board to include in any proxy statement or other stockholder communication distributed on behalf of the Corporation or the Board information with respect to any proposal submitted by a stockholder.

(e) Notwithstanding the foregoing provisions of this Section 1.12, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual meeting to present business, such business shall not be considered, notwithstanding that proxies in respect of such business may have been received by the Corporation.

(f) For purposes of this Section 1.12, the terms "qualified representative of the stockholder" and "public disclosure" shall have the same meaning as in Section 1.11.

(g) Unless the Corporation elects otherwise, a stockholder's notice to the Corporation of other business shall be in writing exclusively (and not in

an electronic transmission) and shall be delivered exclusively by hand (including, without limitation, overnight courier service) or by certified or registered mail, return receipt requested, and the Corporation shall not be required to accept delivery of any document not in such written form or so delivered.

#### 1.13 Conduct of Meetings.

(a) Unless otherwise provided by the Board, meetings of stockholders shall be presided over by the Chairman of the Board, if any, or in the Chairman's absence by the Vice Chairman of the Board, if any, or in the Vice Chairman's absence by the Chief Executive Officer, or in the Chief Executive Officer's absence by the President, or in the President's absence by a Vice President, or in the absence of all of the foregoing persons by a chairman designated by the Board. The Secretary shall act as secretary of the meeting, but in the Secretary's absence the chairman of the meeting may appoint any person to act as secretary of the meeting.

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(b) The Board may adopt by resolution such rules, regulations and procedures for the conduct of any meeting of stockholders of the Corporation as it shall deem appropriate including, without limitation, such guidelines and procedures as it may deem appropriate regarding the participation by means of remote communication of stockholders and proxyholders not physically present at a meeting. Except to the extent inconsistent with such rules, regulations and procedures as adopted by the Board, the chairman of any meeting of stockholders shall have the right and authority to convene and (for any or no reason) to recess and/or adjourn the meeting and prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board or prescribed by the chairman of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders entitled to vote at the meeting, their duly authorized and constituted proxies or such other persons as shall be determined by the Board or the chairman of any meeting; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. Unless and to the extent determined by the Board or the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

(c) The chairman of the meeting shall announce at the meeting when the polls for each matter to be voted upon at the meeting will be opened and closed. After the polls close, no ballots, proxies or votes or any revocations or changes thereto may be accepted.

(d) In advance of any meeting of stockholders, the Corporation shall appoint one or more inspectors of election to act at the meeting and make a written report thereof. One or more other persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is present, ready and willing to act at a meeting of stockholders, the chairman of the meeting shall appoint one or more inspectors to act at the meeting. Unless otherwise required by law, inspectors may be officers, employees or agents of the Corporation. Each inspector, before entering upon the discharge of such inspector's duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of such inspector's ability. The inspector shall have the duties prescribed by law and, when the vote is completed, shall make a certificate of the result of the vote taken and of such other facts as may be required by law. Every vote taken by ballots shall be counted by a duly appointed inspector or duly appointed inspectors.

**1.14 No Action by Consent in Lieu of a Meeting.** Except as otherwise provided by the Certificate of Incorporation, stockholders of the Corporation may not take any action by consent in lieu of a meeting of stockholders.

## **ARTICLE II**

### **DIRECTORS**

**2.1 General Powers.** The business and affairs of the Corporation shall be managed by or under the direction of a Board, who may exercise all of the powers of the Corporation except as otherwise provided by law or the Certificate of Incorporation.

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**2.2 Number, Election and Qualification.** The number of directors of the Corporation shall be the number fixed by, or determined in the manner provided in, the Certificate of Incorporation. Election of directors need not be by written ballot. Directors need not be stockholders of the Corporation. In no case will a decrease in the number of directors shorten the term of any incumbent director.

**2.3 Chairman of the Board; Vice Chairman of the Board.** The Board may appoint from its members a Chairman of the Board and a Vice Chairman of the Board, neither of whom need be an employee or officer of the Corporation. If the Board appoints a Chairman of the Board, such Chairman shall perform such duties and possess such powers as are assigned by the Board and, if the Chairman of the Board is also designated as the Corporation's Chief Executive Officer, shall have the powers and duties of the Chief Executive Officer prescribed in Section 3.7 of these bylaws. If the Board appoints a Vice Chairman of the Board, such Vice Chairman shall perform such duties and possess such powers as are assigned by the Board or the Chairman of the Board. Unless otherwise provided by the Board, the Chairman of the Board or, in the Chairman's absence, the Vice Chairman of the Board, if any, shall preside at all meetings of the Board.

**2.4 Terms of Office.** Directors shall be elected for such terms and in the manner provided by the Certificate of Incorporation and applicable law. The term of each director shall continue until the election and qualification of his or her successor and be subject to his or her earlier death, resignation or removal.

**2.5 Quorum.** The greater of (a) a majority of the directors at any time in office and (b) one-third of the number of directors established by the Board pursuant to the Certificate of Incorporation shall constitute a quorum of the Board. If at any meeting of the Board there shall be less than such a quorum, a majority of the directors present may adjourn the meeting from time to time without further notice other than announcement at the meeting, until a quorum shall be present.

**2.6 Action at Meeting.** Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board, unless a greater number is required by law or by the Certificate of Incorporation.

**2.7 Removal.** Directors of the Corporation may be removed in the manner specified by the Certificate of Incorporation and applicable law.

**2.8 Vacancies.** Any vacancy or newly-created directorship on the Board, however occurring, shall be filled in the manner specified by the Certificate of Incorporation and applicable law.

**2.9 Resignation.** Any director may resign by delivering a resignation in writing or by electronic transmission to the Corporation at its principal

executive office or to the Chairman of the Board, the Chief Executive Officer, the President or the Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some later time or upon the happening of some later event.

**2.10 Regular Meetings.** Regular meetings of the Board may be held without notice at such time and place as shall be determined from time to time by the Board; provided that any director who is absent when such a determination is made shall be given notice of the determination. A regular meeting of the Board may be held without notice immediately after and at the same place as the annual meeting of stockholders.

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**2.11 Special Meetings.** Special meetings of the Board may be held at any time and place designated in a call by the Chairman of the Board, the Chief Executive Officer, the President, two or more directors, or by one director in the event that there is only a single director in office.

**2.12 Notice of Special Meetings.** Notice of the time and place of any special meeting of directors shall be given to each director by the Secretary or by the officer or one of the directors calling the meeting. Notice shall be duly given to each director (a) in person, by telephone or by electronic transmission at least 24 hours in advance of the meeting, (b) by delivering written notice by hand, to such director's last known business or home address at least 48 hours in advance of the meeting, or (c) by sending written notice by first-class mail to such director's last known business or home address at least 72 hours in advance of the meeting. A notice or waiver of notice of a meeting of the Board need not specify the purposes of the meeting.

**2.13 Meetings by Conference Communications Equipment.** Directors may participate in meetings of the Board or any committee thereof by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

**2.14 Action by Consent.** Any action required or permitted to be taken at any meeting of the Board or of any committee thereof may be taken without a meeting if all members of the Board or committee, as the case may be, consent to the action in writing or by electronic transmission. After an action is taken, the consent or consents relating thereto shall be filed with the minutes of proceedings of the Board or committee in the same paper or electronic form as the minutes are maintained.

**2.15 Committees.** The Board may designate one or more committees, each committee to consist of one or more of the directors of the Corporation with such lawfully delegable powers and duties as the Board thereby confers, to serve at the pleasure of the Board. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members of the committee present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board and subject to the provisions of law, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Corporation and may authorize the seal of the Corporation to be affixed to all papers that may require it. Each such committee shall keep minutes and make such reports as the Board may from time to time request. Except as the Board may otherwise determine, any committee may make rules for the conduct of its business, but unless otherwise provided by the directors or in such rules, its business shall be conducted as nearly as possible in the same manner as is provided in these bylaws for the Board. Except as otherwise provided in the Certificate of Incorporation, these bylaws, or the resolution of the Board designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee.

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**2.16 Emergency Bylaws.** In the event of any emergency, disaster, catastrophe or other similar emergency condition of a type described in Section 110(a) of the DGCL (an "Emergency"), notwithstanding any different or conflicting provisions in the DGCL, the Certificate of Incorporation or these bylaws, during such Emergency:

(a) **Notice.** A meeting of the Board or a committee thereof may be called by any director, the Chairman of the Board, the Chief Executive Officer, the President or the Secretary by such means as, in the judgment of the person calling the meeting, may be feasible at the time, and notice of any such meeting of the Board or any committee may be given, in the judgment of the person calling the meeting, only to such directors as it may be feasible to reach at the time and by such means as may be feasible at the time. Such notice shall be given at such time in advance of the meeting as, in the judgment of the person calling the meeting, circumstances permit.

(b) **Quorum.** The director or directors in attendance at a meeting called in accordance with Section 2.16(a) shall constitute a quorum.

(c) **Liability.** No officer, director or employee acting in accordance with this Section 2.16 shall be liable except for willful misconduct. No amendment, repeal or change to this Section 2.16 shall modify the prior sentence with regard to actions taken prior to the time of such amendment, repeal or change.

### ARTICLE III OFFICERS

**3.1 Titles.** The officers of the Corporation shall consist of a Chief Executive Officer, a President, a Secretary, a Treasurer and such other officers with such other titles as the Board shall determine, including one or more Vice Presidents, Assistant Treasurers and Assistant Secretaries. The Board may appoint such other officers as it may deem appropriate.

**3.2 Election.** The Chief Executive Officer, President, Treasurer and Secretary shall be elected annually by the Board at its first meeting following the annual meeting of stockholders. Other officers may be appointed by the Board at such meeting or at any other meeting.

**3.3 Qualification.** No officer need be a stockholder. Any two or more offices may be held by the same person.

**3.4 Tenure.** Except as otherwise provided by law, the Certificate of Incorporation or these bylaws, each officer shall hold office until such officer's successor is elected and qualified, unless a different term is specified in the resolution electing or appointing such officer, or until such officer's earlier death, resignation or removal.

**3.5 Resignation and Removal.** Any officer may resign by delivering a resignation in writing or by electronic transmission to the Corporation at its principal executive office or to the Chief Executive Officer, the President or the Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some later time or upon the happening of some later event. Any officer may be removed at any time, with or without cause, by the Board. Except as the Board may otherwise determine, no officer who resigns or is removed shall have any right to any compensation as an officer for

**3.6 Vacancies.** The Board may fill any vacancy occurring in any office for any reason and may, in its discretion, leave unfilled for such period as it may determine any offices. Each such successor shall hold office for the unexpired term of such officer's predecessor and until a successor is elected and qualified, or until such officer's earlier death, resignation or removal.

**3.7 President; Chief Executive Officer.** Unless the Board has designated another person as the Corporation's Chief Executive Officer, the President shall be the Chief Executive Officer of the Corporation. The Chief Executive Officer shall have general charge and supervision of the business of the Corporation subject to the direction of the Board, and shall perform all duties and have all powers that are commonly incident to the office of the chief executive or that are delegated to such officer by the Board. The President shall perform such other duties and shall have such other powers as the Board or the Chief Executive Officer (if the President is not the Chief Executive Officer) may from time to time prescribe. In the event of the absence, inability or refusal to act of the Chief Executive Officer or the President (if the President is not the Chief Executive Officer), the Vice President (or if there shall be more than one, the Vice Presidents in the order determined by the Board) shall perform the duties of the Chief Executive Officer and when so performing such duties shall have all the powers of and be subject to all the restrictions upon the Chief Executive Officer.

**3.8 Vice Presidents.** Each Vice President shall perform such duties and possess such powers as the Board or the Chief Executive Officer may from time to time prescribe. The Board may assign to any Vice President the title of Executive Vice President, Senior Vice President or any other title selected by the Board.

**3.9 Secretary and Assistant Secretaries.** The Secretary shall perform such duties and shall have such powers as the Board or the Chief Executive Officer may from time to time prescribe. In addition, the Secretary shall perform such duties and have such powers as are incident to the office of the secretary, including without limitation the duty and power to give notices of all meetings of stockholders and special meetings of the Board, to attend all meetings of stockholders and the Board and keep a record of the proceedings, to maintain a stock ledger and prepare lists of stockholders and their addresses as required, to be custodian of corporate records and the corporate seal and to affix and attest to the same on documents.

Any Assistant Secretary shall perform such duties and possess such powers as the Board, the Chief Executive Officer or the Secretary may from time to time prescribe. In the event of the absence, inability or refusal to act of the Secretary, the Assistant Secretary (or if there shall be more than one, the Assistant Secretaries in the order determined by the Board) shall perform the duties and exercise the powers of the Secretary.

In the absence of the Secretary or any Assistant Secretary at any meeting of stockholders or directors, the chairman of the meeting shall designate a temporary secretary to keep a record of the meeting.

**3.10 Treasurer and Assistant Treasurers.** The Treasurer shall perform such duties and shall have such powers as may from time to time be assigned by the Board or the Chief Executive Officer. In addition, the Treasurer shall perform such duties and have such powers as are incident to the office of treasurer, including without limitation the duty and power to keep and be responsible for all funds and securities of the Corporation, to deposit funds of the Corporation in depositories selected in accordance with these bylaws, to disburse such funds as ordered by the Board, to make proper accounts of such funds, and to render as required by the Board statements of all such transactions and of the financial condition of the Corporation.

The Assistant Treasurers shall perform such duties and possess such powers as the Board, the Chief Executive Officer or the Treasurer may from time to time prescribe. In the event of the absence, inability or refusal to act of the Treasurer, the Assistant Treasurer (or if there shall be more than one, the Assistant Treasurers in the order determined by the Board) shall perform the duties and exercise the powers of the Treasurer.

**3.11 Salaries.** Officers of the Corporation shall be entitled to such salaries, compensation or reimbursement as shall be fixed or allowed from time to time by the Board.

**3.12 Delegation of Authority.** The Board may from time to time delegate the powers or duties of any officer to any other officer or agent, notwithstanding any provision hereof.

#### **ARTICLE IV CAPITAL STOCK**

**4.1 Issuance of Stock.** Subject to the provisions of the Certificate of Incorporation, the whole or any part of any unissued balance of the authorized capital stock of the Corporation or the whole or any part of any shares of the authorized capital stock of the Corporation held in the Corporation's treasury may be issued, sold, transferred or otherwise disposed of by vote of the Board in such manner, for such lawful consideration and on such terms as the Board may determine.

**4.2 Stock Certificates; Uncertificated Shares.** The shares of the Corporation shall be represented by certificates, provided that the Board may provide by resolution or resolutions that some or all of any or all classes or series of the Corporation's stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. Every holder of stock of the Corporation represented by certificates shall be entitled to have a certificate, in such form as may be prescribed by law and by the Board, representing the number of shares held by such holder registered in certificate form. Each such certificate shall be signed in a manner that complies with Section 158 of the DGCL by or in the name of any two officers of the Corporation, each of whom is an authorized officer for this purpose.

Each certificate representing shares of stock that are subject to any restriction on transfer pursuant to the Certificate of Incorporation, these bylaws, applicable securities laws or any agreement among any number of stockholders or among such holders and the Corporation shall have conspicuously noted on the face or back of the certificate either the full text of the restriction or a statement of the existence of such restriction.

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

Within a reasonable time after the issuance or transfer of uncertificated shares, the registered owner thereof shall be given a notice, in writing or by electronic transmission, containing the information required to be set forth or stated on certificates pursuant to Sections 151, 156, 202(a) or 218(a) of the DGCL or, with respect to Section 151 of the DGCL, a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

**4.3 Transfers.** Shares of stock of the Corporation shall be transferable in the manner prescribed by law and in these bylaws. Transfers of shares of stock of the Corporation shall be made only on the books of the Corporation or by transfer agents designated to transfer shares of stock of the Corporation. Subject to applicable law, shares of stock represented by certificates shall be transferred only on the books of the Corporation by the surrender to the Corporation or its transfer agent of the certificate representing such shares properly endorsed or accompanied by a written assignment or power of attorney properly executed, and with such proof of authority or the authenticity of signature as the Corporation or its transfer agent may reasonably require. Uncertificated shares may be transferred by delivery of a written assignment or power of attorney properly executed, and with such proof of authority or the authenticity of signature as the Corporation or its transfer agent may reasonably require. Except as may be otherwise required by law, the Certificate of Incorporation or these bylaws, the Corporation shall be entitled to treat the record holder of stock as shown on its books as the owner of such stock for all purposes, including the payment of dividends and the right to vote with respect to such stock, regardless of any transfer, pledge or other disposition of such stock until the shares have been transferred on the books of the Corporation in accordance with the requirements of these bylaws.

**4.4 Lost, Stolen or Destroyed Certificates.** The Corporation may issue a new certificate of stock or uncertificated shares in place of any previously issued certificate alleged to have been lost, stolen or destroyed, upon such terms and conditions as the Corporation may prescribe, including the presentation of reasonable evidence of such loss, theft or destruction and the giving of such indemnity and posting of such bond as the Corporation may require for the protection of the Corporation or any transfer agent or registrar.

**4.5 Regulations.** The issue, transfer, conversion and registration of shares of stock of the Corporation shall be governed by such other regulations as the Board may establish.

## ARTICLE V GENERAL PROVISIONS

**5.1 Fiscal Year.** Except as from time to time otherwise designated by the Board, the fiscal year of the Corporation shall begin on the first day of January of each year and end on the last day of December in each year.

**5.2 Corporate Seal.** The corporate seal shall be in such form as shall be approved by the Board.

**5.3 Record Date for Purposes Other Than Stockholder Meetings.** In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights, entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action (other than with respect to determining stockholders entitled to notice of and/or to vote at a meeting of stockholders, which is addressed in Section 1.4 of these bylaws), the Board may fix a record date, which shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall not be more than 60 days prior to such action. If no such record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

**5.4 Waiver of Notice.** Whenever notice is required to be given by law, the Certificate of Incorporation or these bylaws, a written waiver signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether provided before, at or after the time of the event for which notice is to be given, shall be deemed equivalent to notice required to be given to such person. Neither the business nor the purpose of any meeting need be specified in any such waiver. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

**5.5 Voting of Securities.** Except as the Board may otherwise designate, the Chief Executive Officer, the President, the Secretary or the Treasurer may waive notice of, vote, or appoint any person or persons to vote, on behalf of the Corporation at, and act as, or appoint any person or persons to act as, proxy or attorney-in-fact for this Corporation (with or without power of substitution) at, any meeting of stockholders or securityholders of any other entity, the securities of which may be held by this Corporation, or with respect to the execution of any written or electronic consent in the name of the Corporation as a holder of such securities.

**5.6 Evidence of Authority.** A certificate by the Secretary, or an Assistant Secretary, or a temporary Secretary, as to any action taken by the stockholders, directors, a committee or any officer or representative of the Corporation shall as to all persons who rely on the certificate in good faith be conclusive evidence of such action.

**5.7 Certificate of Incorporation.** All references in these bylaws to the Certificate of Incorporation shall be deemed to refer to the Certificate of Incorporation of the Corporation, as amended and/or restated and in effect from time to time, including the terms of any certificate of designations of any series of preferred stock.

**5.8 Severability.** Any determination that any provision of these bylaws is for any reason inapplicable, illegal or ineffective shall not affect or invalidate any other provision of these bylaws.

**5.9 Pronouns.** All pronouns used in these bylaws shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the person or persons may require.

## ARTICLE VI AMENDMENTS

These bylaws may be altered, amended or repealed, in whole or in part, or new bylaws may be adopted by the Board or by the stockholders as provided in the Certificate of Incorporation.



**CERTIFICATION OF CHIEF EXECUTIVE OFFICER  
PURSUANT TO RULE 13A-14(A) UNDER THE SECURITIES EXCHANGE ACT OF 1934,  
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Michael Seifert, Chief Executive Officer of PSQ Holdings Inc. (f/k/a Colombier Acquisition Corp.), certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of PSQ Holdings Inc. (f/k/a Colombier Acquisition Corp.) (the "Registrant") for the quarter ended June 30, 2023;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this report;
4. The Registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the Registrant and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared; and
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the Registrant's internal control over financial reporting that occurred during the Registrant's most recent fiscal quarter (the Registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and
5. The Registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

Date: August 9, 2023

/s/ Michael Seifert

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Michael Seifert  
President and Chief Executive Officer  
(Principal Executive Officer)

**CERTIFICATION OF CHIEF FINANCIAL OFFICER  
PURSUANT TO RULE 13A-14(A) UNDER THE SECURITIES EXCHANGE ACT OF 1934,  
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Brad Searle, Chief Financial Officer of PSQ Holdings Inc. (f/k/a Colombier Acquisition Corp.), certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of PSQ Holdings Inc. (f/k/a Colombier Acquisition Corp.) (the "Registrant") for the quarter ended June 30, 2023;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this report;
4. The Registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the Registrant and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared; and
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the Registrant's internal control over financial reporting that occurred during the Registrant's most recent fiscal quarter (the Registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and
5. The Registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

Date: August 9, 2023

/s/ Brad Searle  
Brad Searle  
Chief Financial Officer  
(Principal Financial and Accounting Officer)

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q for the period ending June 30, 2023 of PSQ Holdings Inc. (f/k/a Colombier Acquisition Corp.) (the "Company"), as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Michael Seifert, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: August 9, 2023

/s/ Michael Seifert  
Michael Seifert  
Chief Executive Officer  
(Principal Executive Officer)

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q for the period ending June 30, 2023 of PSQ Holdings Inc. (f/k/a Colombier Acquisition Corp.) (the "Company"), as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Brad Searle, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: August 9, 2023

*/s/ Brad Searle*

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Brad Searle  
Chief Financial Officer  
(Principal Financial and Accounting Officer)