

REFINITIV

# DELTA REPORT

## 10-K

EG ACQUISITION CORP.

10-K - DECEMBER 31, 2023 COMPARED TO 10-K - DECEMBER 31, 2022

The following comparison report has been automatically generated

TOTAL DELTAS 6026

■ CHANGES 4

■ DELETIONS 2541

■ ADDITIONS 3481

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

FORM 10-K

Annual Report Pursuant to Section ANNUAL REPORT PURSUANT TO SECTION 13 or OR 15(d) of the Securities Exchange Act  
of OF THE SECURITIES EXCHANGE ACT OF 1934

For the period fiscal year ended December 31, 2022 December 31, 2023

OR

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

For the transition period from to to

Commission File Number file number 001-40444

flyExclusive, Inc.

EG ACQUISITION CORP.

(Exact name of registrant as specified in its charter)

Delaware

86-1740840

Delaware

86-1740840

(State or Other  
Jurisdiction other  
jurisdiction of  
incorporation)  
incorporation or  
organization)

(I.R.S.  
Employer  
Identification  
No.)

2860 Jetport Road  
Kinston, NC

28504

375 Park Avenue, 24th Floor New York, NY

10152

(Address of  
principal  
executive  
offices) Principal  
Executive Offices)

(zip  
code) Zip  
Code)

212-888-1040

(252) 208-7715

(Issuer's Telephone Number, Including Area Code) Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol(s)	Trading Symbol(s)	Name of each exchange on which registered
Class A Common Stock	FLYX	NYSE American LLC	
Redeemable warrants, each whole warrant Units	EGGFU	The New York Stock Exchange	
exercisable for one share of Class A common stock	FLYX WS	The New York Stock Exchange	
Common Stock at an exercise price of \$11.50 per share	EGGF		
Warrants	EGGFW	The New York Stock Exchange	NYSE American LLC

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Exchange Act.

Yes  No

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the past preceding 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 and posted on its corporate web site, if any, every Interactive Data File required to be submitted and posted 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 and post 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 the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	<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 has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements.

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b) §240.10D-1(b).

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

As The aggregate market value of voting and non-voting common equity held by non-affiliates of the Registrant on June 30, 2023, based on the average bid and asked price of \$10.25 for shares of the Registrant's Class A common stock as reported by the NYSE American, was approximately \$43.4 million. Shares of voting and non-voting common stock beneficially owned by each executive officer, director, and holder of more than 10% of our common stock have been excluded in that such persons may be deemed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for other purposes.

March 31, 2023, there were 22,500,000 The Registrant had outstanding 17,892,021 shares of Class A common stock, Common Shares, par value \$0.0001 per share, and 5,625,000 59,930,000 shares of Class B common stock, Common Shares, par value \$0.0001 per share issued and outstanding. as of March 31, 2024

Documents Incorporated by Reference: The information contained in the registrant's prospectus dated May 25, 2021, as filed with the Securities and Exchange Commission on May 27, 2021, pursuant to Rule 424(b)(4) (SEC File No. 333-255046) is incorporated into certain portions of Part I, as disclosed herein. DOCUMENTS INCORPORATED BY REFERENCE

None.

**EG ACQUISITION CORP.**  
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**PART I**

**ITEM 1. BUSINESS**

**In NOTES**

Unless the context otherwise requires, all references to “flyExclusive,” the “Company,” “PubCo,” “we,” “us” and “our” in this Annual Report on Form 10-K (the “Form 10-K” (this “Report”), references refer to flyExclusive, Inc., and where appropriate, its consolidated subsidiaries, Exclusive Jets, LLC, Jetstream Aviation, LLC and LGM Enterprises, LLC.

All trade names, trademarks and service marks appearing in this Report are the “Company” property of their respective owners. We have assumed that the reader understands that all such terms are source-indicating. Accordingly, such terms, when first mentioned in this Report, appear with the trade name, trademark or service mark notice and to “we,” then throughout the remainder of this report without trade name, trademark or service mark notices for convenience only and should not be construed as being used in a descriptive or generic sense.

**CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS**

This Annual Report on Form 10-K contains “forward-looking statements.” When contained in this Report, the words “believe,” “us,” “project,” “expect,” “anticipate,” “estimate,” “intend,” “strategy,” “future,” “opportunity,” “plan,” “may,” “should,” “will,” “would,” “will be,” “will continue,” “will likely result,” and “our” refer to EG Acquisition Corp.

We are a blank check company incorporated as a Delaware corporation similar expressions and formed for the purpose variations of effecting a merger, capital stock exchange, asset acquisition, stock purchase, reorganization these words or similar business combination with one expressions (or the negative versions of such words or more businesses. We intend expressions) are intended to effectuate our initial business combination using cash from the proceeds of the initial public offering (“IPO”) and the private placement of the private placement warrants (“Private Placement Warrants”), the proceeds of the sale of our shares in connection with our initial business combination (which may include sales pursuant to a forward purchase agreement), shares issued to the owners of the target, debt issued to bank or other lenders or the owners of the target, or a combination of the foregoing.

On May 28, 2021, we consummated the IPO of 22,500,000 units, at a price of \$10.00 per unit, generating gross proceeds of \$225,000,000. Simultaneously with the closing of the IPO, we consummated the sale of 4,333,333 Private Placement Warrants, at a price of \$1.50 per Private Placement Warrant, in a private placement to the sponsor, generating gross proceeds of \$6,500,000. Of the net proceeds from the IPO and associated private placements, \$225,000,000 of cash was placed in the trust account.

On January 29, 2021, EG Sponsor LLC, our sponsor, paid \$25,000 to cover certain of the Company’s offering costs in exchange for 5,750,000 shares of Class B common stock (“founder shares”). In March 2021, the Company effected a stock dividend of 1,437,500 shares with respect to its

Class B common stock, resulting in the sponsor holding an aggregate of 7,187,500 founder shares. On May 25, 2021, the sponsor surrendered an aggregate of 718,750 shares of Class B common stock for no consideration, which were cancelled, resulting in an aggregate of 6,468,750 shares of Class B common stock outstanding and held by the sponsor. In July 2021, an additional 843,750 of the founder shares were forfeited due to the underwriters' over-allotment not exercised, resulting in 5,625,000 founder shares remaining outstanding.

As described above, simultaneously with the closing of the IPO, the sponsor purchased an aggregate of 4,333,333 Private Placement Warrants at a price of \$1.50 per Private Placement Warrant, for an aggregate purchase price of \$6,500,000, in a private placement. Each Private Placement Warrant entitles the holder to purchase one share of the Class A common stock at a price of \$11.50 per share. The Private Placement Warrants (including the Class A common stock issuable upon exercise of the Private Placement Warrants) will not be transferable, assignable or salable until three years after the completion of the initial business combination and they will not be redeemable by the Company so long as they are held by the sponsor or its permitted transferees. The sponsor, or its permitted transferees, has the option to exercise the Private Placement Warrants on a cashless basis. Except as described below, the Private Placement Warrants have terms and provisions that are identical to those of the warrants sold as part of the Units in the IPO, including as to exercise price, exercisability and exercise period. If the Private Placement Warrants are held by holders other than the sponsor or its permitted transferees, the Private Placement Warrants will be redeemable by the Company and exercisable by the holders on the same basis as the warrants included in the Units sold in the IPO.

The Company incurred offering costs amounting to \$13,000,756 as a result of the IPO consisting of a \$4,500,000 underwriting discount, \$7,875,000 of deferred underwriting commission, and \$625,756 of other offering costs. The Company recorded \$12,609,646 of offering costs as a reduction of equity in connection with the Class A common stock included in the Units. The Company immediately expensed \$391,110 of offering costs in connection with the Warrants that were classified as liabilities.

For further details regarding our business, see the section titled "Proposed Business" contained in our prospectus dated May 25, 2021, incorporated by reference herein (the "prospectus").

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## Effecting a Business Combination

### General

We identify forward-looking statements. These forward-looking statements are not presently engaged in, guarantees of future performance, conditions or results, and we will not engage in, any operations until after the consummation of the initial business combination. We intend to effectuate our initial business combination using cash from the proceeds of the IPO and the private placement of the Private Placement Warrants, the proceeds of the sale of our shares in connection with our initial business combination (which may include sales pursuant to a forward purchase agreement or backstop agreement we may enter into following the consummation of the IPO or otherwise), shares issued to the owners of the target, debt issued to bank or other lenders or the owners of the target, or a combination of the foregoing. We may seek to complete our initial business combination with a company or business that may be financially unstable or in its early stages of development or growth, which would subject us to the numerous risks inherent in such companies and businesses.

If our initial business combination is paid for using equity or debt securities, or not all of the funds released from the trust account are used for payment of the consideration in connection with our initial business combination or used for redemptions of our Class A common stock, we may apply the balance of the cash released to us from the trust account for general corporate purposes, including for maintenance or expansion of operations of the post-transaction company, the payment of principal or interest due on indebtedness incurred in completing our initial business combination, to fund the purchase of other companies or for working capital.

We may seek to raise additional funds through a private offering of debt or equity securities in connection with the completion of our initial business combination, and we may effectuate our initial business combination using the proceeds of such offering rather than using the amounts held in the trust account. In addition, we intend to target businesses larger than we could acquire with the net proceeds of the IPO and the sale of the Private Placement Warrants, and may as a result be required to seek additional financing to complete such proposed initial business combination. Subject to compliance with applicable securities laws, we would expect to complete such financing

only simultaneously with the completion of our initial business combination. In the case of an initial business combination funded with assets other than the trust account assets, our proxy materials or tender offer documents disclosing the initial business combination would disclose the terms of the financing and, only if required by law, we would seek stockholder approval of such financing. There are no prohibitions on our ability to raise funds privately or through loans in connection with our initial business combination. At this time, we are not a party to any arrangement or understanding with any third party with respect to raising any additional funds through the sale of securities or otherwise, other than the Bridge Notes as described below under "Proposed Business Combination- Bridge Notes."

### Sources of Target Businesses

We anticipate that target business candidates will be brought to our attention from various unaffiliated sources, including investment bankers and investment professionals. Target businesses may be brought to our attention by such unaffiliated sources as a result of being solicited by us by calls or mailings. These sources may also introduce us to target businesses in which they think we may be interested on an unsolicited basis, since many of these sources will have read the prospectus and know what types of businesses we are targeting. Our officers and directors, as well as our sponsor and their affiliates, may also bring to our attention target business candidates that they become aware of through their business contacts as a result of formal or informal inquiries or discussions they may have, as well as attending trade shows or conventions. In addition, we expect to receive involve a number of proprietary deal flow opportunities known and unknown risks, uncertainties, assumptions and other important factors, many of which are outside our management's control, that would not otherwise necessarily be available could cause actual results or outcomes to us as a result of the business relationships of our officers and directors and our sponsor and their respective industry and business contacts as well as their affiliates. While we do not presently anticipate engaging the services of professional firms or other individuals that specialize in business acquisitions on any formal basis, we may engage these firms or other individuals in the future, in which event we may pay a finder's fee, consulting fee, advisory fee or other compensation to be determined in an arm's length negotiation based on the terms of the transaction. We will engage a finder only to the extent our management determines that the use of a finder may bring opportunities to us that may not otherwise be available to us or if finders approach us on an unsolicited basis with a potential transaction that our management determines is in our best interest to pursue. Payment of finder's fees is customarily tied to completion of a transaction, in which case any such fee will be paid out of the funds held in the trust account. In no event will our sponsor or any of our existing officers or directors, or any entity with which our sponsor or officers are affiliated, be paid any finder's fee, reimbursement, consulting fee, monies in respect of any payment of a loan or other compensation by the Company prior to, or in connection with any services rendered for any services they render in order to effectuate, the completion of our initial business combination (regardless of the type of transaction that it is). Although none of our sponsor, executive officers or directors, or any of their respective affiliates, will be allowed to receive any compensation, finder's fees or consulting fees differ materially from a prospective business combination target in connection with a contemplated initial business combination, we do not have a policy that prohibits our sponsor, executive officers or directors, or any of their respective affiliates, from negotiating for the reimbursement of out-of-pocket expenses by a target business. We have agreed to pay our sponsor a total of \$10,000 per month for office space, utilities and secretarial and administrative support and to reimburse our sponsor for any out-of-pocket expenses related to identifying, investigating and completing an initial business combination. Some of our officers and directors may enter into employment or consulting agreements with the post-transaction company following our initial business combination. The presence or absence of any such fees or arrangements will not be used as a criterion in our selection process of an initial business combination candidate.

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We are not prohibited from pursuing an initial business combination with a company that is affiliated with our sponsor, officers or directors, or their respective affiliates. In the event we seek to complete our initial business combination with a company that is affiliated with our sponsor, officers or directors, or their respective affiliates, we, or a committee of independent directors, will obtain an opinion from an independent investment banking firm or another independent entity that commonly renders valuation opinions that our initial business combination is fair to our company and our stockholders from a financial point of view. We are not required to obtain such an opinion in any other context.

As more fully those discussed in the section of the prospectus entitled "Management-Conflicts of Interest," if any of our officers or directors becomes aware of an initial business combination opportunity that falls within the line of business of any entity to which he or she

has pre-existing fiduciary or contractual obligations, he or she may be required to present such business combination opportunity to such entity prior to presenting such business combination opportunity to us. Our officers and directors currently have certain relevant fiduciary duties or contractual obligations that may take priority over their duties to us.

### Fair Market Value of Target Business

As required by the NYSE rules, our initial business combination will be approved by a majority of our independent directors. The NYSE rules also require that we must complete one or more business combinations with one or more operating businesses or assets having an aggregate fair market value of at least 80% of the value of the net assets held in the trust account (net of amounts disbursed to management for working capital purposes, if permitted, and excluding the amount of any deferred underwriting commissions and taxes payable) at the time of our signing a definitive agreement in connection with our initial business combination. Our board of directors will make the determination as to the fair market value of our initial business combination. If our board of directors is not able to independently determine the fair market value of our initial business combination, we will obtain an opinion from an independent investment banking firm or another independent entity that commonly renders valuation opinions with respect to the satisfaction of such criteria. While we consider it unlikely that our board of directors will not be able to make an independent determination of the fair market value of our initial business combination, it may be unable to do so if it is less familiar or experienced with the business of a particular target or if there is a significant amount of uncertainty as to the value of a target's assets or prospects.

We anticipate structuring our initial business combination either (i) in such a way so that the post-transaction company in which our public stockholders own shares will own or acquire 100% of the equity interests or assets of the target business or businesses, or (ii) in such a way so that the post-transaction company owns or acquires less than 100% of such interests or assets of the target business in order to meet certain objectives of the target management team or stockholders, or for other reasons. However, we will only complete an initial business combination if the post-transaction company owns or acquires 50% or more of the outstanding voting securities of the target or otherwise acquires a controlling interest in the target sufficient for it not to be required to register as an investment company under the Investment Company Act of 1940, as amended, or the "Investment Company Act." Even if the post-transaction company owns or acquires 50% or more of the voting securities of the target, our stockholders prior to the initial business combination may collectively own a minority interest in the post-transaction company, depending on valuations ascribed to the target and us in the initial business combination. For example, we could pursue a transaction in which we issue a substantial number of new shares in exchange for all of the outstanding capital stock, shares or other equity interests of a target. In this case, we would acquire a 100% controlling interest in the target. However, as a result of the issuance of a substantial number of new shares, our stockholders immediately prior to our initial business combination could own less than a majority of our outstanding shares subsequent to our initial business combination. If less than 100% of the equity interests or assets of a target business or businesses forward-looking statements. These forward-looking statements are owned or acquired by the post-transaction company, the portion of such business or businesses that is owned or acquired is what will be taken into account for purposes of the NYSE's 80% of fair market value test. If the initial business combination involves more than one target business, the 80% of fair market value test will be based on the aggregate value of all of the transactions and we will treat the target businesses together as the initial business combination for purposes of a tender offer or for seeking stockholder approval, as applicable.

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### Lack of Business Diversification

For an indefinite period of time after the completion of our initial business combination, the prospects for our success may depend entirely on the future performance of a single business. Unlike other entities that have the resources to complete business combinations with multiple entities in one or several industries, it is probable that we will not have the resources to diversify our operations and mitigate the risks of being in a single line of business. In addition, we intend to focus our search for an initial business combination in a single industry. By completing our initial business combination with only a single entity, our lack of diversification may:

- subject us to negative economic, competitive and regulatory developments, any or all of which may have a substantial adverse impact on the particular industry in which we operate after our initial business combination, and
- cause us to depend on the marketing and sale of a single product or limited number of products or services.

**Shareholders May Not Have the Ability to Approve an Initial Business Combination**

We may conduct redemptions without a stockholder vote pursuant to the tender offer rules of the Securities and Exchange Commission ("SEC"). However, we will seek stockholder approval if it is required by law or applicable stock exchange rule, or we may decide to seek stockholder approval for business or other legal reasons. Presented in the table below is a graphic explanation of the types of initial business combinations we may consider and whether stockholder approval is currently required under Delaware law for each such transaction.

Type of Transaction	Whether Stockholder Approval is Required
Purchase of assets	No
Purchase of stock of target not involving a merger with the company	No
Merger of target into a subsidiary of the company	No
Merger of the company with a target	Yes

Under the NYSE's listing rules, stockholder approval would be required for our initial business combination if, for example:

- we issue shares of Class A common stock that will be equal to or in excess of 20% of the number of shares of our Class A common stock then outstanding;

- any of our directors, officers or substantial security holders (as defined by the NYSE rules) has a 5% or greater interest, directly or indirectly, in the target business or assets to be acquired and if the number of shares of common stock to be issued, or if the number of shares of common stock into which the securities may be convertible or exercisable, exceeds either (a) 1% of the number of shares of common stock or 1% of the voting power outstanding before the issuance in the case of any of our directors and officers or (b) 5% of the number of shares of common stock or 5% of the voting power outstanding before the issuance in the case of any substantial security holders; or
- the issuance or potential issuance of common stock will result in our undergoing a change of control.

**Liquidation if No Business Combination**

Our amended and restated certificate of incorporation provides that we will have only 24 months from the closing of the IPO to complete our initial business combination. If we do not complete our initial business combination within such 24-month period (unless such period is extended by an amendment to our amended and restated certificate of incorporation), we will: (i) cease all operations except for the purpose of winding up, (ii) as promptly as reasonably possible but not more than ten business days thereafter, redeem the public shares, at a per-share price, payable in cash, equal to the aggregate amount then on deposit in the trust account including interest earned on the funds held in the trust account and not previously released to us to pay our franchise and income taxes (less up to \$100,000 of interest to pay dissolution expenses), divided by the number of then outstanding public shares, which redemption will completely extinguish public stockholders' rights as stockholders (including the right to receive further liquidating distributions, if any), subject to applicable law, and (iii) as promptly as reasonably possible following such redemption, subject to the approval of our remaining stockholders and our board of directors, dissolve and liquidate, subject in each case to our obligations under Delaware law to provide for claims of creditors and the requirements of other applicable law. There will be no redemption rights or liquidating distributions with respect to our warrants, which will expire worthless if we fail to complete our initial business combination within the 24-month time period.

Our sponsor, officers and directors have entered into a letter agreement with us, pursuant to which they have waived their rights to liquidating distributions from the trust account with respect to any founder shares held by them if we fail to complete our initial business combination within 24 months from the closing of the IPO. However, if our sponsor, officers or directors acquire public shares in or after the IPO, they will be entitled to liquidating distributions from the trust account with respect to such public shares if we fail to complete our initial business combination within the allotted 24-month time period.

Our sponsor, officers and directors have agreed, pursuant to a written agreement with us, that they will not propose any amendment to our amended and restated certificate of incorporation (i) to modify the substance or timing of our obligation to redeem 100% of our public shares if we do not complete our initial business combination within 24 months from the closing of the IPO or (ii) with respect to any other provision relating to stockholders' rights or pre-initial business combination activity, unless we provide our public stockholders with the opportunity to redeem their shares of Class A common stock upon approval of any such amendment at a per-share price, payable in cash, equal to the aggregate amount then on deposit in the trust account including interest earned on the funds held in the trust account and not previously released to us to pay our franchise and income taxes divided by the number of then outstanding public shares. However, we may not redeem our public shares in an amount that would cause our net tangible assets to be less than \$5,000,001 upon consummation of our initial business combination and after payment of underwriters' fees and commissions (so that we are not subject to the SEC's "penny stock" rules). If this optional redemption right is exercised with respect to an excessive number of public shares such that we cannot satisfy the net tangible asset requirement (described above), we would not proceed with the amendment or the related redemption of our public shares at such time.

We expect that all costs and expenses associated with implementing our plan of dissolution, as well as payments to any creditors, will be funded from amounts remaining out of the approximately \$735,000 of proceeds held outside the trust account, although we cannot assure you that there will be sufficient funds for such purpose. We will depend on sufficient interest being earned on the proceeds held in the trust account to pay any tax obligations we may owe. However, if those funds are not sufficient to cover the costs and expenses associated with implementing our plan of dissolution, to the extent that there is any interest accrued in the trust account not required to pay taxes on interest income earned on the trust account balance, we may request the trustee to release to us an additional amount of up to \$100,000 of such accrued interest to pay those costs and expenses.

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If we were to expend all of the net proceeds of the IPO and the sale of the Private Placement Warrants, other than the proceeds deposited in the trust account, and without taking into account interest, if any, earned on the trust account, the per-share redemption amount received by stockholders upon our dissolution would be approximately \$10.00. The proceeds deposited in the trust account could, however, become subject to the claims of our creditors which would have higher priority than the claims of our public stockholders. We cannot assure you that the actual per-share redemption amount received by stockholders will not be substantially less than \$10.00. Under Section 281(b) of the Delaware General Corporate Law ("DGCL"), our plan of dissolution must provide for all claims against us to be paid in full or make provision for payments to be made in full, as applicable, if there are sufficient assets. These claims must be paid or provided for before we make any distribution of our remaining assets to our stockholders. While we intend to pay such amounts, if any, we cannot assure you that we will have funds sufficient to pay or provide for all creditors' claims.

Although we will seek to have all vendors, service providers, prospective target businesses or other entities with which we do business execute agreements with us waiving any right, title, interest or claim of any kind in or to any monies held in the trust account for the benefit of our public stockholders, there is no guarantee that they will execute such agreements or even if they execute such agreements that they would be prevented from bringing claims against the trust account including but not limited to fraudulent inducement, breach of fiduciary responsibility or other similar claims, as well as claims challenging the enforceability of the waiver, in each case in order to gain an advantage with respect to a claim against our assets, including the funds held in the trust account. If any third party refuses to execute an agreement waiving such claims to the monies held in the trust account, our management will perform an analysis of the alternatives information available to it and will only enter into an agreement with a third party that has not executed a waiver if management believes that such third party's engagement would be significantly more beneficial to us than any alternative. Examples of possible instances where we may engage a third party that refuses to execute a waiver include the engagement of a third-party consultant whose particular expertise or skills are believed by management to be significantly superior to those of other consultants that would agree to execute a waiver or in cases where management is unable to find a service provider willing to execute a waiver. Marcum LLP, our independent registered public accounting firm, and the underwriters of the IPO will not execute agreements with us waiving such claims to the monies held in the trust account.

In addition, there is no guarantee that such entities will agree to waive any claims they may have in the future as a result of, or arising out of, any negotiations, contracts or agreements with us and will not seek recourse against the trust account for any reason. Our sponsor has agreed that it will be liable to us if and to the extent any claims by a third party for services rendered or products sold to us, or a prospective target business with which we have entered into a written letter of intent, confidentiality or similar agreement or business combination agreement, reduce the amount of funds in the trust account to below the lesser of (i) \$10.00 per public share and (ii) the actual amount per public share held in the trust account as of the date of the liquidation of the trust account, if less than \$10.00 per share due to reductions in the value of the trust assets, less taxes payable, provided that such liability will not apply to any claims by a third party or prospective target business who executed a waiver of any and all rights to the monies held in the trust account (whether or not such waiver is enforceable) nor will it apply to any claims under our indemnity of the underwriters of the IPO against certain liabilities, including liabilities under the Securities Act. However, we have not asked our sponsor to reserve for such indemnification obligations, nor have we independently verified whether our sponsor has sufficient funds to satisfy its indemnity obligations and believe that our sponsor's only assets are securities of our company. Therefore, we cannot assure you that our sponsor would be able to satisfy those obligations. None of our officers, directors or members of our sponsor will indemnify us for claims by third parties including, without limitation, claims by vendors and prospective target businesses.

In the event that the proceeds in the trust account are reduced below (i) \$10.00 per public share or (ii) such lesser amount per public share held in the trust account as of the date of the liquidation of the trust account, due to reductions in value of the trust assets, in each case net of the amount of interest which may be withdrawn to pay taxes, and our sponsor asserts that it is unable to satisfy its indemnification obligations or that it has no indemnification obligations related to a particular claim, our independent directors would determine whether to take legal action against our sponsor to enforce its indemnification obligations. While we currently expect that our independent directors would take legal action on our behalf against our sponsor to enforce its indemnification obligations to us, it is possible that our independent directors in exercising their business judgment may choose not to do so if, for example, the cost of such legal action is deemed by the independent directors to be too high relative to the amount recoverable or if the independent directors determine that a favorable outcome is not likely. We have not asked our sponsor to reserve for such indemnification obligations and we cannot assure you that our sponsor would be able to satisfy those obligations. Accordingly, we cannot assure you that due to claims of creditors the actual value of the per-share redemption price will not be less than \$10.00 per public share.

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We will seek to reduce the possibility that our sponsor will have to indemnify the trust account due to claims of creditors by endeavoring to have all vendors, service providers, prospective target businesses or other entities with which we do business execute agreements with us waiving any right, title, interest or claim of any kind in or to monies held in the trust account. Our sponsor will also not be liable as to any claims under our indemnity of the underwriters of the IPO against certain liabilities, including liabilities under the Securities Act.

Because we will not be complying with Section 280, Section 281(b) of the DGCL requires us to adopt a plan, based on facts known to us at such time that will provide for our payment of all existing and pending claims or claims that may be potentially brought against us within the subsequent 10 years. However, because we are a blank check company, rather than an operating company, and our operations will be limited to searching for prospective target businesses to acquire, the only likely claims to arise would be from our vendors (such as lawyers, investment bankers, etc.) or prospective target businesses. As described above, pursuant to the obligation contained in our underwriting agreement, we will seek to have all vendors, service providers, prospective target businesses or other entities with which we do business execute agreements with us waiving any right, title, interest or claim of any kind in or to any monies held in the trust account. As a result of this obligation, the claims that could be made against us are significantly limited and the likelihood that any claim that would result in any liability extending to the trust account is remote. Further, our sponsor may be liable only to the extent necessary to ensure that the amounts in the trust account are not reduced below (i) \$10.00 per public share or (ii) such lesser amount per public share held in the trust account as of the date of the liquidation of the trust account, due to reductions in value of the trust assets, in each case net of the amount of interest withdrawn to pay taxes and will not be liable as to any claims under our indemnity of the underwriters of the IPO against

certain liabilities, including liabilities under the Securities Act. In the event that an executed waiver is deemed to be unenforceable against a third party, our sponsor will not be responsible to the extent of any liability for such third-party claims.

If we file a bankruptcy petition or an involuntary bankruptcy petition is filed against us that is not dismissed, the proceeds held in the trust account could be subject to applicable bankruptcy law, and may be included in our bankruptcy estate and subject to the claims of third parties with priority over the claims of our stockholders. To the extent any bankruptcy claims deplete the trust account, we cannot assure you we will be able to return \$10.00 per share to our public stockholders. Additionally, if we file a bankruptcy petition or an involuntary bankruptcy petition is filed against us that is not dismissed, any distributions received by stockholders could be viewed under applicable debtor/creditor and/or bankruptcy laws as either a “preferential transfer” or a “fraudulent conveyance.” As a result, a bankruptcy court could seek to recover some or all amounts received by our stockholders. Furthermore, our board of directors may be viewed as having breached its fiduciary duty to our creditors and/or may have acted in bad faith, thereby exposing itself and our company to claims of punitive damages, by paying public stockholders from the trust account prior to addressing the claims of creditors. We cannot assure you that claims will not be brought against us for these reasons.

Our public stockholders will be entitled to receive funds from the trust account only upon the earlier to occur of: (i) the completion of our initial business combination, (ii) the redemption of any public shares properly tendered in connection with a stockholder vote to amend any provisions of our amended and restated certificate of incorporation (A) to modify the substance or timing of our obligation to redeem 100% of our public shares if we do not complete our initial business combination within 24 months from the closing of the IPO or (B) with respect to any other provision relating to stockholders' rights or pre-initial business combination activity, and (iii) the redemption of all of our public shares if we do not complete our business combination within 24 months from the closing of the IPO, subject to applicable law. In no other circumstances will a stockholder have any right or interest of any kind to or in the trust account. In the event we seek stockholder approval in connection with our initial business combination, a stockholder's voting in connection with the initial business combination alone will not result in a stockholder's redeeming its shares to us for an applicable pro rata share of the trust account. Such stockholder must have also exercised its redemption rights as described above. These provisions of our amended and restated certificate of incorporation, like all provisions of our amended and restated certificate of incorporation, may be amended with a stockholder vote.

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## Competition

In identifying, evaluating and selecting a target business for our initial business combination, we may encounter competition from other entities having a business objective similar to ours, including other blank check companies, private equity groups and leveraged buyout funds, and operating businesses seeking strategic business combinations. Many of these entities are well established and have extensive experience identifying and effecting business combinations directly or through affiliates. Moreover, many of these competitors possess greater financial, technical, human and other resources than we do. Our ability to acquire larger target businesses will be limited by our available financial resources. This inherent limitation gives others an advantage in pursuing the initial business combination of a target business. Furthermore, our obligation to pay cash in connection with our public stockholders who exercise their redemption rights may reduce the resources available to us for our initial business combination and our outstanding warrants, and the future dilution they potentially represent, may not be viewed favorably by certain target businesses. Either of these factors may place us at a competitive disadvantage in successfully negotiating an initial business combination.

## Proposed Business Combination

On October 17, 2022, we entered into an Equity Purchase Agreement (the “Equity Purchase Agreement”) with LGM Enterprises, LLC (“LGM”), a North Carolina limited liability company, for certain limited purposes, Thomas James Segrave, Jr., Thomas James Segrave, Jr., as Custodian for Laura Grace Segrave, Thomas James Segrave, Jr., as Custodian for Madison Lee Segrave, Thomas James Segrave, Jr., as Custodian for Lillian May Segrave, and Thomas James Segrave, Jr., as Custodian for Thomas James Segrave III (collectively, the “LGM Existing Equityholders”) and, for certain limited purposes, our sponsor, and, as the representative of the LGM

Existing Equityholders, Thomas James Segrave, Jr. The transactions contemplated by the Equity Purchase Agreement are referred to herein collectively as the “Business Combination.”

Following the closing of the Business Combination (the “Closing”), we will be organized in an umbrella partnership-C corporation (“Up-C”) structure, in which substantially all of the assets of the combined company will be held by LGM, and our only assets will be its equity interests in LGM. We will be renamed “flyExclusive, Inc.” (“PubCo”) at the Closing.

### **The Equity Purchase Agreement**

The Equity Purchase Agreement, among other things, provides that, at the Closing:

- We will amend our existing certificate of incorporation to: (a) change our name to “flyExclusive, Inc.,” (b) convert all then-outstanding shares of our Class B common stock, par value \$0.0001 per share into shares of class A common stock, par value \$0.0001 per share, of PubCo (the “PubCo Class A Common Stock”, and (c) issue to the LGM Existing Equityholders class B common stock, par value \$0.0001 per share, of PubCo (the “PubCo Class B Common Stock,”) which carries one vote per share but no economic rights;
- LGM and its members will adopt the Amended and Restated Limited Liability Company Agreement of LGM to: (a) restructure its capitalization to (i) issue to us the number of common units of LGM equal to the number of outstanding shares of PubCo Class A Common Stock immediately after giving effect to the Business Combination (taking into account any redemption of our Class A common stock, any potential PIPE investment, and the conversion of the Bridge Notes (as described below)) (the “PubCo Units”); and (ii) reclassify the existing LGM common units into LGM common units, and (b) appoint PubCo as the managing member of LGM;

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- As consideration for the PubCo Units, we will contribute to LGM the amount held in the trust account, less the amount of cash required to fund the redemption of our Class A common stock, held by eligible stockholders who elect to have their shares redeemed as of the Closing, plus the aggregate proceeds from any potential PIPE investment, and the deemed contribution of the aggregate proceeds of the Bridge Notes (as defined below), less the deferred underwriting commission payable to BTIG, LLC (collectively, the “Contribution Amount”). Immediately after the contribution of the Contribution Amount, LGM will pay the amount of unpaid fees, commissions, costs or expenses that have been incurred by us and LGM in connection with the Business Combination by wire transfer of immediately available funds on behalf of us and LGM to those persons to whom such amounts are owed;
- Prior to the Closing, an aggregate amount equal to the sum of (without duplication), (a) an amount equal to (1) the amount of cash in the Trust Account, less (2) the required amount of cash taken from the Trust Account to fund any redemptions of our Class A common stock, plus (b) the aggregate proceeds received by the Company from the Post-Signing PIPE Investment (if any), plus (c) the aggregate proceeds received by LGM from the funding of the Bridge Notes, less (d) \$7,875,000 (representing the amount held in the Trust Account for the deferred underwriting commission) (the “Closing Date Cash Contribution Amount”);
- An amount equal to: (i) \$0, in the event the Closing Date Cash Contribution Amount is \$85,000,000 or less; (ii) the lesser of (A) \$15,000,000 and (B) the excess of the Closing Date Cash Contribution Amount over \$85,000,000, in the event the Closing Date Cash Contribution Amount is more than \$85,000,000 and less than \$185,000,000; and (iii) the lesser of (A) \$20,000,000 and (B) \$15,000,000 plus the excess of the Closing Date Cash Contribution Amount over \$185,000,000, in the event the Closing Date Cash Contribution Amount is more than \$185,000,000 (the “Closing Date Cash Repurchase Amount”); provided that should the Closing Date Cash Repurchase Amount result in the LGM Existing Equityholders owning, in the aggregate, less than fifty one percent (51%) of the outstanding LGM common units as of immediately following the Closing, the Closing Date Cash Repurchase Amount shall be capped at such amount as would result in the LGM Existing Equityholders owning, in the aggregate fifty one percent (51%) of the LGM common units; and
- Without any action on the part of any holder of our warrants, each warrant that is issued and outstanding immediately prior to the Closing will be converted into a warrant to purchase one whole share of PubCo Class A Common Stock in accordance with its terms.

### **Certain Related Agreements**

At the Closing, the LGM Existing Equityholders, PubCo and LGM will enter into the A&R Operating Agreement.

At the Closing, PubCo, LGM, the LGM Existing Equityholders, Thomas James Segrave, Jr., in the capacity of TRA Holder Representative, and the TRA Holders (as defined in the Tax Receivable Agreement), will enter into a Tax Receivable Agreement (the "Tax Receivable Agreement"). Pursuant to the Tax Receivable Agreement, PubCo will generally be required to pay the applicable TRA Holders 85% of the amount of savings, if any, in U.S. federal, state, local, and foreign taxes that are based on, or measured with respect to, net income or profits, and any interest related thereto that PubCo (and applicable consolidated, unitary, or combined subsidiaries thereof, if any) realizes, or is deemed to realize, as a result of certain tax attributes.

In addition, at the Closing, PubCo will enter into a Stockholders' Agreement with the LGM Existing Equityholders and our sponsor (the "Stockholders' Agreement"). Pursuant to the Stockholders' Agreement, among other things, the LGM Existing Equityholders and our sponsor will respectively agree to vote each of their respective securities of PubCo that may be voted in the election of PubCo's directors in accordance with the provisions of the Stockholders' Agreement. At Closing, the PubCo Board of Directors is expected to initially consist of seven directors. Our sponsor and its permitted transferees will have the right, pursuant to the Stockholders' Agreement, to nominate directors for appointment based on its ownership of PubCo. The director designation rights of the LGM Existing Equityholders and our sponsor will each fall away when certain conditions are met.

In addition, at the Closing, PubCo will amend and restate its existing Registration Rights Agreement (the "A&R RRA"). Pursuant to the A&R RRA, among other things, the LGM Existing Equityholders and our sponsor were granted customary demand registration rights. PubCo has also agreed to file a shelf registration statement following the closing and provided other customary rights to the LGM Existing Equityholders and our sponsor following the Closing.

### **Bridge Notes**

In connection with the execution of the Equity Purchase Agreement, on October 17, 2022, LGM entered into a Senior Subordinated Convertible Note with an investor and, for certain limited provisions thereof, us, pursuant to which LGM borrowed an aggregate principal amount of \$50,000,000 at a rate of 10% per annum. On October 28, 2022, LGM also entered into an Incremental Amendment with additional investors (together with the investor described in the preceding sentence, and collectively, the "Bridge Note Lenders") on the same terms for an aggregate principal amount of \$35,000,000 (together with the subordinated convertible note discussed in this paragraph, the "Bridge Notes"), bringing the total principal amount of the Bridge Notes to \$85,000,000 in the aggregate. Concurrently with the Closing, the Bridge Notes will be automatically exchanged for the number of PubCo Class A Common Stock equal to the quotient of (a) the total amount owed by LGM under the Bridge Notes *divided by* (b) \$10.00 (subject to adjustment in certain instances, as described in the Bridge Notes). Unless otherwise consented to by the Bridge Note Lenders, the proceeds of the Bridge Notes are to be used primarily for the acquisition of additional aircraft and payment of expenses related thereto.

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### **Human Capital Resources**

We currently have three officers. These individuals are not obligated to devote any specific number of hours to our matters but they intend to devote as much of their time as they deem necessary to our affairs until we have completed our initial business combination. The amount of time they will devote in any time period will vary based on whether a target business has been selected for our initial business combination and the stage of the initial business combination process we are in. We do not intend to have any full-time employees prior to the completion of our initial business combination.

### **Cautionary Statement Regarding Forward-Looking Statements**

Some of the statements contained in this annual report may constitute "forward-looking statements" for purposes of the federal securities laws. Our forward-looking statements include, but are not limited to, statements regarding our or our management team's expectations, hopes, beliefs, intentions or strategies regarding the future. In addition, any statements that refer to projections, forecasts or other characterizations of future events or circumstances, including any underlying assumptions, are forward-looking statements. The words "anticipate," "believe," "continue," "could," "estimate," "expect," "intends," "may," "might," "plan," "possible," "potential," "predict,"

“project,” “should,” “would” and similar expressions may identify forward-looking statements, but the absence of these words does not mean that a statement is not forward-looking.

The forward-looking statements contained in this annual report are based on our current expectations, forecasts and beliefs concerning future developments, assumptions, and their potential effects on us. There can be no assurance that future developments affecting us will be those that we have anticipated. These forward-looking statements involve a number of risks, uncertainties (some of which are beyond our control) or other assumptions that may cause actual results or performance to be materially different from those expressed or implied by these forward-looking statements. These judgments, risks and uncertainties include, but are not limited to, those factors described under the heading “Risk Factors.” Should one or more of these risks or uncertainties materialize, or should any of our assumptions prove incorrect, actual results may vary in material respects from those projected in these forward-looking statements. We do not undertake any obligation to update or revise any forward-looking statements to reflect events or circumstances after the date they were made, whether as a result of new information, future events or otherwise, except as may be required under applicable securities laws.

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## ITEM 1A. RISK FACTORS

### Summary of Risk Factors

An investment in our securities involves a high degree of risk. Therefore, actual outcomes and results may, and are likely to, differ materially from what is expressed or forecasted in our securities. Below is a summary of the principal risks that make an investment in our securities speculative or risky. This summary does not address all of the risks that are described under Item 1A - “Risk Factors,” and Item 7 - “Management’s Discussion and Analysis of Financial Condition and Results of Operations” of this Report and in other documents which we face. Additional discussion of file with the risks summarized in this summary of risk factors, Securities and other risks that we face, can be found below in “Risk Factors” and should be carefully considered, together with other information in this Form 10-K. Our principal risks and uncertainties include, but are not limited to:

- the ability to implement business plans, forecasts, and other factors; expectations and identify and realize additional opportunities;

we may not be able to effect our results of operations and financial condition;

- risks that the Business Combination pursuant (as defined herein) disrupts our current plans and operations and potential difficulties in employee retention as a result of the Business Combination;
- costs related to being a public company;
- the ability to recognize the anticipated benefits of the Business Combination;
- limited liquidity and trading of our securities;
- the outcome of any legal proceedings, including any legal proceedings related to the Equity Purchase Agreement;

- newly formed company without an operating history;
- delay in receiving distributions from Agreement or the trust account;

Business Combination;

lack of opportunity to vote on our proposed business combination;

- lack of protections afforded to investors of blank check companies;
- deviation from acquisition criteria;
- issuance of equity and/or debt securities to complete a business combination;
- lack of working capital;
- third-party claims reducing the per-share redemption price;

- our stockholders being held liable for claims by third parties against us;
- failure to enforce our sponsor's indemnification obligations;
- warrant holders limited to exercising warrants only on a "cashless basis;"
- the ability of stockholders to obtain a favorable judicial forum for disputes with our company;
- dependence on key personnel;
- conflicts of interest of our sponsor, officers and directors;
- maintain the delisting listing of our securities by the NYSE;
- dependence on a single target business with a limited number of products or services;
- shares being redeemed and warrants becoming worthless;
- our competitors with advantages over us in seeking business combinations;
- ability to obtain additional financing;
- our initial stockholders controlling a substantial interest in us;

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- warrants' adverse effect on the market NYSE American LLC ("NYSE American") or any other national securities exchange;
  - that the price of our common stock;
- disadvantageous timing for redeeming warrants;
- registration rights' adverse effect on securities may be volatile due to a variety of factors, including changes in the market price of our common stock;
  - impact of COVID-19 and related risks;
- competitive and highly regulated industry in which we operate, variations in operating performance across competitors, changes in laws or regulations;
- uncertain tax consequences;
- exclusive forum provisions and regulations affecting our business and any changes in our amended capital structure;
  - the risks associated with our indebtedness including the Senior Note and restated certificate its potential impact on our business and financial condition;
  - the risk of incorporation; downturns in the aviation industry, including due to increases in fuel costs in light of the war in Ukraine, the Israel and
    - Hamas conflict in Gaza and other global political and economic issues;
- a changing regulatory landscape in the highly competitive aviation industry;
- risks associated with the overall economy, including recent and expected future increases in interest rates and the potential for recession; and
- other risks and uncertainties discussed below in "Risk Factors" and elsewhere in this Form 10-K.

### Risk Factors Specific to Our Business

*In addition to the risks and uncertainties set forth below, under the section of this Report entitled "Risk Factors."*

Should one or more of these risks or uncertainties materialize, or should any of the underlying assumptions prove incorrect, actual results may vary in material respects from those expressed or implied by these forward- looking

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Statements. Forward-looking statements speak only as of the date they are made. Readers are cautioned not to put undue reliance on forward-looking statements, and we may face certain other material assume no obligation and do not intend to update or revise these forward-looking statements,

whether as a result of new information, future events, or otherwise.

## SUMMARY OF RISK FACTORS

Our business and securities are subject to numerous risks and uncertainties, related to including those highlighted in the proposed Business Combination with LGM. If section entitled "Risk Factors" included in Item 1A of Part I of this Report, that represent challenges that we succeed in effecting the proposed Business Combination, we may face additional and different risks and uncertainties related to the business of LGM. For risk factors related to the Business Combination, see the proxy statement to be filed by us in connection with the proposed Business Combination, successful implementation of our strategy and the growth of our business. In particular, the following considerations, among others, may offset our competitive strengths or have a negative effect on our business strategy, which could cause a decline in the price of our securities and result in a loss of all or a portion of your investment.

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We may not be able to effect the Business Combination pursuant to successfully implement our growth strategies;

- We will require additional liquidity and capital resources to achieve our projected growth rate, which might not be available to us;
- We are exposed to the Equity Purchase Agreement. If risk of a decrease in demand for private aviation services;
- The loss of key personnel upon whom we are unable to depend on to do so, we will incur substantial costs associated with withdrawing from operate our business or the transaction, inability to attract additional qualified personnel could adversely affect our business;
- The supply of pilots to the airline industry is limited and may not be able to negatively affect our operations and financial condition;
- Pilot attrition may negatively affect our operations and financial condition;
- Increases in our labor costs, which constitute a substantial portion of our total operating costs, may adversely affect our business, results of operations and financial condition;
- Significant reliance on third-party aircraft engine manufacturers and engine management companies poses risks to find additional sources our owned and leased aircraft and operations;
- We are exposed to operational disruptions due to maintenance;
- Our transition to in-house maintenance, repair and overhaul activities could prove unsuccessful or impact key relationships;
- Significant increases in fuel costs could have a material adverse effect on our business, financial condition and results of financing to cover those costs. operations;

In connection with

- Cybersecurity breaches and other incidents involving the Equity Purchase Agreement, we have incurred substantial costs researching, planning unauthorized disclosure of personal or confidential information could materially adversely affect our business and negotiating the transaction. These costs include, but are not limited to, costs associated with securing sources of equity and debt financing, costs associated with employing and retaining third-party advisors who performed the financial, auditing and legal services required to complete the transaction, and the expenses generated by our officers, executives, managers and employees operating results;
- Our obligations in connection with our indebtedness and other contractual obligations could impair our liquidity and harm our business, results of operations and financial condition;
- We are subject to significant governmental regulations;
- We are a "controlled company" within the transaction. If, meaning of the NYSE American listing standards and, as a result, qualify for, whatever reason, and intend to rely on, exemptions from certain corporate governance requirements which would not provide you the same protections afforded to stockholders of companies that are subject to such requirements;
- The multi-class structure of our Common Stock has the effect of concentrating voting power with our Chief Executive Officer, which will limit other stockholders' ability to influence the outcomes of important transactions, contemplated by including a change of control;
- We cannot predict whether our multi-class structure will result in a lower or more volatile market price of our securities or in adverse publicity or other adverse consequences;
- We identified material weaknesses in our internal controls over financial reporting, and we may identify additional material weaknesses in the Equity Purchase Agreement future that may cause us to fail to close, we will be responsible for these costs, but will have no source of revenue with which to pay them. We may need to obtain additional sources of financing in order to meet our reporting obligations which we may not be able to secure on the same terms as or result in material misstatements of our existing financing or at all. If we are unable to secure new sources of financing and do not have sufficient funds to meet our obligations, we will be forced to cease operations and liquidate the trust account.

**We are a newly formed company with no operating history and no revenues, and you have no basis on which to evaluate our ability to achieve our business objective.**

We are a newly formed company with no operating results, and we did not commence operations until obtaining funding through the IPO. Because we lack an operating history, you have no basis upon which to evaluate our ability to achieve our business objective of completing our initial business combination with one or more target businesses. **financial statements**. If we fail to complete our initial business combination, we will never generate **remediate** any operating revenues.

**Our public stockholders may not be afforded an opportunity to vote on our proposed initial business combination, which means we may complete our initial business combination even though a majority of our public stockholders do not support such a combination.**

We may choose not to hold a stockholder vote to approve our initial business combination unless the initial business combination would require stockholder approval under applicable law or stock exchange listing requirements **material weaknesses** or if we **decide otherwise fail** to hold a stockholder vote for business or other legal reasons. Except as required by law, the decision as **establish and maintain effective control over financial reporting, our ability** to whether we will seek stockholder approval of a proposed initial business combination or will allow stockholders to sell their shares to us in a tender offer will **accurately and timely report our financial results could** be made by us, solely in our discretion, and will **adversely affected**;

- **There can** be based on a variety of factors, such as the timing of the transaction and whether the terms of the transaction would otherwise require us to seek stockholder approval. Even if we seek stockholder approval, our initial stockholders will participate in the vote on such approval. Accordingly, we may complete our initial business combination even if holders of a majority of our public shares do not approve of the initial business combination we complete. Please see the section of the prospectus entitled "Proposed Business-Stockholders May Not Have the Ability to Approve Our Initial Business Combination" for additional information.

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**If we seek stockholder approval of our initial business combination, our initial stockholders have agreed to vote in favor of such initial business combination, regardless of how our public stockholders vote.**

Pursuant to the letter agreement, our sponsor, officers and directors have agreed to vote their founder shares, as well as any public shares purchased during or after the offering (including in open market and privately negotiated transactions), in favor of our initial business combination. Our initial stockholders own shares representing 20% of our outstanding shares of common stock immediately following the completion of the IPO. Accordingly, if we seek stockholder approval of our initial business combination, the agreement by our initial stockholders to vote in favor of our initial business combination will increase the likelihood **no assurance** that we will receive the requisite stockholder approval for such initial business combination.

**Your only opportunity to affect the investment decision regarding a potential business combination will be limited to the exercise of your right to redeem your shares from us for cash, unless we seek stockholder approval of the initial business combination.**

At the time of your investment in us, you will not be provided with an opportunity to evaluate the specific merits or risks of our initial business combination. Since our board of directors may complete an initial business combination without seeking stockholder approval, public stockholders may not have the right or opportunity to vote on the initial business combination, unless we seek such stockholder vote.

Accordingly, if we do not seek stockholder approval, your only opportunity to affect the investment decision regarding a potential business combination may be limited to exercising your redemption rights within the period of time (which will be at least 20 business days) set forth in our tender offer documents mailed to our public stockholders in which we describe our initial business combination.

***The ability of our public stockholders to redeem their shares for cash may make our financial condition unattractive to potential business combination targets, which may make it difficult for us to enter into an initial business combination with a target.***

We may seek to enter into an initial business combination agreement with a prospective target that requires as a closing condition that cash consideration be paid to the target or its owners or that we have a minimum net worth or a certain amount of cash. If too many public stockholders exercise their redemption rights, we would not be able to meet such closing condition and, as a result, would not be able to proceed with the initial business combination. Furthermore, in no event will we redeem our public shares in an amount that would cause our net tangible assets to be less than \$5,000,001 upon consummation of our initial business combination and after payment of underwriters' fees and commissions (so that we are not subject to the SEC's "penny stock" rules) or any greater net tangible asset or cash requirement which may be contained in the agreement relating to our initial business combination. Consequently, if accepting all properly submitted redemption requests would cause our net tangible assets to be less than \$5,000,001 upon consummation of our initial business combination and after payment of underwriters' fees and commissions or such greater amount necessary to satisfy a closing condition as described above, we would not proceed with such redemption and the related business combination and may instead search for an alternate business combination. Prospective targets will be aware of these risks and, thus, may be reluctant to enter into an initial business combination with us.

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***The ability of our public stockholders to exercise redemption rights with respect to a large number of our shares may not allow us to complete the most desirable business combination or optimize our capital structure.***

At the time we enter into an agreement for our initial business combination, we will not know how many stockholders may exercise their redemption rights, and therefore will need to structure the transaction based on our expectations as to the number of shares that will be submitted for redemption. If our initial business combination agreement requires us to use a portion of the cash in the trust account to pay the purchase price, or requires us to have a minimum amount of cash at closing, we will need to reserve a portion of the cash in the trust account to meet such requirements, or arrange for third-party financing. In addition, if a larger number of shares are submitted for redemption than we initially expected, we may need to restructure the transaction to reserve a greater portion of the cash in the trust account or arrange for third-party financing. Raising additional third-party financing may involve dilutive equity issuances or the incurrence of indebtedness at higher than desirable levels. Furthermore, this dilution would increase to the extent that the anti-dilution provisions of the Class B common stock result in the issuance of Class A shares on a greater than one-to-one basis upon conversion of the Class B common stock at the time of our business combination. In addition, the amount of the deferred underwriting commissions payable to the underwriters will not be adjusted for any shares that are redeemed in connection with an initial business combination. The above considerations may limit our ability to complete the most desirable business combination available to us or optimize our capital structure. The amount of the deferred underwriting commissions payable to the underwriters will not be adjusted for any shares that are redeemed in connection with an initial business combination. The per-share amount we will distribute to stockholders who properly exercise their redemption rights will not be reduced by the deferred underwriting commission and after such redemptions, the per-share value of shares held by non-redeeming stockholders will reflect our obligation to pay the deferred underwriting commissions.

***The ability of our public stockholders to exercise redemption rights with respect to a large number of our shares could increase the probability that our initial business combination would be unsuccessful and that you would have to wait for liquidation in order to redeem your stock.***

If our initial business combination agreement requires us to use a portion of the cash in the trust account to pay the purchase price, or requires us to have a minimum amount of cash at closing, the probability that our initial business combination would be unsuccessful is increased. If our initial business combination is unsuccessful, you would not receive your pro rata portion of the trust account until we liquidate the trust account. If you are in need of immediate liquidity, you could attempt to sell your stock in the open market; however, at such time our stock may trade at a discount to the pro rata amount per share in the trust account. In either situation, you may suffer a material loss on your investment or lose the benefit of funds expected in connection with our redemption until we liquidate or you are able to sell your stock in the open market.

***The requirement that we complete our initial business combination within the prescribed time frame may give potential target businesses leverage over us in negotiating an initial business combination and may decrease our ability to conduct due diligence on potential business combination targets as we approach our dissolution deadline, which could undermine our ability to complete our initial business combination on terms that would produce value for our stockholders.***

Any potential target business with which we enter into negotiations concerning an initial business combination will be aware that we must complete our initial business combination within 24 months from the closing of the IPO. Consequently, such target business may obtain leverage over us in negotiating an initial business combination, knowing that if we do not complete our initial business combination with that particular target business, we may be unable to complete our initial business combination with any target business. This risk will increase as we get closer to the time frame described above. In addition, we may have limited time to conduct due diligence and may enter into our initial business combination on terms that we would have rejected upon a more comprehensive investigation.

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***We may not be able to complete our initial business combination within the prescribed time frame, in which case we would cease all operations except for the purpose of winding up and we would redeem our public shares and liquidate, in which case our public stockholders may only receive \$10.00 per share, or less than such amount in certain circumstances, and our warrants will expire worthless.***

Our amended and restated certificate of incorporation provides that we must complete our initial business combination within 24 months from the closing of the IPO. We may not be able to complete our initial business combination within such time period. If we have not completed our initial business combination within such time period, subject to our ability to extend the time period with shareholder consent, we will: (i) cease all operations except for the purpose of winding up, (ii) as promptly as reasonably possible but not more than ten business days thereafter, redeem the public shares, at a per-share price, payable in cash, equal to the aggregate amount then on deposit in the trust account including interest earned on the funds held in the trust account and not previously released to us to pay our franchise and income taxes (less up to \$100,000 of interest to pay dissolution expenses), divided by the number of then outstanding public shares, which redemption will completely extinguish public stockholders' rights as stockholders (including the right to receive further liquidating distributions, if any), subject to applicable law, and (iii) as promptly as reasonably possible following such redemption, subject to the approval of our remaining stockholders and our board of directors, dissolve and liquidate, subject in each case to our obligations under Delaware law to provide for claims of creditors and the requirements of other applicable law. In such case, our public stockholders may only receive \$10.00 per share, and our warrants will expire worthless. In certain circumstances, our public stockholders may receive less than \$10.00 per share on the redemption of their shares. See "If third parties bring claims against us, the proceeds held in the trust account could be reduced and the per-share redemption amount received by stockholders may be less than \$10.00 per share" and other risk factors below.

***As the number of special purpose acquisition companies evaluating targets increases, attractive targets may become scarcer and there may be more competition for attractive targets. This could increase the cost of our initial business combination and could even result in our inability to find a target or to consummate an initial business combination.***

In recent years, the number of special purpose acquisition companies that have been formed has increased substantially. Many potential targets for special purpose acquisition companies have already entered into an initial business combination, and there are still many companies preparing for an initial public offering. As a result, at times, fewer attractive targets may be available to consummate an initial business combination.

In addition, because there are more special purpose acquisition companies seeking to enter into an initial business combination with available targets, the competition for available targets with attractive fundamentals or business models may increase, which could cause targets companies to demand improved financial terms. Attractive deals could also become scarcer for other reasons, such as economic or industry sector downturns, geopolitical tensions, or increases in the cost of additional capital needed to close business combinations or operate targets post-business combination. This could increase the cost of, delay or otherwise complicate or frustrate our ability to find

and consummate an initial business combination, and may result in our inability to consummate an initial business combination on terms favorable to our investors altogether.

***If we seek stockholder approval of our initial business combination, our sponsor, directors, officers, advisors and their affiliates may elect to purchase shares or warrants from public stockholders, which may influence a vote on a proposed initial business combination and reduce the public “float” of our Class A common stock.***

If we seek stockholder approval of our initial business combination and we do not conduct redemptions in connection with our initial business combination pursuant to the tender offer rules, our sponsor, directors, officers, advisors or their affiliates may purchase shares or public warrants or a combination thereof in privately negotiated transactions or in the open market either prior to or following the completion of our initial business combination, although they are under no obligation to do so. There is no limit on the number of shares our initial stockholders, directors, officers, advisors or their affiliates may purchase in such transactions, subject to compliance with applicable law and NYSE rules. However, they have no current commitments, plans or intentions to engage in such transactions and have not formulated any terms or conditions for any such transactions. None of the funds in the trust account will be used to purchase shares or public warrants in such transactions.

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Such a purchase may include a contractual acknowledgement that such stockholder, although still the record holder of our shares is no longer the beneficial owner thereof and therefore agrees not to exercise its redemption rights. In the event that our sponsor, directors, officers, advisors or their affiliates purchase shares in privately negotiated transactions from public stockholders who have already elected to exercise their redemption rights, such selling stockholders would be required to revoke their prior elections to redeem their shares. Any such purchases of our securities may result in the completion of our initial business combination that may not otherwise have been possible. Any such purchases will be reported pursuant to Section 13 and Section 16 of the Exchange Act to the extent such purchasers are subject to such reporting requirements. We will adopt an insider trading policy which will require insiders to: (1) refrain from purchasing securities during certain blackout periods and when they are in possession of any material non-public information; and (2) clear all trades with our legal counsel prior to execution. Our insiders may either make such purchases pursuant to a Rule 10b5-1 plan or determine that such a plan is not necessary. We cannot currently determine whether our insiders will make such purchases pursuant to a Rule 10b5-1 plan, as it will be dependent upon several factors, including but not limited to, the timing and size of such purchases.

If our sponsor or its affiliates engage in such transactions, they will not make any such purchases when they are in possession of any material nonpublic information not disclosed to the seller or if such purchases are prohibited by Regulation M under the Exchange Act. We do not currently anticipate that such purchases, if any, would constitute a tender offer subject to the tender offer rules under the Exchange Act or a going-private transaction subject to the going-private rules under the Exchange Act; however, if the purchasers determine at the time of any such purchases that the purchases are subject to such rules, the purchasers will comply with such rules. Any such purchases will be reported pursuant to Section 13 and Section 16 of the Exchange Act to the extent such purchasers are subject to such reporting requirements. Any such purchases will satisfy the following conditions:

- the purpose of any such purchases of shares of our Class A common stock could be to increase the likelihood of obtaining stockholder approval of the initial business combination or to satisfy a closing condition in an agreement with a target that requires us to have a minimum net worth or a certain amount of cash at the closing of our initial business combination, where it appears that such requirement would otherwise not be met. The purpose of any such purchases of our public warrants could be to reduce the number of our public warrants outstanding. Any such purchases of our Class A common stock or our public may result in the completion of our initial business combination that may not otherwise have been possible.
- our sponsor and its affiliates will purchase the shares of our Class A common stock or our public warrants at a price no higher than the price offered through the redemption process described herein;
- the shares of our Class A common stock or our public warrants purchased by our sponsor or its affiliates will not be voted in favor of approving the Business Combination;
- our sponsor and its affiliates will waive any redemption rights it would otherwise have with respect to the shares of our Class A common stock or our public warrants purchased; and

- we will disclose in a Form 8-K, prior to the special meeting to vote on the Business Combination, the following:
- the amount of shares of our Class A common stock or our public warrants outside of the redemption offer purchased by our Sponsor or its affiliates, along with the purchase price;
- the purpose of the purchases by our sponsor or its affiliates;
- the impact, if any, of the purchases by our sponsor or its affiliates on the likelihood that the Business Combination will be approved;
- the identities of holders of our Class A common stock or our public warrants who sold to our sponsor or its affiliates (if not purchased on the open market) or the nature of the holders of our Class A common stock or our public warrants (e.g., 5% security holders) who sold to our sponsor or its affiliates; and
- the number of shares of our Class A common stock or our public warrants for which we received redemption requests pursuant to our redemption offer.

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In addition, if such purchases are made, the public “float” of our Class A common stock or public warrants and the number of beneficial holders of our securities may be reduced, possibly making it difficult to obtain or maintain the quotation, listing or trading of our securities on a national securities exchange.

***If a stockholder fails to receive notice of our offer to redeem our public shares in connection with our initial business combination, or fails to comply with the procedures for tendering its shares, such shares may not be redeemed.***

We will comply with the tender offer rules or proxy rules, as applicable, when conducting redemptions in connection with our initial business combination. Despite our compliance with these rules, if a stockholder fails to receive our tender offer or proxy materials, as applicable, such stockholder may not become aware of the opportunity to redeem its shares. In addition, proxy materials or tender offer documents, as applicable, that we will furnish to holders of our public shares in connection with our initial business combination will describe the various procedures that must be complied with in order to validly tender or redeem public shares, which may include the requirement that a beneficial holder must identify itself. For example, we may require our public stockholders seeking to exercise their redemption rights, whether they are record holders or hold their shares in “street name,” to either tender their certificates to our transfer agent prior to the date set forth in the tender offer documents mailed to such holders, or up to two business days prior to the initial vote on the proposal to approve the initial business combination in the event we distribute proxy materials, or to deliver their shares to the transfer agent electronically. In addition, if we conduct redemptions in connection with a stockholder vote, we intend to require a public stockholder seeking redemption of its public shares to also submit a written request for redemption to our transfer agent two business days prior to the scheduled vote in which the name of the beneficial owner of such shares is included. In the event that a stockholder fails to comply with these or any other procedures, its shares may not be redeemed. See the section of the prospectus entitled “Proposed Business-Redemption Rights for Public Stockholders upon Completion of our Initial Business Combination-Tendering Stock Certificates in Connection with a Tender Offer or Redemption Rights.”

***You will not have any rights or interests in funds from the trust account, except under certain limited circumstances. To liquidate your investment, therefore, you may be forced to sell your public shares or warrants, potentially at a loss.***

Our public stockholders will be entitled to receive funds from the trust account only upon the earliest to occur of: (i) our completion of an initial business combination, and then only in connection with those shares of Class A common stock that such stockholder properly elected to redeem, subject to the limitations described herein, (ii) the redemption of any public shares properly submitted in connection with a stockholder vote to amend our amended and restated certificate of incorporation (A) to modify the substance or timing of our obligation to redeem 100% of our public shares if we do not complete our initial business combination within 24 months from the closing of the IPO or (B) with respect to any other provision relating to stockholders’ rights or pre-initial business combination activity and (iii) the redemption of our public shares if we do not complete an initial business combination within 24 months from the closing of the IPO, subject to applicable law and as further described herein. In no other circumstances will a public stockholder have any right or interest of any kind in the trust account. Holders of warrants will not have any right to the proceeds held in the trust account with respect to the warrants. Accordingly, to liquidate your investment, you may be forced to sell your public shares or warrants, potentially at a loss.

**The NYSE may delist our securities from trading on its exchange, American, which could limit investors' ability to make transactions in our securities and subject us to additional trading restrictions. restrictions;**

**Our units are listed on**

- **If securities or industry analysts do not publish or cease publishing research or reports about our Company, our business, or our market, or if they change their recommendations regarding our securities adversely, the NYSE. Following the date the shares price and trading volume of our securities could decline; and**
- **Substantial future sales of our Class A common stock and warrants were eligible that is to trade separately, be registered for resale by certain stockholders could cause the shares market price of our Class A common stock to decline.**

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## **PART I**

### **Item 1. Business**

#### **Overview of the Business**

LGM Enterprises, LLC, a North Carolina limited liability company ("LGM"), is a premier owner/operator of jet aircraft to provide private jet passengers experiences dedicated to surpassing expectations for quality, convenience, and warrants safety. flyExclusive's mission is to be the world's most vertically integrated private aviation company, offering a full range of industry services.

Since 2015, flyExclusive has grown from two LGM/partner owned jets to 100 owned and leased aircraft and is currently the fifth largest private jet operator in the United States (based on 2023 flight hours). LGM operates a selected fleet of Cessna Citation, Gulfstream and Challenger aircraft to service customers flying domestically and internationally. As one of the nation's largest Citation operators, flyExclusive has curated a versatile fleet of Citation CJ3 / CJ3+, Citation Excel / XLS / XLS+, Citation Encore+, Citation Sovereign, Citation X, and Challenger 350 aircraft. The introduction of Gulfstream aircraft into flyExclusive's fleet in 2020, opened up the opportunity for flyExclusive to expand its footprint internationally. flyExclusive's purposeful focus on the acquisition of a limited number of manufacturers' aircraft enables flyExclusive to operate and maintain fewer types of aircraft than most competitors. Our maintenance crews are more efficient given the recurrent nature of their work, which in turn improves dispatch availability of our fleet.

Operations are centered at flyExclusive's corporate headquarters in Kinston, North Carolina. Located within the North Carolina Global TransPark (NCGTP), flyExclusive leases approximately 145,000 square feet of office and hangar space from the NCGTP's 2,500-acre multimodal industrial park, which boasts an 11,500-foot runway. Kinston is within two hours of approximately 70% of flyExclusive flights. So our location is ideal for organizational synergy and for cost-effective, strategic growth.

In the second half of 2020, flyExclusive launched its jet club, which earned the Robb Report's "Best of the Best" in 2022. With its efficient pricing model and bespoke, customer-centered approach, the jet club has experienced significant growth, offering multi-tiered membership options.

Consistent with LGM's vertical integration mission in the private aviation industry, flyExclusive officially launched its Maintenance, Repair, and Overhaul ("MRO") operation in the third quarter of 2021, offering interiors and exterior refurbishment services to third parties in addition to maintaining its own fleet. flyExclusive began installing avionics in its mid-size fleet in second quarter of 2022. This affected a significant reduction in aircraft-on-ground due to avionics-related issues which was the primary reason for grounded aircraft. LGM plans to install avionics in its entire fleet on an as-needed basis.

Management's vision for a capital-efficient, asset-light channel to complete customer offerings became a reality in the second quarter of 2022 with the introduction of flyExclusive's fractional ownership program. Fractional members purchase or place a deposit towards a fractional share and have immediate access to flyExclusive's light, mid and super-mid fleets through separate operating deposits. Under the fractional program LGM realizes a profit on the sale, amortized over the life of the contract, while maintaining control of the aircraft and providing a superior customer experience with no monthly management fees, no blackout dates, and minimal peak days.

With the introduction of the fractional program in Q2 2022, LGM ordered five CJ3+ aircraft from Textron Aviation with options to purchase up to 25 additional CJ3+. Following that, in Q4 of 2022, LGM entered into an aircraft purchase agreement to purchase up to 14 additional aircraft, expanding LGM's order into the mid and super-mid aircraft categories, anticipating delivery from 2024 to 2027. All of these aircraft are expected to be operated

under flyExclusive's fractional ownership program. Also, in Q3 of 2022, flyExclusive opened a new 48,000 square foot hangar, dedicated to its growing MRO division, that substantially expanded its avionics, maintenance, paint, and interior work.

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### **LGM's Values:**

The culture at flyExclusive is based on a commitment to safety that permeates LGM's values:

1. **Safety First** – flyExclusive is committed to delivering safety beyond the industry standard, with conscientious crew training, meticulous jet maintenance, and third-party safety consultant verification, operating an Aviation Research Group United States ("ARGUS") Platinum Rated fleet and exceeding all FAA standards.
2. **Minutes Matter** – LGM demands safety, efficiency, cost control, and accuracy throughout all operations, with a dedicated focus on making employee minutes matter to make moments matter for customers.
3. **Team of Humble Professionals** – Professionals at flyExclusive use decades of flying experience, private aviation industry knowledge, and fleet logistics expertise to deliver premium experiences for customers. flyExclusive teams strive to collaborate and communicate effectively and efficiently; our success is attributable to all department levels from support to management.
4. **Winning Attitude** – Within the private aviation competitive space, LGM continuously pursues excellence through hard work, hustle, and a commitment to achieve with an "all-in," winning attitude.
5. **Part of a Larger Cause** – LGM dedicates time, talents, and resources to provide relief to a variety of local, regional, and national organizations. flyExclusive professionals deliver premium experiences not only to customers, but also to neighbors and communities in need.

### **Strategy**

flyExclusive's vertical integration mission is to strategically grow into a full-service private aviation company with essentially all its operations based in Kinston, North Carolina. Key initiatives include the following:

1. **Program Growth** – flyExclusive maintains an industry-leading private aviation platform with 99%+ of customers' flights fulfilled by the flyExclusive fleet. Affiliate lift is an expensive solution to aircraft availability in the private jet charter industry. Most operators are unable to fulfill their demand using their fleets alone, so they must outsource flights to a third party, which can be costly. flyExclusive has had very little affiliate lift (less than 1%) since we maximize efficiency around scheduling – requiring 4 or 5 days of advance trip notice instead of hours as do many of our competitors. Our customers can still schedule with only a few hours' notice, but they pay a premium to do so.
2. **Aircraft Control** – With the introduction of fractional ownership and continued development of the jet club and its unique, industry leading pricing model, flyExclusive can meet a variety of customer needs using capital-efficient programs.
3. **Dispatch Availability** – In 2021, flyExclusive opened an MRO facility to paint, refurbish and maintain aircraft. The MRO initiative addresses consistent maintenance shortages industry-wide caused by high demand, and flyExclusive has modeled a transition from approximately 20% in-house maintenance to a targeted 80% in-house maintenance, improving reliability, efficiency, and substantially reducing costs. The MRO initiative also provides a new revenue stream from third parties for future growth.
4. **Modernized Fleet** – With an on-site paint facility and refurbishment center, flyExclusive works to ensure a modernized, uniform exterior and interior of its aircraft, providing customers a better overall experience on a consistently branded and upgraded aircraft. flyExclusive controls the entire customer experience with our consistent brand of jets, exteriors, interiors, and pilots.
5. **In-House Pilot Training** – On-campus pilot training and new simulator facilities will ensure the timing and availability of both new pilot hires and recurring training. While our competitors are subject to third-party availability for training classes, we will be in control of our training program needs that can produce consistent, reliable results, aimed to remove what we believe is the greatest bottleneck to growth within the aviation industry, resulting in faster on-boarding of pilots by reducing training wait times and lowering costs.

flyExclusive's charter business has evolved from primarily ad hoc non-contractual wholesale business prior to 2020 to a focus on serving retail customers. flyExclusive's wholesale and retail ad-hoc customers are non-contractual and have decreased as a percentage of total charter revenue with the increase of flyExclusive's GRP, jet club, Fractional and Partner

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contracts. The evolution of flyExclusive's charter business from non-contractual wholesale operations to servicing contractual retail customers provides LGM with significant customer and revenue visibility.

Most flight revenue is pre-paid and is recognized upon completion of the flight. Contractual programs outline pricing premiums for peak and high demand days, and for reservation notices within the agreed to number of days.

flyExclusive's required flight notice periods for contractual members and partners are purposefully designed to be longer in length than industry standards. The increased notice period allows flyExclusive to dispatch its aircraft more efficiently. Flights are scheduled logistically according to geographical location to minimize repositioning of aircraft and maximize revenue-producing legs. flyExclusive leverages this multi-day lead time to optimize scheduling, reduce the need to use third-party affiliate aircraft, and maintain a lean customer-to-aircraft ratio. We fly 99%+ of our customers on the flyExclusive fleet, establishing what we believe is the industry-leading customer experience.

### **Competitive Advantages and Strengths**

We believe flyExclusive has an optimal business model that differentiates flyExclusive from its competitors. The following points outline management's view on flyExclusive's key competitive advantages and strengths:

1. **Asset Growth** – flyExclusive focuses on aircraft acquisition versus operator acquisition. With the launching of the fractional program in 2022 and signing the Textron aircraft acquisition agreement, as well as the 2023 contract to purchase Challenger 350 aircraft from Bombardier, LGM plans to expand its fleet with brand new aircraft that's fully leased and purchased at the end of the lease. The repurchase opens a second opportunity to sell the aircraft to owners/partners. LGM also plans to continue acquiring used aircraft that can be fully renovated with our value-add process, and then sold to owners/partners at market rates. These dual channels will maximize our consistent, organic growth.
2. **Customer Fulfillment** – 99%+ of our customers fly on flyExclusive's fleet, avoiding the need for us to rely on third-party operators to fulfill demand. flyExclusive maintains a sharp focus on managing a lean customer-to-aircraft ratio, which contributes to operational efficiencies and what we believe is an industry-leading customer experience.
3. **Operational Profitability** – flyExclusive has been EBITDA positive since its second year of operations. flyExclusive invests heavily in aircraft, infrastructure, technology and people to deliver a premium experience for customers, while executing with efficient operations to drive consistent profitability.
4. **Aircraft Control** – With a mix of owned and leased aircraft in its fleet, flyExclusive structures partnerships to maintain operational control of its aircraft. We operate our "floating fleet" to minimize non-revenue producing flights. FlyExclusive's dispatch availability metric is not dependent on other operators' fleets to fulfill customer flight demand.
5. **Customer Experience** –When a customer flies with flyExclusive, they can depend on its jets, pilots, interiors, and exteriors to ensure a leading customer experience. Our proprietary customer and pilot apps are designed to ensure the customers' experience is as convenient and flawless as possible.
6. **Customer/Jet Ratio** – flyExclusive maintains the lowest customer-to-aircraft ratio among its direct competitors. This number is key to the success of the business as flyExclusive's leadership is able to use and forecast membership growth to plan aircraft acquisition with foresight into capacity. This stands in clear opposition to our competitors who are regularly challenged to fulfill over-committed demand with flights on third-party aircraft.
7. **Maintenance / Refurbishment** – With the launch of its MRO operations, flyExclusive is able to transition to a higher percentage of in-house maintenance as opposed to relying on third parties for more costly work and extended wait times. Our MRO operations also provide a revenue stream from third-party fleet operators. Our in-house refurbishment capabilities offer a value-add opportunity for used aircraft purchased, added to the fleet and then sold to our partner/owners.
8. **Jet Branding** – flyExclusive's aggressive branding campaign to refurbish its entire fleet shows a commitment to providing a reliable and enhanced experience for customers who show appreciation with positive feedback, continued business, and referrals.

9. Location – Headquartered in Kinston, North Carolina, the cost of LGM's geographical footprint, labor, and overall operations are lower than competitors who maintain fragmented locations in higher-cost areas.

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flyExclusive's position on the vast acreage at the NCGTP allows not only for cost efficiency, but also for organizational synergy and the opportunity for additional strategic infrastructure projects to continue LGM's vertical integration mission within the private aviation industry.

10. Spend – flyExclusive spends money on its fleet, customers and IT initiatives dedicated to improving the private jet experience. Sales are largely generated based on referrals, and flyExclusive's marketing budget is lean and not spent on brand or "sizzle" in comparison to other competitors in the industry.
11. Lead Time – four-to-five-day lead times are contractual among flyExclusive's partners, jet club, and fractional members. flyExclusive leverages this opportunity to position its fleet according to geographical location, maintenance, and crew availability to meet demand and optimize dispatch availability. Wholesale and ad-hoc retail bookings are scheduled based on the same qualifications, but with advance notice that flyExclusive uses to backfill demand at higher rates as opposed to competitors who may be challenged to fulfill trips within hours of notice.
12. Pilot Training – Private aviation consistently views pilot hiring as one of the biggest bottlenecks to the industry, whereas flyExclusive management maintains that outsourcing pilot training is the largest hurdle. When pilots are hired, they onboard and often wait for weeks before they are able to train and fly. flyExclusive plans to bring the majority of its training in-house in 2024 with a new facility and simulators. This strategic initiative is expected to result in cost savings and efficient scheduling with minimal delay, contributing to more uptime for our aircraft and increased dispatch availability.

## **Product**

### **Charter Channels**

#### *Wholesale and Retail Ad Hoc Customers*

Wholesale customers are third-party affiliates who need aircraft to service their own customers' flight needs. Retail ad hoc customers are individuals or entities who are not members in any of flyExclusive's programs and who book their private air travel directly with flyExclusive. Typically sold within three days of the flight, wholesale and retail ad hoc sales are used to optimize revenue through the use of available and otherwise unused aircraft. These services are also separately listed used to reposition aircraft to locations where other customers have reserved flights, improving operational efficiencies. Wholesale and retail ad hoc customers are quoted and pay based on a proprietary pricing model that considers daily and hourly rates, plus incidental costs.

### **Jet Club**

Since its inception in 2020, flyExclusive's jet club has experienced significant membership growth. Typically requiring reservations be made four days in advance of the flight, flyExclusive's jet club is divided into five different program types, with the most recent program introduced in June 2023.

#### **Jet Club Program Types:**

Fly Club and Exclusive Club are two legacy jet club programs that are no longer sold. However, existing customers can elect to add funds to their account to prepay their travel costs, and continue their membership under these programs. The Fly Club rates are calculated hourly with segment length minimums and there is no annual fee. The Exclusive Club rates are calculated hourly with segment length minimums plus an annual fee.

Jet club I and jet club II are also legacy clubs that are no longer sold. However, existing customers can elect to add funds to their account to prepay their travel costs, and continue their membership under these programs. Jet club flight revenue is calculated based on daily and hourly rates with a monthly fee. Jet club I and jet club II rates are calculated based on the NYSE North American Jet Fuel A price per barrel at contract signing. Rate adjustments are calculated in increments based on a sliding scale according to jet fuel pricing and adjust (if applicable) on January 1st and July 1st of each year.

Jet club III was introduced in May of 2022. Customers pay for memberships in deposits based on four different levels with monthly fees. Rates are calculated based on the North American Jet Fuel A price per barrel at contract signing. Rate adjustments are calculated in increments based on a sliding scale according to jet fuel pricing and adjust (if applicable) monthly.

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Under the Platinum jet club program that was introduced in March of 2023, customers pay for memberships in deposits based on two different levels. Rates are fixed with a longer call-out period, no peak or high-demand days, and no membership fee. Platinum jet club memberships have a 12 month term.

The most recent jet club program, jet club IV, was announced in June of 2023. Customers pay a deposit based on which of the three membership levels they choose. In addition to daily and hourly rates, members pay a monthly membership fee. The membership has a 24 month term, with rates adjusted after the first anniversary based on changes in aircraft operating costs and fuel prices.

### **Partner**

flyExclusive's partnership program provides a valuable service to aircraft owners while cost-effectively growing the fleet. flyExclusive purchases and upfits the aircraft, then sells it at a premium and leases it back thereby retaining control of the aircraft. flyExclusive assumes responsibility for maintenance and operations via a triple net lease. Partner benefits include tax depreciation and flights at owner's rates, which can optimize cash flow for owners. Partner travel is typically sold within five days of a flight at which time partners are quoted, agree to and then pay based on partner rates plus incidentals or other additional costs according to individual contracts. In some cases, partners elect to receive flight credits in lieu of lease payments.

### **GRP**

GRP revenue is a contractual agreement for flyExclusive to provide a certain number of aircraft to another charter business. The program is based on contract rates for light, mid, and super-mid aircraft. Revenue is billed weekly and guaranteed based on the number of designated aircraft flying at a minimum number of hours per aircraft for each aircraft assigned to the GRP customer over a minimum number of days per quarter to allow for maintenance of the aircraft. Each designated aircraft requires a deposit that is recorded in other non-current liabilities on the balance sheet. Contract terms allow for ancillary revenue to be billed or reduced based on given circumstances of a flight. Hourly rates are revised each quarter to account for changes in fuel cost.

### **Fractional**

Fractional ownership is sold in percentage increments. Owners have the option to pay for their portion of the aircraft as a partial deposit or full payment. Fractional members pay separate deposits for the use of flight services.

### **MRO**

flyExclusive has invested heavily in its maintenance, paint, interiors, and avionics program through the launch of its MRO program and facilities. Key components of the MRO operation include multiple shifts of 24/7 maintenance and the build out of on-site infrastructure dedicated to reducing downtime and improving uptime for the fleet, and to generate third-party revenue.

### **Other**

LGM also receives income in the form of aircraft sales commissions, the gain/(loss) on sales of investments, and charter services.

### **Government Regulation**

We are subject to government regulation at local, state, federal and international levels. The scope of these regulations is broad, covering a wide range of subjects that include, but are not limited to, those summarized below.

#### ***Principal Domestic Regulatory Authorities***

The following paragraphs summarize the roles of some of the most prominent domestic regulators of our business.

The Federal Aviation Administration ("FAA") is the principal regulator of civil aviation safety matters. As applied to our business, flyExclusive possesses an air carrier certificate issued by the FAA in accordance Title 14 of the Code of Federal Regulations ("14 C.F.R.") Part 119, and possesses Operations Specification issued pursuant to 14 C.F.R. Part 135, authorizing flyExclusive to engage in on-demand air-taxi operations and a Repair Station Operator certificate issued

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pursuant to 14 C.F.R. Part 145, authorizing flyExclusive to perform maintenance, repair, paint, interior, and avionics services on aircraft. The FAA's regulations touch on many aspects of civil aviation, including:

- Certification and oversight of air carriers;
- Aircraft inspection, maintenance, repair, and registration;
- Flight crewmember and maintenance technician training, certification, and surveillance;
- Monitoring drug and alcohol testing for safety-sensitive personnel;
- Airport and airport facility design, construction, and maintenance;
- Air traffic control system oversight, management, training, and maintenance;

There are many FAA regulations that may impact our operations and business. They include but are not limited to the following Parts found in Title 14 of the C.F.R.

"Part 43" contains the regulations for aircraft maintenance, preventative maintenance, rebuilding, and alteration. This Part prescribes the requirements to perform all aircraft maintenance, including the documentation, inspection, and applicable processes and standards.

"Part 91" contains the general operating rules for flight safety. These rules govern all flight operations, including private and commercial operations, except to the extent that the commercial operations are subject to additional rules found in other parts of the FAA regulations.

"Part 119" contains rules that govern air carriers. This Part prescribes air carrier certificate requirements, requirements for management personnel employed by an air carrier (i.e. Director of Operations, Director of Maintenance, etc.), and it states which operations are not required to be conducted under Part 135.

"Part 120" contains drug and alcohol testing requirements for Part 135 air carriers and Part 145 repair stations. This Part also contains requirements for record keeping and addressing positive alcohol and drug testing results.

"Part 135" contains additional rules that apply to commercial "on-demand" operations, including crew member rest and duty requirements. "On-demand" operations include flights where the departure location, departure time, and arrival location are specifically negotiated with the customer or the customer's representative.

"Part 145" contains the rules that govern aircraft maintenance, repair, and overhaul ("MRO") operations at certificated repair stations. These repair stations are also referred to as MRO facilities. This Part prescribes the requirements to receive Part 145 certification, facility requirements for performing inspection and maintenance work, personnel qualifications, and the type of repair or inspection work that the facility is authorized to conduct.

As the operator of our nation's air traffic control system, the FAA is responsible for air traffic management. From time to time, the FAA may restrict certain airspace for safety or national security concerns. For example, the FAA may implement a Temporary Flight Restriction ("TFR") after a natural disaster to reserve certain airspace for emergency response aircraft. TFRs and other airspace restrictions may impact our ability to takeoff or land at certain airports and may also require us to select alternate flight routes. Most TFRs and other airspace restrictions are temporary and have little to no impact on our flight operations.

The U.S. Department of Transportation ("DOT") is the principal regulator of economic matters in the aviation industry. DOT oversees the operations of flyExclusive, which operates as an air taxi with under a DOT 14 C.F.R. Part 298 exemption that provides certain exemptions from some economic regulatory provisions of Subtitle VII of Title 49, and provides regulations related to various consumer protections applicable to flyExclusive. These regulations include economic authority to conduct business as an air carrier, as well as consumer protection and insurance requirements that apply to our air carrier business operations.

DOT also enforces U.S. laws governing the citizenship of air carriers. We must ensure that we meet DOT's citizenship requirements so that flyExclusive can maintain its air carrier certificate. This means that flyExclusive must be under the actual control of U.S. citizens (as defined in 49 U.S.C. Section 40102(a)(15)), and must satisfy certain other requirements, including that its president/chief executive officer and at least two-thirds of its board of directors and other managing officers are U.S. citizens, and that at least 75% of its voting stock is owned and controlled, directly and indirectly, by U.S. citizens. The amount of non-voting stock that may be owned or controlled by non-U.S. citizens is limited as well.

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National Transportation Safety Board (“NTSB”) is an independent agency that oversees aircraft accident investigations. NTSB regulations governing accident notification are contained in 14 CFR Part 830. NTSB does not regulate aviation, but it does have the authority to issue subpoenas in conjunction with accident investigations. NTSB may, at its discretion, delegate accident investigation duties to the FAA.

The Transportation Security Administration (“TSA”) is an agency under the Department of Homeland Security (“DHS”). TSA is the principal regulator of security in aviation. This includes security in commercial air transportation and at airports. Because of the type of aircraft that we operate and because we operate under Part 135, our passengers undergo security screening by flyExclusive. We are required to have twelve-five standard security program which is reviewed and accepted by TSA. TSA may require us to make certain updates to our security program from time to time. Because of security considerations, we are prohibited from disclosing the contents of our program.

Customs and Border Protection (“CBP”), also an agency of DHS, is the principal regulator of customs and immigration matters. CBP also enforces certain public health matters affecting the aviation industry. When our operations include an international flight, we must provide CBP with an advance disclosure of passenger information, facilitate CBP’s inspection of baggage, and help ensure the proper disposal of any foreign-originating refuse on the aircraft. CBP also oversees entry and clearance into the U.S. This includes importing a foreign-based aircraft into the U.S. for purchase, issuing international arrival clearances for landing in the U.S., and issuing overflight permits for certain international flight arrivals.

The Occupational Safety and Health Administration (“OSHA”) is the principal federal regulator of safety in the workplace. OSHA governs safety requirements in our aircraft maintenance operations. For example, employees may be required to wear a safety harness and certain personal protective equipment when performing maintenance-related tasks.

The International Civil Aviation Organization (“ICAO”) was founded by the Chicago Convention (1944) and is funded and directed by 193 national governments, including the U.S. While it is not a global regulator, it does adopt standards once a diplomatic consensus is reached among its stakeholders. On October 7, 2022, ICAO adopted a long-term global aspirational goal of net-zero carbon emissions by 2050. On September 23, 2022, U.S. Secretary of Energy Jennifer M. Granholm announced the Sustainable Aviation Fuel Grand Challenge Roadmap, a comprehensive plan that outlines a government-wide strategy for scaling up new technologies to produce sustainable aviation fuels (SAFs) across the U.S. airline industry. This project includes collaboration with the Environmental Protection Agency (“EPA”) and the FAA, and will enable the U.S. to meet President Biden’s clean energy goal of a net-zero carbon economy by 2050. In January 2021, the EPA promulgated new rules relating to the greenhouse gas emissions from carbon fuels used in aircraft engines. These areas of regulation are not yet settled and are subject to change based on domestic and foreign political considerations and advancements in technology, making it impossible to say how these developments might impact our business in the future.

Most airports where we operate are owned and operated by state and local government entities. These airport authorities have the right to impose certain safety, security, and other regulations so long as they do not conflict with federal law. Airport authorities also have extensive property rights that empower them to impose conditions on airport facility use and airport property and building leases, including passenger facility charges and related fees. Airports that accept federal funds are required to adhere to certain grant assurance requirements (contracts) with the federal government. Airport tenants are required to adhere to certain grant assurance requirements, and sometimes terms in airport lease agreements are less favorable than would be customary for real estate or other transactions outside of an airport environment.

### ***Foreign Regulatory Authorities***

Most foreign countries have their own regulatory authorities that parallel those found in the U.S. The complexity of interaction with the foreign regulators can be magnified by differences in language, culture, legal and social norms, tax and budgetary practices, and perspective on economic development and competition.

### ***Privacy and Data Protection***

As part of our day-to-day business operations and the services we provide, including through our website and mobile application, we receive collect, store, process, transmit, share, and use various kinds of personal information pertaining to our employees, members and other travelers, aircraft owners and buyers, and business partners. A variety of federal, state, local, and foreign laws and regulations apply, or could in the future apply as our business grows and expands, to our processing of that personal information, depending on the nature of the information we process and the locations of the individuals to whom it pertains, among other factors.

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These laws and regulations are continually evolving and are subject to potentially differing interpretations, including as to their scope and applicability to our business. They may include, but are not limited to, comprehensive consumer privacy and data protection laws such as the California Consumer Privacy Act of 2018 and the European Union’s General Data Protection Regulation and state data security and data breach notification laws

that apply to certain sensitive categories of personal information, such as government-issued identification numbers and personal financial and health information.

When and to the extent these laws and regulations apply they can impose a range of obligations on our business. Those obligations can include, among other requirements, providing individuals with privacy notices and giving them an opportunity to opt in or out of our processing or sharing of their personal information; offering, and fulfilling individuals' requests to exercise, various rights with respect to our use, disclosure, and retention of the personal information we maintain; implementing physical, technical, and organizational security measures to safeguard personal information; and notifying individuals and regulatory authorities in the event personal information is subject to unauthorized access or disclosure. Violations of these laws and regulations can give rise to enforcement actions by governmental agencies, and to private lawsuits for damages and other forms of relief.

### **Corporate Information**

We were formed as a Delaware corporation for the purpose of effecting a merger, capital stock exchange, asset acquisition, stock purchase, reorganization or other similar business combination with one or more businesses or entities. As such, we were a blank check company. On December 27, 2023, we merged (the "Business Combination") with LGM Enterprises, LLC, a North Carolina limited liability company ("LGM"), pursuant to an Equity Purchase Agreement, dated as of October 17, 2022 (as amended on April 21, 2023, the "Equity Purchase Agreement"), with LGM, the existing equityholders of LGM (the "Existing Equityholders"), EG Sponsor LLC, a Delaware limited liability company ("Sponsor"), and Thomas James Segrave, Jr. ("Segrave Jr.") in his capacity as Existing Equityholder Representative. Upon the closing of the Business Combination, LGM became our wholly owned subsidiary. LGM was formed on October 3, 2011. LGM became fully operational in April of 2015 upon the expiration of a non-compete agreement between our Chief Executive Officer, Segrave, Jr. and Delta Airlines. Our subsidiary, Exclusive Jets, LLC, was formed as a limited liability company in North Carolina on June 4, 2013.

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

*An investment in our securities involves a high degree of risk. You should carefully consider the risks described below before making an investment decision. Our business, prospects, financial condition, or operating results could be harmed by any of these risks, as well as other risks not currently known to us or that we currently consider immaterial. The trading price of our securities could decline due to any of these risks, and, as a result, you may lose all or part of your investment.*

*In the course of conducting our business operations, we are exposed to a variety of risks. These risks are generally inherent to the private commercial aviation industry. Any of the risk factors we describe below have affected or could materially adversely affect our business, financial condition and results of operations. The market price of shares of our Class A Common Stock could decline, possibly significantly or permanently, if one or more of these risks and uncertainties occurs. Some statements in this Annual Report on Form 10-K, including statements in the following risk factors constitute forward-looking statements. See "Cautionary Note Regarding Forward-Looking Statements," at the beginning of this Annual Report on Form 10-K.*

#### **Risks Relating to Our Business and Industry**

##### ***We might not be able to successfully implement our growth strategies.***

Our growth strategies include, among other things, expanding our addressable market by opening up private aviation to non-members through our marketplace, expanding into new domestic and international markets and developing adjacent businesses. We face numerous challenges in implementing our growth strategies, including our ability to execute on market, business, product/service and geographic expansions. Our strategies for growth are dependent on, among other things, our ability to expand existing products and service offerings and launch new products and service offerings. Although we devote significant financial and other resources to the expansion of our products and service offerings, including increasing our access to available aircraft supply, these efforts might not be commercially successful or achieve the desired results. Our financial results and our ability to maintain or improve our competitive position will depend on our ability to effectively gauge the direction of our key marketplaces and successfully identify, develop, market and sell new or

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improved products and services in these changing marketplaces. Our inability to successfully implement our growth strategies could have a material adverse effect on our business, financial condition and results of operations and any assumptions underlying estimates of expected cost savings or expected revenues may be inaccurate.

***Our operating results are expected to be difficult to predict based on a number of factors that also will affect our long-term performance.***

We expect our operating results to fluctuate significantly in the future based on a variety of factors, many of which are outside our control and difficult to predict. As a result, period-to-period comparisons of our operating results might not be a good indicator of our future or long-term performance. The following factors may affect us from period-to-period and may affect our long-term performance:

- we may fail to successfully execute our business, marketing and other strategies;
- we may experience the detrimental effects of the ongoing COVID-19 pandemic such as outbreaks of disease that affect travel behaviors;
- we may be unable to attract new customers and/or retain existing customers;
- we may be unable to obtain the foreign authorizations and permits necessary to operate in some international markets, and we are limited by international cabotage laws from operating point-to-point within most countries, including the European Union and the United Kingdom;
- we may be impacted by changes in consumer preferences, perceptions, spending patterns and demographic trends;
- we may require additional capital to finance strategic investments and operations, pursue business objectives and respond to business opportunities, challenges or unforeseen circumstances, and we cannot assure you be sure that additional financing will be available or at reasonable prices and terms;
- our historical growth rates might not be reflective of our future growth;
- our business and operating results may be significantly impacted by actual or potential changes to the international, national, regional and local economic, business and financial conditions, the health of the global private aviation industry and risks associated with our aviation assets including recession, inflation and higher interest rates;
- litigation or investigations involving us could result in material settlements, fines or penalties and may adversely affect our business, financial condition and results of operations;
- existing or new adverse regulations or interpretations thereof applicable to our industry may restrict our ability to expand or to operate our business as we wish and may expose us to fines and other penalties;
- the occurrence of geopolitical events such as war, terrorism, civil unrest, political instability, environmental or climatic factors, natural disaster, pandemic or epidemic outbreak, public health crisis and general economic conditions may have an adverse effect on our business;
- some of our potential losses might not be covered by insurance, and we may be unable to obtain or maintain adequate insurance coverage; and
- we are potentially subject to taxation-related risks in multiple jurisdictions, and changes in tax laws could have a material adverse effect on our business, cash flow, results of operations or financial condition.

***In order to achieve our projected growth rate, we will require additional liquidity and capital resources that might not be available on terms that are favorable to us, or at all.***

To grow at the rate of our projections, we will need to acquire and pay for the additional aircraft we have on order, of which up to approximately 20% will become due for payment before the end of the first half of 2024. Our growth strategy assumes that we will raise sufficient capital to support our projections and provide the necessary working capital needed to grow per our projections. However, we currently do not have the available cash to provide us with adequate liquidity for the purchase of the additional aircraft. There is no assurance that we will be able to raise this additional capital or generate sufficient future cash flow to fund the purchases of these additional aircraft. If the amount of capital we are able to raise, together with any income from future operations, is not sufficient to add the number of planes needed under our projections, we might not achieve our projected growth rate.

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Our ability to obtain necessary financing, whether in the form of equity, debt (asset-backed or otherwise) and/or hybrid financings, may be impaired by factors such as the health of and access to capital markets and our limited track record as a public company, and may be on terms that are unfavorable to us, if available at all. Any additional capital raised through the sale of additional shares of our capital stock, convertible debt or other equity may dilute the ownership percentage of our stockholders.

***We might not be able to grow our complementary products and service offerings through opportunistic acquisitions or otherwise as part of our growth strategy. Any failure to adequately integrate future acquisitions into our business could have a material adverse effect on***

us.

From time to time, we may consider opportunities to acquire other companies, products or technologies that may enhance our products and service offerings or technology, expand the breadth of our markets or customer base, or advance our business strategies. Any such transaction could be material to our business and could take any number of forms, including mergers, joint ventures and the purchase of equity interests. The consideration for such transactions may include, among other things, cash, common stock or our equity interests, and in conjunction with a transaction we might incur indebtedness. If we elect to pursue an acquisition, our ability to successfully implement such transaction would depend on a variety of factors. If we need to obtain any third parties' consent prior to an acquisition, they may refuse to provide such consent or condition their consent on our compliance with additional restrictive covenants that limit our operating flexibility.

Acquisition transactions involve risks, including, but not limited to:

- insufficient revenue to offset liabilities assumed;
- inadequate return of capital;
- regulatory or compliance issues, including securing and maintaining regulatory approvals;
- unidentified issues not discovered in due diligence;
- those associated with integrating the operations or (as applicable) separately maintaining the operations;
- financial reporting;
- managing geographically dispersed operations resulting from an acquisition;
- the diversion of management's attention from current operations;
- potential unknown risks associated with an acquisition;
- unanticipated expenses related to acquired businesses or technologies and their integration into our existing business or technology;
- the potential loss of key employees, customers or partners of an acquired business; or
- the tax effects of any such acquisitions.

We might not successfully integrate any future acquisitions and might not achieve anticipated revenue and cost benefits relating to any such transactions. Realizing the benefits of acquisitions depends in part on the integration of operations and personnel. If we do not complete an announced acquisition transaction or integrate an acquired business successfully and in a timely manner, we might not realize the benefits of the acquisition to the extent anticipated, and in certain circumstances an acquisition could harm our financial position. In addition, strategic transactions may be expensive, time consuming and may strain our resources. Such transactions might not be accretive to our earnings and may negatively impact our results of operations as a result of, among other things, the incurrence or assumption of indebtedness, or the impairment or write-off of goodwill and intangible assets. Furthermore, strategic transactions that we may pursue could result in dilutive issuances of equity securities. As a result of the risks inherent in such transactions, we cannot guarantee that any future transaction will be completed successfully or that it will ultimately result in the realization of our anticipated benefits or that it will not have a material adverse impact on our business, financial condition and results of operations. If we were to complete such an acquisition, investment or other strategic transaction, we may require debt financing that could result in significant indebtedness and debt service obligations.

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### ***We are exposed to the risk of a decrease in demand for private aviation services.***

If demand for private aviation services were to decrease, this could result in slower jet club growth, members declining to renew their memberships and reduced interest in the fractional and partnership programs, all of which could have a material adverse effect on our business, financial condition and results of operations. In addition, our customers may consider private air travel through our products and services to be a luxury item, especially when compared to commercial air travel. As a result, any general downturn in economic, business and financial conditions which has an adverse effect on our customers' spending habits could cause them to travel less frequently and, to the extent they travel, to travel using commercial air carriers or other means considered to be more economical than our products and services. In addition, in cases where significant hours of private flight are needed, many of the companies and high-net-worth individuals to whom we provide products and services have the financial ability to purchase their own aircraft or operate their own corporate flight department should they elect to do so.

### ***The private aviation industry is subject to competition.***

Many of the markets in which we operate are competitive as a result of the expansion of existing private aircraft operators, expanding private aircraft ownership and alternatives such as luxury commercial airline service. We compete against a number of private aviation operators with different business models, and local and regional private operators. Factors that affect competition in our industry include price, reliability, safety, regulations, professional reputation, aircraft availability, equipment and quality, consistency and ease of service, willingness and ability to serve specific airports or regions and investment requirements. There can be no assurance that our securities competitors will not be successful in capturing a share of our present or potential customer base. The materialization of any of these risks could adversely affect our business, financial condition and results of operations.

***The outbreak and global spread of COVID-19 adversely impacted certain aspects of our business. The return of COVID-19 as a significant health threat or the outbreak and spread of any other public health threats that we may face in the future, could result in adverse effects on our business, operating results, including financial condition and liquidity.***

The COVID-19 outbreak, along with the measures governments and private organizations worldwide implemented in an attempt to contain the spread of this pandemic, resulted in an overall decline in demand for air travel, which decline was severe in late spring and early summer of 2020. In response to the pandemic, we implemented certain initiatives and safety measures to limit the spread of COVID-19. Such initiatives and measures resulted in increased costs to our business and while the recent abatement of the COVID-19 pandemic has allowed us to return to substantially pre-pandemic operations, outbreaks of variants of COVID-19 in the future could require us to re-implement such initiatives and safety measures.

Outbreaks of variants of COVID-19 have also disrupted our operations and accentuated other risks to our business, such as the availability of qualified flight personnel see “—The loss of key personnel upon whom we depend on to operate our business or the inability to attract additional qualified personnel could adversely affect our business” and reliance on our third-party service providers see “—Significant reliance on certain third-party aircraft engine manufacturers and engine management companies poses risks to our owned and leased aircraft and operations.” Such an outbreak of COVID-19 or similar disease could result in significant downtime of our aircraft and result in material and adverse effects on our business, operating results, financial condition and liquidity.

In response to the sharp decline in private air travel during late spring and early summer 2020, we availed ourselves of governmental assistance under the CARES Act, see “—We are subject to certain restrictions on our business as a result of our participation in governmental programs under the CARES Act” and implemented certain cost saving initiatives, including offering voluntary furloughs to our employees, implementing a mandatory reduction in all work schedules and delaying certain previously planned initiatives and internal investments. While COVID-19 has abated, there can be no assurance that these actions will be sufficient and that other similar measures might not be required during a resurgence of COVID-19.

The outbreak of another disease or similar public health threat, or fear of such an event, that affects travel demand, travel behavior or travel restrictions could adversely impact our business, financial condition and operating results. Outbreaks of other diseases could also result in increased government restrictions and regulation, such as those actions described above or otherwise, which could adversely affect our operations.

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### ***We are subject to certain restrictions on our business as a result of our participation in governmental programs under the CARES Act.***

flyExclusive applied for government assistance under the Payroll Support Program (“PSP”) maintained and administered by the U.S. Department of Treasury (“Treasury”) as directed by the CARES Act and was awarded a total of \$16.34 million to support ongoing operations, all of which has been received and subsequently deployed. In addition, a subsidiary of the company, Sky Night, LLC (“Sky Night”) had separately applied for assistance under the PSP, and was awarded an aggregate of \$0.74 million, all of which has been received and subsequently deployed. The PSP awards are governed by the terms and conditions of the CARES Act and three consecutive Payroll Support Program Agreements (“PSAs”) with the Treasury. Neither we, nor Sky Night, were required to issue equity or other form of security to the Treasury in connection with such awards.

While we believe that we are fully compliant with all requirements of the CARES Act and the PSAs, including the requirement to use the awards only for payment of certain employment costs (i.e. wages, salaries and benefits), if we were found to be not in compliance with such requirements, the Treasury has sole discretion to impose any remedy it deems appropriate, including requiring full repayment of the awards with appropriate interest. The imposition of any such remedy could have a material and adverse effect on our financial condition.

Between April 2020 and May 2021, each of LGM, flyExclusive and Sky Night also received loans (the “PPP Loans”) from two lenders under the Paycheck Protection Program (“PPP”). The PPP Loans are subject to the terms and conditions applicable to loans administered by the U.S. Small Business Administration (“SBA”) under the CARES Act, which is subject to revisions and changes by the SBA and Congress. The PPP Loans have all been forgiven by the SBA. We believe that we satisfied all eligibility criteria for the PPP Loan, and that each of LGM’s, flyExclusive’s and Sky Night’s receipt of the PPP Loan was consistent with the broad objectives of the PPP of the CARES Act. The SBA has up to six years after the date of

forgiveness of a certain PPP Loan to pursue an audit of such loan. Given that flyExclusive received more than \$2.0 million under its PPP Loans, it is likely that it will be subject to an SBA audit. If, despite our good-faith belief that each of LGM, flyExclusive and Sky Night satisfied all eligibility requirements for the PPP Loans, any of the PPP Loans are later determined to have violated any of the applicable laws or governmental regulations related to the PPP Loans or it is otherwise determined that LGM, flyExclusive and/or Sky Night was ineligible to receive the PPP Loans, we could be subject to civil, criminal and administrative penalties or adverse publicity. Any such events could consume significant financial and management resources and could have a material adverse effect on our business, results of operations and financial condition.

***The loss of key personnel upon whom we depend on to operate our business or the inability to attract additional qualified personnel could adversely affect our business.***

We believe that our future success will depend in large part on our ability to retain or attract highly qualified management, technical and other personnel, particularly our founder and Chief Executive Officer, Segrave Jr., and our Interim Chief Financial Officer, Billy Barnard. We compete against commercial and private aviation operators, including the major U.S. airlines for pilots, mechanics and other skilled labor and some of the airlines may offer wage and benefit packages which exceed ours. As we grow our fleet and/or more pilots approach retirement age, we may be affected by a pilot shortage. See “— Pilot attrition may negatively affect our operations and financial condition.” We might not be successful in retaining key personnel or in attracting other highly qualified personnel. Any inability to retain or attract significant numbers of qualified management and other personnel would have a material adverse effect on our business, results of operations and financial condition.

***The supply of pilots to the airline industry is limited and may negatively affect our operations and financial condition. Increases in our labor costs, which constitute a substantial portion of our total operating costs, may adversely affect our business, results of operations and financial condition.***

Our pilots are subject to stringent pilot qualification and crew member flight training standards (“FAA Qualification Standards”), which among other things require minimum flight time for pilots and mandate strict rules to minimize pilot fatigue. The existence of such requirements effectively limits the supply of qualified pilot candidates and increases pilot salaries and related labor costs. A shortage of pilots would require us to further increase our labor costs, which would result in a material reduction in our earnings. Such requirements also impact pilot scheduling, work hours and the number of pilots required to be employed for our operations.

In addition, we are in the process of transitioning the majority of our pilot-training in-house and our operations and financial condition may be negatively impacted if we are unable to train pilots in a timely manner. Due to an industry-wide

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shortage of qualified pilots, driven by the flight hours requirements under the FAA Qualification Standards and attrition resulting from the hiring needs of other industry participants, pilot training timelines have significantly increased and stressed the availability of flight simulators, instructors and related training equipment. Future changes to FAA regulations and requirements could also prohibit or materially restrict our ability to train pilots in-house. As a result of the foregoing, the training of our pilots might not be accomplished in a cost-efficient manner or in a manner timely enough to support our operational needs.

Due to the flexibility on the types of aircraft and routes we offer, we might not have access to a qualified pilot at the departure location for a particular flight. We rely on commercial airlines to fly our pilots to the departure location when our pilots come onto a work rotation or when there is a grounded aircraft or other maintenance event where there is a need for a pilot to switch planes. Any disruption to such commercial airline activity may cause us to delay or cancel a flight and could adversely affect our reputation, business, results of operation and financial condition. Aviation businesses are often affected by factors beyond their control including: air traffic congestion at airports; airport slot restrictions; air traffic control inefficiencies; increased and changing security measures; changing regulatory and governmental requirements; new or changing travel-related taxes; any of which could have a material adverse effect on our business, results of operations and financial condition.

***Pilot attrition may negatively affect our operations and financial condition.***

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

***We may be subject to unionization, work stoppages, slowdowns or increased labor costs and the unionization of our pilots, maintenance workers and inflight crewmembers could result in increased labor costs.***

Our business is labor intensive and while our employees, particularly our pilots and our maintenance workers, are not currently represented by labor unions, we may, in the future, experience union organizing activities of our pilots, maintenance workers or other crewmembers. Such union organization activities could lead to work slowdowns or stoppages, which could result in loss of business. In addition, union activity could result in demands that may increase our operating expenses and adversely affect our business, financial condition, results of operations and competitive position. Any of the different groups or classes of our crewmembers could unionize at any time, which would require us to negotiate in good faith with the crew member group's certified representative concerning a collective bargaining agreement. In addition, we may be subject to disruptions by unions protesting the non-union status of our other crewmembers. Any of these events would be disruptive to our operations and could harm our business.

***We may never realize the full value of our intangible assets or our long-lived assets, causing us to record impairments that may materially adversely affect our financial conditions and results of operations.***

In accordance with applicable accounting standards, we are required to test our indefinite-lived intangible assets for impairment on an annual basis, or more frequently where there is an indication of impairment. In addition, we are required to test certain of our other assets for impairment where there is any indication that an asset may be impaired, such as our market capitalization being less than the book value of our equity.

We may be required to recognize losses in the future due to, among other factors, extreme fuel price volatility, tight credit markets, government regulatory changes, decline in the fair values of certain tangible or intangible assets, such as aircraft, unfavorable trends in historical or forecasted results of operations and cash flows and an uncertain economic environment, as well as other uncertainties.

We can provide no assurance that a material impairment loss of tangible or intangible assets will not occur in a future period. The value of our aircraft could also be impacted in future periods by changes in supply and demand for these aircraft. Such changes in supply and demand for certain aircraft types could result from the grounding of aircraft. See also “— *The residual value of our aircraft may be less than estimated in our depreciation policies.*”

An impairment loss could have a material adverse effect on our financial condition and operating results.

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### ***The residual value of our aircraft may be less than estimated in our depreciation policies.***

As of December 31, 2023, we had \$254.0 million of property and equipment and related assets, net of accumulated depreciation, of which \$225.8 million relates to aircraft. In accounting for these long-lived assets, we make estimates about the expected useful lives of the assets, the expected residual values of certain of these assets, and the potential for impairment based on the fair value of the assets and the cash flows they generate. Factors indicating potential impairment include, but are not limited to, significant decreases in the market value of the long-lived assets, a significant change in the condition of the long-lived assets and operating cash flow losses associated with the use of the long-lived assets. In the event the estimated residual value of any of our aircraft types is determined to be lower than the residual value assumptions used in our depreciation policies, the applicable aircraft type in our fleet may be impaired and may result in a material reduction in the book value of applicable aircraft types we operate or we may need to prospectively modify our depreciation policies. An impairment on any of the aircraft types we operate or an increased level of depreciation expense resulting from a change to our depreciation policies could result in a material negative impact to our financial results.

### ***Significant reliance on Textron and Gulfstream aircraft and spare parts poses risks to our business and prospects.***

As part of our business strategy, we have historically flown primarily Textron Aviation (“Textron”) and Gulfstream Aerospace (“Gulfstream”) aircraft. A majority of the aircraft we currently operate are the product of those two manufacturers. We have negotiated preferred rates with Textron for line maintenance services, certain component repair services and to purchase and exchange parts. Parts and services from Gulfstream and Textron are subject to their product and workmanship warranties. If either Gulfstream or Textron fails to adequately fulfill its obligations towards us or experiences interruptions or disruptions in production or provision of services due to, for example, bankruptcy, natural disasters, labor strikes or disruption of its supply chain, we may experience a significant delay in the delivery of or fail to receive previously ordered aircraft and parts, which would adversely affect our revenue and results of operations and could jeopardize our ability to meet the demands of our program participants. Although we could choose to operate aircraft of other manufacturers or increase our reliance on third-party operators, such a change would involve substantial expense to us and could disrupt our business activities.

### ***Significant reliance on certain third-party aircraft engine manufacturers and engine management companies poses risks to our owned and leased aircraft and operations.***

As part of our business strategy, we have historically relied on Pratt & Whitney Canada, Corp. (“Pratt & Whitney”), Williams International (“Williams”) and Rolls-Royce plc (“Rolls-Royce”) aircraft engines to power substantially all of our owned and leased aircraft. If any of Pratt & Whitney, Williams or Rolls-Royce fail to adequately fulfill their obligations towards us or experience interruptions or disruptions in production or provision of

services due to, for example, bankruptcy, natural disasters, labor strikes or disruption of its supply chain, we may experience a significant delay in the delivery of or fail to receive previously ordered aircraft engines and parts, which would adversely affect our revenue and profitability and could jeopardize our ability to meet the demands of our program participants.

We have entered into engine program agreements with various third-party providers, including Jet Support Services, Inc., Pratt & Whitney, Rolls-Royce, Textron and Williams, whom we rely on to provide engine related maintenance and services. If such third-party providers terminate their contracts with us, do not provide timely or consistently high-quality service or increase pricing to terms we do not believe to be reasonable, we might not be able to replace them in a cost-efficient manner or in a manner timely enough to support our operational needs, which could have a material adverse effect on our business, financial condition and results of operations.

***We may incur substantial maintenance costs as part of our leased aircraft return obligations.***

Our aircraft lease agreements may contain provisions that require us to return aircraft airframes and engines to the lessor in a specified condition or pay an amount to the lessor based on the actual return condition of the equipment. These lease return costs are recorded in the period in which they are incurred. Any unexpected increase in maintenance return costs may negatively impact our financial position and results of operations.

***We are exposed to operational disruptions due to maintenance.***

Our fleet requires regular maintenance work, which may cause operational disruption. Our inability to perform timely maintenance and repairs can result in our aircraft being underutilized which could have an adverse impact on our business, financial condition and results of operations. On occasion, airframe manufacturers and/or regulatory authorities

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require mandatory or recommended modifications to be made across a particular fleet which may mean having to ground a particular type of aircraft. This may cause operational disruption to and impose significant costs on us. Furthermore, our operations in remote locations, where delivery of components and parts could take a significant period of time, could result in delays in our ability to maintain and repair our aircraft. We often rely on commercial airlines to deliver such components and parts. Any such delays may pose a risk to our business, financial condition and results of operations. See “— Aviation businesses are often affected by factors beyond their control including: air traffic congestion at airports; airport slot restrictions; air traffic control inefficiencies; increased and changing security measures; changing regulatory and governmental requirements; new or changing travel-related taxes; any of which could have a material adverse effect on our business, results of operations and financial condition.” Moreover, as our aircraft base increases and our fleet ages, our maintenance costs could potentially increase. Additionally, certain parts may no longer be produced and adversely affect our ability to perform necessary repairs.

***Our transition to in-house maintenance, repair and overhaul activities could prove unsuccessful or impact key relationships.***

We entered the Maintenance, Repair, and Overhaul (“MRO”) business in the second quarter of 2021 with the opening of our electrostatic painting and coating facility. Subsequently, in the third quarter of 2021, we officially launched the MRO operation, offering a complete line of interior and exterior refurbishment services to third-party aircraft in addition to maintaining our own fleet. We began installing avionics in our mid-size fleet in the second quarter 2022. In October of 2022, we opened a new 48,000 square foot hangar dedicated to our growing MRO division. We plan to add additional facilities at our headquarters location in Kinston, North Carolina, and potentially other geographical locations in the future, to complement our growing MRO operations.

We may be unsuccessful in such MRO efforts, which could have an adverse effect on our future business and results of operations. Additionally, the successful execution of our MRO strategy could adversely affect our relationships with vendors historically providing MRO services to us, from whom we expect to continue to require maintenance and other services. In addition, performing such services in-house would internalize the risks and potential liability for the performance of such MRO services. If maintenance is not performed properly this may lead to significant damage to aircraft, loss of life, negative publicity and legal claims against us.

***Significant increases in fuel costs could have a material adverse effect on our business, financial condition and results of operations.***

Fuel is essential to the operation of our aircraft and to our ability to carry out our transport services. Fuel costs are a significant component of our operating expenses. A significant increase in fuel costs may negatively impact our revenue, operating expenses and results of operations. The majority of our contractual service obligations allow for rate adjustments to account for changes in fuel prices. Our jet club and guaranteed revenue (“GRP”) programs generally adjust incrementally on a sliding scale based on changes in jet fuel prices. Wholesale rates are non-contractual, so rates are adjusted on an ad hoc basis. Given our contractual ability to pass on increased fuel costs, in whole or in part, to certain of our customers and mitigate the risk with others, we do not maintain hedging arrangements for the price of fuel. However, increased fuel surcharges may affect our revenue and retention if a prolonged period of high fuel costs occurs. Additionally, participants in the most recent version of our jet club agreement introduced on

June 20, 2023 are subject to fixed rates for the first 12 months of the program. A significant increase in fuel costs could have a material adverse effect on our business, financial condition and results of operations in the interim until we are able to make such jet fuel rate adjustments.

In addition, potential increased environmental regulations that might require new fuel sources (e.g., sustainable aircraft fuel) could lead to increased costs. To the extent there is a significant increase in fuel costs that affects the amount our customers choose to fly with us, it may have a material adverse effect on our business, financial condition and results of operations.

***Our insurance may become too difficult or expensive to obtain. If we are unable to maintain sufficient insurance coverage, it may materially and adversely impact our results of operations and financial position.***

Hazards are inherent in the aviation industry and may result in loss of life and property, potentially exposing us to substantial liability claims arising from the operation of aircraft. We carry insurance for aviation hull, aviation liability, premises, hangar keepers, product, war risk, general liability, workers compensation, and other insurance customary in the industry in which we operate. Insurance underwriters are required by various federal and state regulations to maintain minimum levels of reserves for known and expected claims. However, there can be no assurance that underwriters have

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established adequate reserves to fund existing and future claims. The number of accidents, as well as the number of insured losses within the aviation and aerospace industries, and the impact of general economic conditions on underwriters may result in increases in premiums above the rate of inflation. To the extent that our existing insurance carriers are unable or unwilling to provide us with sufficient insurance coverage, and if insurance coverage is not available from another source (for example, a government entity), our insurance costs may increase and may result in our being in breach of regulatory requirements or contractual arrangements requiring that specific insurance be maintained, which may have a material adverse effect on our business, financial condition and results of operations.

***Our self-insurance programs may expose us to significant and unexpected costs and losses.***

Since April 1, 2022, we have maintained employee health insurance coverage on a self-insured basis. We do maintain stop loss coverage which sets a limit on our liability for both individual and aggregate claim costs. Prior to April 1, 2022, we maintained such coverage on a fully insured basis. We record a liability for our estimated cost of claims incurred and unpaid as of each balance sheet date. Our estimated liability is recorded on an undiscounted basis and includes a number of significant assumptions and factors, including historical trends, expected costs per claim, actuarial assumptions and current economic conditions. Our history of claims activity for all lines of coverage has been and will be closely monitored, and liabilities will be adjusted as warranted based on changing circumstances. It is possible, however, that our actual liabilities may exceed our estimates of loss. We may also experience an unexpectedly large number of claims that result in costs or liabilities in excess of our projections, and therefore we may be required to record additional expenses. For these and other reasons, our self-insurance reserves could prove to be inadequate, resulting in liabilities in excess of our available insurance and self-insurance. If a successful claim is made against us and is not covered by our insurance or exceeds our policy limits, our business may be negatively and materially impacted.

***If our efforts to continue to build our strong brand identity and improve member satisfaction and loyalty are not successful, we might not be able to attract or retain customers, and our operating results may be adversely affected.***

We must continue to build and maintain strong brand identity for our products and services, which have expanded over time. We believe that strong brand identity will continue to be listed important in attracting customers. If our efforts to promote and maintain our brand are not successful, our operating results and our ability to attract members and other customers may be adversely affected. From time to time, our members and other customers may express dissatisfaction with our products and service offerings, in part due to factors that could be outside of our control, such as the timing and availability of aircraft and service interruptions driven by prevailing political, regulatory or natural conditions. To the extent dissatisfaction with our products and services is widespread or not adequately addressed, our brand may be adversely impacted and our ability to attract and retain customers may be adversely affected. In connection with any expansion into additional markets, we will also need to establish our brand and to the extent we are not successful, our business in such new markets would be adversely impacted.

***Any failure to offer high-quality customer support may harm our relationships with our customers and could adversely affect our reputation, brand, business, financial condition and results of operations.***

Through our marketing, advertising, and communications with our customers, we set the tone for our brand as one based on a high-quality of customer service and we strive to create high levels of customer satisfaction through the experience provided by our team and representatives. The ease and reliability of our offerings, including our ability to provide high-quality customer support, helps us attract and retain customers. Customers depend on our services team to resolve any issues relating to our products and services, such as scheduling changes and other updates to trip details and assistance with certain billing matters. Our ability to provide effective and timely support is largely dependent on our ability to attract and retain skilled employees who can support our customers and are sufficiently knowledgeable about our product and services. As we continue to grow our

business and improve our platform, we will face challenges related to providing quality support at an increased scale. Any failure to provide efficient customer support, or a market perception that we do not maintain high-quality support, could adversely affect our reputation, brand, business, financial condition and results of operations.

***A delay or failure to identify and devise, invest in and implement certain important technology, business and other initiatives could have a material impact on our business, financial condition and results of operations.***

In order to operate our business, achieve our goals, and remain competitive, we continuously seek to identify and devise, invest in, implement and pursue technology, business and other important initiatives, such as those relating to

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aircraft fleet structuring, MRO operations, business processes, information technology, initiatives seeking to ensure high quality service experience and others.

Our business and the aircraft we maintain and operate are characterized by changing technology, introductions and enhancements of models of aircraft and services and shifting customer demands, including technology preferences. Our future growth and financial performance will depend in part upon our ability to develop, market and integrate new services and to accommodate the latest technological advances and customer preferences. In addition, the introduction of new technologies or services that compete with our product and services could result in our revenues decreasing over time. If we are unable to upgrade our operations or fleet with the latest technological advances in a timely manner, or at all, our business, financial condition and results of operations could be negatively impacted.

***We rely on third-party internet, mobile, and other products and services to deliver our mobile and web applications and flight management system offerings, and any disruption of, or interference with, our use of those services could adversely affect our business, financial condition, results of operations and customers.***

Our customer-facing technology platform's continuing and uninterrupted performance is critical to our success. That platform is dependent on the NYSE performance and reliability of internet, mobile and other infrastructure services that are not under our control. For example, we currently host our platform, including our mobile and web-based applications, and support our operations using a third-party provider of cloud infrastructure services. While we have engaged reputable vendors to provide these products or services, we do not have control over the operations of the facilities or systems used by our third-party providers. These facilities and systems may be vulnerable to damage or interruption from natural disasters, cybersecurity attacks, human error, terrorist attacks, power outages, pandemics and similar events or acts of misconduct. In addition, any changes in one of our third-party service provider's service levels may adversely affect our ability to meet the requirements of our customers or needs of our employees.

We have experienced, and expect that in the future our systems will experience, interruptions, delays and outages in service and availability from time to time due to a variety of factors, including infrastructure changes, human or prior software errors, website hosting disruptions, capacity constraints or external factors beyond our control. While we are in the process of developing reasonable backup and disaster recovery plans, until such plans are finalized, we may be particularly vulnerable to such disruptions. Sustained or repeated system failures would reduce the attractiveness of our offerings and could disrupt our customers', suppliers', third-party vendors and aircraft providers' businesses. It may become increasingly difficult to maintain and improve our performance, especially during peak usage times, as we expand our products and service offerings. Any negative publicity or user dissatisfaction arising from these disruptions could harm our reputation and brand, may adversely affect the usage of our offerings, and could harm our business, financial condition and results of operation.

***We rely on third parties maintaining open marketplaces to distribute our mobile and web applications and to provide the software we use in certain of our products and offerings. If such third parties interfere with the distribution of our products or offerings, with our use of such software, or with the interoperability of our platform with such software, our business would be adversely affected.***

Our platform's mobile applications rely on third parties maintaining open marketplaces, including the Apple App Store and Google Play, which make applications available for download. There can be no assurance that the marketplaces through which we distribute our applications will maintain their current structures or that such marketplaces will not charge us fees to list our applications for download.

We rely upon certain third-party software and integrations with certain third-party applications, including Salesforce.com, Amazon and Microsoft and others, to provide our platform and products and service offerings. As our offerings expand and evolve, we may use additional third-party software or have an increasing number of integrations with other third-party applications, software, products and services. Third-party applications, software, products and services are constantly evolving, and we might not be able to maintain or modify our platform, including our mobile and web-based applications, to ensure its compatibility with third-party offerings following development changes. Moreover, some of our competitors or technology partners may take actions which disrupt the interoperability of our offerings with their own products or services, or exert strong business influence on our ability to operate our platform and provide our products and service offerings to customers.

In addition, if any of our third-party providers cease to provide access to the third-party software that we use, do not provide access to such software on terms that we believe to be attractive or reasonable, do not provide us with the most current version of such software, modify their products, standards or terms of use in a manner that degrades the

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functionality or performance of our platform or is otherwise unsatisfactory to us or gives preferential treatment to competitive products or services, we may be required to seek comparable software from other sources, which may be more expensive and/or inferior, or might not be available at all. Any of these events could adversely affect our business, financial condition and results of operations.

**We may incur increased costs to comply with privacy and data protection laws, regulations, and industry standards and, to the extent we fail to comply, we could be subject to government enforcement actions, private claims and litigation, and adverse publicity.**

As part of our day-to-day business operations and the services we provide, including through our website and mobile application, we receive, collect, store, process, transmit, share, and use various kinds of personal information pertaining to our initial employees, members and other travelers, aircraft owners and buyers, and business combination. In order to continue listing partners. A variety of federal, state, local, and foreign laws, regulations, and industry standards apply, or could in the future apply as our securities on the NYSE prior business grows and expands, to our initial processing of that information. The California Consumer Privacy Act of 2018, for example, requires covered companies that process personal information about California residents to make specific disclosures about their data collection, use, and sharing practices, and to allow consumers to opt out of certain types of data sharing with third parties, among other obligations. We are required to comply with the Payment Card Industry Data Security Standard ("PCI DSS"), a set of technical and operating requirements issued by payment card brands designed to protect cardholder data because we accept debit and credit cards for payment.

These laws, regulations, and industry standards are continually evolving and are subject to potentially differing interpretations, including as to their scope and applicability to our business. The interpretation of these laws, regulations, and standards can be uncertain, and they may be applied inconsistently from one jurisdiction to another or may conflict with other rules or our practices. As a result, our practices might not have complied or might not comply in the future with all such laws, regulations, and industry standards.

Compliance with current and future privacy and data protection laws, regulations, and industry standards can be costly and time-consuming, and may necessitate changes to our business combination, we must practices with respect to the collection, use, and disclosure of personal information, which may adversely affect our business and financial condition. Any failure, or perceived failure, by us to comply with these laws, regulations, and industry standards could have a materially adverse impact to our reputation and brand, and may result in government investigations and enforcement actions, as well as claims for damages and other forms of relief by affected individuals, business partners, and other third parties. Any such investigations, enforcement actions, or claims could require us to change our operations, incur substantial costs and expenses in an effort to comply, force us to incur significant expenses in defense of such proceedings, distract our management, increase our costs of doing business, result in a loss of customers and vendors, result in the imposition of monetary penalties, and otherwise adversely affect our business, financial condition, and results of operations.

**Any failure to maintain certain financial, distribution the security of personal or other confidential information that is stored in our information technology systems or by third parties on our behalf, whether as the result of cybersecurity breaches or otherwise, could damage our reputation, result in litigation or other legal actions against us, cause us to incur substantial additional costs, and stock price levels. Generally, we must maintain a minimum amount in stockholder equity materially adversely affect our business and a minimum number of holders operating results.**

Our information technology systems, and those of our securities, third-party service providers and business partners, contain personal financial and other sensitive information relating to our customers, employees, and other parties, as well as proprietary and other confidential information related to our business. Attacks against these systems, including but not limited to ransomware, malware, and phishing attacks, create a risk of data breaches and other cybersecurity incidents. Some of our systems and third-party service providers' systems have experienced security incidents or breaches, and although those incidents did not have a material adverse effect on our operating results, there can be no assurance of a similar result in the future.

Any compromise of our information systems or of those of businesses with which we interact that results in personal information or other confidential information being accessed, obtained, damaged, disclosed, destroyed, modified, lost, or used by unauthorized persons could harm our reputation and expose us to regulatory actions, customer attrition, remediation expenses, and claims from customers, employees, and other persons. Moreover, a security compromise could require us to devote significant management resources to address the problems created by the issue and to expend significant additional resources to upgrade our security measures, and could result in a disruption of our operations. To the extent a cybersecurity breach or other data security incident affects payment card information that we maintain, or we otherwise fail to comply with PCI DSS, we could also be subject to costly fines or additional fees from the payment card

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brands whose cards we accept or could lose the ability to accept those payment cards, which could have a material adverse effect on our business, financial condition, and results of operations.

Privacy and data protection laws can also impose liability for security and privacy breaches that affect personal information we maintain. Among other obligations, breaches affecting personal information may trigger obligations under federal and state laws to notify affected individuals, government agencies, and the media. Such breaches could also subject us to fines, sanctions, and other legal liability and harm our reputation.

### ***Our obligations in connection with our indebtedness and other contractual obligations could impair our liquidity and thereby harm our business, results of operations and financial condition.***

We have significant long-term lease obligations primarily relating to our aircraft fleet. On December 31, 2023, we had 42 aircraft under operating leases, with an average remaining lease term of approximately 3.59 years. As of December 31, 2023, future minimum lease payments due under all long-term operating leases were approximately \$86.0 million. Additionally, in connection with 26 aircraft leases, third parties have been granted a put option, which, if exercised, requires us to purchase the leased aircraft at the end of the lease term based on a predetermined exercise price. As of December 31, 2023, we were subject to up to \$74.2 million in future aggregate contractual put obligations. Our ability to pay our initial contractual obligations will depend on our operating performance, cash flow and our ability to secure adequate financing, which will in turn depend on, among other things, the success of our current business combination, strategy, U.S. and global economic conditions, the availability and cost of financing, as well as general economic and political conditions and other factors that are generally beyond our control.

Additionally, as of December 31, 2023, we had approximately \$193.3 million in total long-term debt outstanding. The majority of our long-term debt was incurred in connection with the acquisition of aircraft. During the year ended December 31, 2023, our principal payments of long-term debt totaled \$56.7 million. On January 26, 2024, we entered into a senior secured note that covers borrowings of an aggregate principal amount of up to approximately \$25.8 million, up to \$25.0 million of which is to finance the purchase or refinancing of aircraft relating to the Company's fractional ownership program and borrowed the full \$25.0 million at that time.

Although our cash flows from operations and our available capital, including the proceeds from financing transactions, have been sufficient to meet our obligations and commitments to date, our liquidity has been, and may in the future be, negatively affected by the risk factors discussed herein. If our liquidity is materially diminished, our cash flow available to fund working capital requirements, capital expenditures and business development efforts may be materially and adversely affected.

Our existing indebtedness, potential for a non-investment grade credit ratings and the availability of our assets as collateral for future loans or other indebtedness, which available collateral would be reduced under other future liquidity-raising transactions, may make it difficult for us to raise additional capital if we are required to meet our liquidity needs on acceptable terms, or at all.

We cannot be assured that our operations will generate sufficient cash flow to make any required payments, or that we will be required able to demonstrate compliance with the NYSE's initial listing requirements, which obtain financing to make capital expenditures that we believe are more rigorous than the NYSE's continued listing requirements, in order necessary to continue to maintain the listing fulfill our strategic directives. The amount of our securities fixed obligations could have a material adverse effect on our business, results of operations and financial condition.

### ***Our ability to obtain financing or access capital markets may be limited.***

There are a number of factors that may limit our ability to raise financing or access capital markets in the NYSE. For instance, future, including future debt and future contractual obligations, our stock price would generally be required to be at least \$4.00 per share. liquidity and credit status, our operating cash flows, the market conditions in the aviation industry, U.S. and global economic conditions, the general state of the capital markets and the financial position of the major providers of aircraft and other aviation industry financing. We cannot assure you that we will be able to meet those initial listing requirements at that time. If the NYSE delists our securities from trading on its exchange and we are not able to list our securities on another national securities exchange, we expect our securities could be quoted on an over-the-counter market. If this were to occur, we could face significant material adverse consequences, including:

- a limited availability of market quotations source external financing for our securities;

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- reduced liquidity for our securities;
  - a determination that our Class A common stock is a "penny stock" which will require brokers trading in our Class A common stock to adhere to more stringent rules capital needs, and possibly result in a reduced level of trading activity in the secondary trading market for our securities;

- a limited amount of news and analyst coverage; and
- a decreased ability to issue additional securities or obtain additional financing in the future.

The National Securities Markets Improvement Act of 1996, which is a federal statute, prevents or preempts the states from regulating the sale of certain securities, which are referred to as “covered securities.” Because we expect that our units and eventually our Class A common stock and warrants will be listed on the NYSE, our units, Class A common stock and warrants will be covered securities. Although the states are preempted from regulating the sale of our securities, the federal statute does allow the states to investigate companies if there is a suspicion of fraud, and, if there is a finding of fraudulent activity, then the states can regulate or bar the sale of covered securities in a particular case. While we are not aware of a state having used these powers to prohibit or restrict the sale of securities issued by blank check companies, other than the State of Idaho, certain state securities regulators view blank check companies unfavorably and might use these powers, or threaten to use these powers, to hinder the sale of securities of blank check companies in their states. Further, if we were no longer listed on the NYSE, our securities would not be covered securities and we would be subject to regulation in each state in which we offer our securities, including in connection with our initial business combination.

***You are not entitled to protections normally afforded to investors of many other blank check companies.***

Since the net proceeds of the IPO and the sale of the private placement warrants are intended to be used to complete an initial business combination with a target business that has not been identified, we may be deemed to be a “blank check” company under the United States securities laws. However, because we have net tangible assets in excess of \$5,000,000 after the IPO and the sale of the Private Placement Warrants and filed a Current Report on Form 8-K, including an audited balance sheet demonstrating this fact, we are exempt from rules promulgated by the SEC to protect investors in blank check companies, such as Rule 419. Accordingly, investors are not be afforded the benefits or protections of those rules. Among other things, this means our units are tradable and we will have a longer period of time to complete our initial business combination than do companies subject to Rule 419. Moreover, if the IPO were subject to Rule 419, that rule would prohibit the release of any interest earned on funds held in the trust account to us unless and until the funds in the trust account were released to us in connection with our completion of an initial business combination. For a more detailed comparison of our offering to offerings that comply with Rule 419, please see the section of the prospectus entitled “Proposed Business-Comparison of This Offering to Those of Blank Check Companies Subject to Rule 419.”

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***If we seek stockholder approval of our initial business combination and we do not conduct redemptions pursuant to the tender offer rules, and if you or a “group” of stockholders are deemed to hold in excess of 15% of our Class A common stock, you will lose the ability to redeem all such shares in excess of 15% of our Class A common stock.***

If we seek stockholder approval of our initial business combination and we do not conduct redemptions in connection with our initial business combination pursuant to the tender offer rules, our amended and restated certificate of incorporation provides that a public stockholder, together with any affiliate of such stockholder or any other person with whom such stockholder is acting in concert or as a “group” (as defined under Section 13 of the Exchange Act), will be restricted from seeking redemption rights with respect to more than an aggregate of 15% of the shares sold in the IPO without our prior consent, which we refer to as the “Excess Shares.” However, we would not be restricting our stockholders’ ability to vote all of their shares (including Excess Shares) for or against our initial business combination. Your inability to redeem the Excess Shares will reduce your influence over our ability to complete our initial business combination and you could suffer a material loss on your investment in us if you sell Excess Shares in open market transactions. Additionally, you will not receive redemption distributions with respect to the Excess Shares if we complete our initial business combination. And as a result, you will continue to hold that number of shares exceeding 15% and, in order to dispose of such shares, would be required to sell your stock in open market transactions, potentially at a loss.

***Because of our limited resources and the significant competition for business combination opportunities, it may be more difficult for us to complete our initial business combination. If we do not complete our initial business combination, our public***

**stockholders may receive only approximately \$10.00 per share on our redemption of our public shares, or less than such amount in certain circumstances, and our warrants will expire worthless.**

We expect to encounter competition from other entities having a business objective similar to ours, including private investors (which may be individuals or investment partnerships), other blank check companies and other entities competing for the types of businesses we intend to acquire. Many of these individuals and entities are well-established and have extensive experience in identifying and effecting, directly or indirectly, acquisitions of companies operating in or providing services to various industries. Many of these competitors possess similar technical, human and other resources to ours, and our financial resources will be relatively limited when contrasted with those of many of these competitors. While we believe there are numerous target businesses we could potentially acquire with the net proceeds of the IPO and the sale of the Private Placement Warrants, our ability to compete with respect to the acquisition of certain target businesses that are sizable will be limited by our available financial resources. This inherent competitive limitation gives others an advantage in pursuing the acquisition of certain target businesses. Furthermore, because we are obligated to pay cash for the shares of Class A common stock which our public stockholders redeem in connection with our initial business combination, target companies will be aware that this may reduce the resources available to us for our initial business combination; target companies will be aware of this potential for reduced resources. This may place us at a competitive disadvantage in successfully negotiating an initial business combination. If we do not complete our initial business combination, our public stockholders may receive only approximately \$10.00 per share on the liquidation of our trust account and our warrants will expire worthless. In certain circumstances, our public stockholders may receive less than \$10.00 per share upon our liquidation. See “-If third parties bring claims against us, the proceeds held in the trust account could be reduced and the per-share redemption amount received by stockholders may be less than \$10.00 per share” and other risk factors below.

**If the net proceeds of the IPO and the sale of the Private Placement Warrants not being held in the trust account are insufficient to allow us to operate for at least 24 months after the IPO, we may be unable to complete our initial business combination, in which case our public stockholders may only receive \$10.00 per share, or less than such amount in certain circumstances, and our warrants will expire worthless.**

The funds available to us outside of the trust account may not be sufficient to allow us to operate for at least 24 months after the IPO, assuming that our initial business combination is not completed during that time. We believe that, with the closing of the IPO, the funds available to us outside of the trust account are sufficient to allow us to operate for at least 24 months after the IPO; however, we cannot assure you that our estimate is accurate. Of the funds available to us, we could use a portion of the funds available to us to pay fees to consultants to assist us with our search for a target business. We could also use a portion of the funds as a down payment or to fund a “no-shop” provision (a provision in letters of intent or merger agreements designed to keep target businesses from “shopping” around for transactions with other companies on terms more favorable to such target businesses) with respect to a particular proposed initial business combination, although we do not have any current intention to do so. If we entered into a letter of intent or merger agreement where we paid for the right to receive exclusivity from a target business and were subsequently required to forfeit such funds (whether as a result of our breach or otherwise), we might not have sufficient funds to continue searching for, or conduct due diligence with respect to, a target business. If we do not complete our initial business combination, our public stockholders may receive only approximately \$10.00 per share on the liquidation of our trust account and our warrants will expire worthless. In certain circumstances, our public stockholders may receive less than \$10.00 per share upon our liquidation. See “-If third parties bring claims against us, the proceeds held in the trust account could be reduced and the per-share redemption amount received by stockholders may be less than \$10.00 per share” and other risk factors below.

**If the net proceeds of the IPO and the sale of the Private Placement Warrants not being held in the trust account are insufficient, it could limit the amount available to fund our search for a target business or businesses and complete our initial business combination and we will depend on loans from our sponsor or management team to fund our search for an initial business combination, to pay our franchise and income taxes and to complete our initial business combination. If we are unable to obtain these loans, we may be source financing on acceptable terms, or unable to complete source financing at all, our initial business combination.**

Of the net proceeds of the IPO and the sale of the Private Placement Warrants, only approximately \$735,000 are available could be materially adversely affected. We could be forced to us initially outside the trust account to fund delay, reduce, suspend or cease our working capital requirements. In requirements, capital expenditures and business development efforts, which would have a negative impact on our business, prospects, operating results and financial condition. To the event that extent we finance our offering expenses exceed our estimate of \$1,265,000, activities with debt, we may fund such excess with funds not become subject to be held in the trust account. In such case, the amount financial and other covenants that may restrict our ability to pursue our business strategy or otherwise constrain our growth and operations.

#### Table of funds we intend to be held outside the trust contents

#### **We face a concentration of credit risk.**

We maintain our cash and cash equivalent balances at financial or other intermediary institutions. The combined account would decrease by a corresponding amount. The amount held in the trust account will not be impacted balances at each institution typically exceeds Federal Deposit Insurance Corporation ("FDIC") insurance coverage of \$250,000 per depositor, and, as a result, we face a concentration of such increase or decrease. Conversely, credit risk related to amounts on deposit in the excess of FDIC insurance coverage. As of December 31, 2023, substantially all of our cash and cash equivalent balances held at financial institutions exceeded FDIC insured limits. Any event that the IPO expenses are less than would cause a material portion of our estimate of \$1,265,000, the amount of funds we intend cash and cash equivalents at financial institutions to be held outside uninsured by the trust account would increase by a corresponding amount. If we are required to seek additional capital, we would need to borrow funds from our sponsor, management team or other third parties to operate or may be forced to liquidate. None of our sponsor, members of our management team nor any of their affiliates is under any obligation to advance funds to us in such circumstances. Any such advances would be repaid only from funds held outside the trust account or from funds released to us upon completion of our initial business combination. Up to \$1,500,000 of such loans may be convertible into private placement-equivalent warrants at a price of \$1.50 per warrant at the option of the lender. Prior to the completion of our initial business combination, we do not expect to seek loans from parties other than our sponsor or an affiliate of our sponsor as we do not believe third parties will be willing to loan such funds and provide a waiver against any and all rights to seek access to funds in our trust account. If we are unable to obtain these loans, we may be unable to complete our initial business combination. If we do not complete our initial business combination because we do not have sufficient funds available to us, we will be forced to cease operations and liquidate the trust account. Consequently, our public stockholders may only receive approximately \$10.00 per share on our redemption of our public shares, and our warrants will expire worthless. In certain circumstances, our public stockholders may receive less than \$10.00 per share on the redemption of their shares. See "-If third parties bring claims against us, the proceeds held in the trust account could be reduced and the per-share redemption amount received by stockholders may be less than \$10.00 per share" and other risk factors below.

***Subsequent to the completion of our initial business combination, we may be required to take write-downs or write-offs, restructuring and impairment or other charges that FDIC could have a significant negative material adverse effect on our financial condition results of operations and our stock price, which could cause you to lose some or all of your investment.***

Even if we conduct extensive due diligence on a target business with which we combine, we cannot assure you that this diligence will surface all material issues that may be present inside a particular target business, that it would be possible to uncover all material issues through a customary amount of due diligence, or that factors outside of the target business and outside of our control will not later arise. As a result of these factors, we may be forced to later write-down or write-off assets, restructure our operations, or incur impairment or other charges that could result in our reporting losses. Even if our due diligence successfully identifies certain risks, unexpected risks may arise and previously known risks may materialize in a manner not consistent with our preliminary risk analysis. Even though these charges may be non-cash items and not have an immediate impact on our liquidity, the fact that we report charges of this nature could contribute to negative market perceptions about us or our securities. In addition, charges of this nature may cause us to violate net worth or other covenants to which we may be subject as a result of assuming pre-existing debt held by a target business or by virtue of our obtaining debt financing to partially finance the initial business combination. Accordingly, any stockholders who choose to remain stockholders following the initial business combination could suffer a reduction in the value of their shares. Such stockholders are unlikely to have a remedy for such reduction in value unless they are able to successfully claim that the reduction was due to the breach by our officers or directors of a duty of care or other fiduciary duty owed to them, or if they are able to successfully bring a private claim under securities laws that the proxy solicitation or tender offer materials, as applicable, relating to the initial business combination constituted an actionable material misstatement or omission.

***If third parties bring claims against us, the proceeds held in the trust account could be reduced and the per-share redemption amount received by stockholders may be less than \$10.00 per share.***

Our placing of funds in the trust account may not protect those funds from third-party claims against us. Although we will seek to have all vendors, service providers, prospective target businesses and other entities with which we do business execute agreements with us waiving any right, title, interest or claim of any kind in or to any monies held in the trust account for the benefit of our public stockholders, such parties may not execute such agreements, or even if they execute such agreements they may not be prevented from bringing claims against the trust account, including, but not limited to, fraudulent inducement, breach of fiduciary responsibility or other similar claims, as well as claims challenging the enforceability of the waiver, in each case in order to gain advantage with respect to a claim against our assets, including the funds held in the trust account. If any third party refuses to execute an agreement waiving such claims to the monies held in the trust account, our management will perform an analysis of the alternatives available to it and will only enter into an agreement with a third party that has not executed a waiver if management believes that such third party's engagement would be significantly more beneficial to us than any alternative. Marcum LLP and the underwriters of the IPO will not execute an agreement with us waiving such claims to the monies held in the trust account.

Examples of possible instances where we may engage a third party that refuses to execute a waiver include the engagement of a third-party consultant whose particular expertise or skills are believed by management to be significantly superior to those of other consultants that would agree to execute a waiver or in cases where management is unable to find a service provider willing to execute a waiver. In addition, there is no guarantee that such entities will agree to waive any claims they may have in the future as a result of, or arising out of, any negotiations, contracts or agreements with us and will not seek recourse against the trust account for any reason. Upon redemption of our public shares, if we do not complete our initial business combination within the prescribed time frame, or upon the exercise of a redemption right in connection with our initial business combination, we will be required to provide for payment of claims of creditors that were not waived that may be brought against us within the 10 years following redemption. Accordingly, the per-share redemption amount received by public stockholders could be less than the \$10.00 per share initially held in the trust account, due to claims of such creditors. Pursuant to the letter agreement, the form of which is filed as Exhibit 10.1 to the registration statement of which the prospectus forms a part, our sponsor has agreed that it will be liable to us if and to the extent any claims by a third party for services rendered or products sold to us, or a prospective target business with which we have entered into a written letter of intent, confidentiality or similar agreement or business combination agreement, reduce the amount of funds in the trust account to below the lesser of (i) \$10.00 per public share and (ii) the actual amount per public share held in the trust account as of the date of the liquidation of the trust account, if less than \$10.00 per share due to reductions in the value of the trust assets, less taxes payable, provided that such liability will not apply to any claims by a third party or prospective target business who executed a waiver of any and all rights to the monies held in the trust account (whether or not such waiver is enforceable) nor will it apply to any claims under our indemnity of the underwriters of the IPO against certain liabilities, including liabilities under the Securities Act. However, we have not asked our sponsor to reserve for such indemnification obligations, nor have we independently verified whether our sponsor has sufficient funds to satisfy its indemnity obligations and believe that our sponsor's only assets are securities of our company. Therefore, we cannot assure you that our sponsor would be able to satisfy those obligations. None of our officers, directors or members of our sponsor will indemnify us for claims by third parties including, without limitation, claims by vendors and prospective target businesses.

***Our directors may decide not to enforce the indemnification obligations of our sponsor, resulting in a reduction in the amount of funds in the trust account available for distribution to our public stockholders.***

In the event that the proceeds in the trust account are reduced below the lesser of (i) \$10.00 per share and (ii) the actual amount per share held in the trust account as of the date of the liquidation of the trust account if less than \$10.00 per share due to reductions in the value of the trust assets, in each case net of the interest which may be withdrawn to pay taxes, and our sponsor asserts that it is unable to satisfy its obligations or that it has no indemnification obligations related to a particular claim, our independent directors would determine whether to take legal action against our sponsor to enforce its indemnification obligations.

While we currently expect that our independent directors would take legal action on our behalf against our sponsor to enforce its indemnification obligations to us, it is possible that our independent directors in exercising their business judgment and subject to their fiduciary duties may choose not to do so in any particular instance if, for example, the cost of such legal action is deemed by the independent directors to be too high relative to the amount recoverable or if the independent directors determine that a favorable outcome is not likely. If our independent directors choose not to enforce these indemnification obligations, the amount of funds in the trust account available for distribution to our public stockholders may be reduced below \$10.00 per share.

***We may not have sufficient funds to satisfy indemnification claims of our directors and executive officers.***

We have agreed to indemnify our officers and directors to the fullest extent permitted by law. However, our officers and directors have agreed to waive (and any other persons who may become an officer or director prior to the initial business combination will also be required to waive) any right, title, interest or claim of any kind in or to any monies in the trust account and not to seek recourse against the trust account for any reason whatsoever. Accordingly, any indemnification provided will be able to be satisfied by us only if (i) we have sufficient funds outside of the trust account or (ii) we consummate an initial business combination. Our obligation to indemnify our officers and directors may discourage stockholders from bringing a lawsuit against our officers or directors for breach of their fiduciary duty. These provisions also may have the effect of reducing the likelihood of derivative litigation against our officers and directors, even though such an action, if successful, might otherwise benefit us and our stockholders. Furthermore, a stockholder's investment may be adversely affected to the extent we pay the costs of settlement and damage awards against our officers and directors pursuant to these indemnification provisions.

***If, after we distribute the proceeds in the trust account to our public stockholders, we file a bankruptcy petition or an involuntary bankruptcy petition is filed against us that is not dismissed, a bankruptcy or insolvency court may seek to recover such proceeds, and we and our board may be exposed to claims of punitive damages.***

If, after we distribute the proceeds in the trust account to our public stockholders, we file a bankruptcy petition or an involuntary bankruptcy petition is filed against us that is not dismissed, any distributions received by stockholders could be viewed under applicable debtor/creditor and/or bankruptcy laws as either a "preferential transfer" or a "fraudulent conveyance." As a result, a bankruptcy or insolvency court could seek to recover all amounts received by our stockholders. In addition, our board of directors may be viewed as having breached its fiduciary duty to our creditors and/or having acted in bad faith, thereby exposing itself and us to claims of punitive damages, by paying public stockholders from the trust account prior to addressing the claims of creditors.

***If, before distributing the proceeds in the trust account to our public stockholders, we file a bankruptcy petition or an involuntary bankruptcy petition is filed against us that is not dismissed, the claims of creditors in such proceeding may have priority over the claims of our stockholders and the per-share amount that would otherwise be received by our stockholders in connection with our liquidation may be reduced.***

If, before distributing the proceeds in the trust account to our public stockholders, we file a bankruptcy petition or an involuntary bankruptcy petition is filed against us that is not dismissed, the proceeds held in the trust account could be subject to applicable bankruptcy law, and may be included in our bankruptcy estate and subject to the claims of third parties with priority over the claims of our stockholders. To the extent any bankruptcy claims deplete the trust account, the per-share amount that would otherwise be received by our stockholders in connection with our liquidation may be reduced.

***If we are deemed to be an investment company under the Investment Company Act, we may be required to institute burdensome compliance requirements and our activities may be restricted, which may make it difficult for us to complete our initial business combination.***

If we are deemed to be an investment company under the Investment Company Act, our activities may be restricted, including:

- restrictions on the nature of our investments; and

- restrictions on the issuance of securities, each of which may make it difficult for us to complete our initial business combination.

In addition, we may have imposed upon us burdensome requirements, including:

- registration as an investment company;
- adoption of a specific form of corporate structure; and
- reporting, record keeping, voting, proxy and disclosure requirements and other rules and regulations.

In order not to be regulated as an investment company under the Investment Company Act, unless we can qualify for an exclusion, we must ensure that we are engaged primarily in a business other than investing, reinvesting or trading in securities and that our activities do not include investing, reinvesting, owning, holding or trading “investment securities” constituting more than 40% of our total assets (exclusive of U.S. government securities and cash items) on an unconsolidated basis. Our business will be to identify and complete an initial business combination and thereafter to operate the post-transaction business or assets for the long term. We do not plan to buy businesses or assets with a view to resale or profit from their resale. We do not plan to buy unrelated businesses or assets or to be a passive investor.

We do not believe that our anticipated principal activities will subject us to the Investment Company Act. To this end, the proceeds held in the trust account may only be invested in United States “government securities” within the meaning of Section 2(a)(16) of the Investment Company Act having a maturity of 185 days or less or in money market funds meeting certain conditions under Rule 2a-7 promulgated under the Investment Company Act which invest only in direct U.S. government treasury obligations. Pursuant to the trust agreement, the trustee is not permitted to invest in other securities or assets. By restricting the investment of the proceeds to these instruments, and by having a business plan targeted at acquiring and growing businesses for the long term (rather than on buying and selling businesses in the manner of a merchant bank or private equity fund), we intend to avoid being deemed an “investment company” within the meaning of the Investment Company Act. The trust account is intended as a holding place for funds pending the earliest to occur of: (i) the completion of our initial business combination; (ii) the redemption of any public shares properly submitted in connection with a stockholder vote to amend our amended and restated certificate of incorporation (A) to modify the substance or timing of our obligation to redeem 100% of our public shares if we do not complete our initial business combination within 24 months from the closing of the IPO or (B) with respect to any other provision relating to stockholders’ rights or pre-initial business combination activity; or (iii) absent an initial business combination within 24 months from the closing of the IPO, our return of the funds held in the trust account to our public stockholders as part of our redemption of the public shares. If we do not invest the proceeds as discussed above, we may be deemed to be subject to the Investment Company Act. If we were deemed to be subject to the Investment Company Act, compliance with these additional regulatory burdens would require additional expenses for which we have not allotted funds and may hinder our ability to complete an initial business combination or may result in our liquidation. If we do not complete our initial business combination, our public stockholders may receive only approximately \$10.00 per share on the liquidation of our trust account and our warrants will expire worthless.

**Changes in laws or regulations, or a failure to comply with any laws and regulations, may adversely affect our business, including our ability to negotiate and complete our initial business combination and results of operations.**

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Additionally, as of June 27, 2023, one customer, Wheels Up Partners, LLC (“WUP”) accounted for \$15.7 million in receivables, which was a significant majority of total receivables at that time. When the agreement with WUP was terminated on June 30, 2023 the receivable balances were eliminated, as allowable under relevant accounting standards, by being applied against existing deposits held under the agreement.

**Aviation businesses are subject to laws often affected by factors beyond their control including: air traffic congestion at airports; airport slot restrictions; air traffic control inefficiencies; increased and regulations enacted by national, regional changing security measures; changing regulatory and local governments. In particular, we will be required to comply with certain SEC and other legal**

**requirements. Compliance with, and monitoring governmental requirements; new or changing travel-related taxes; any of applicable laws and regulations may be difficult, time consuming and costly.**

**Those laws and regulations and their interpretation and application may also change from time to time and those changes which could have a material adverse effect on our business, investments and results of operations. In addition, a failure to comply with applicable laws operations and financial condition.**

Like other aviation companies, our business is affected by factors beyond our control, including air traffic congestion at airports, airport slot restrictions, air traffic control inefficiencies, increased and changing security measures, changing regulatory and governmental requirements, and/or regulations, as interpreted new or changing travel-related taxes. Factors that cause flight delays frustrate passengers, increase operating costs and applied, decrease revenues, which in turn could adversely affect profitability. Any general reduction in flight volumes could have a material adverse effect on our business, including our ability to negotiate and complete our initial business combination and results of operations.

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**Our stockholders may be held liable for claims by third parties against us operations and financial condition. In the United States, the federal government singularly controls all U.S. airspace, and aviation operators are completely dependent on the FAA to the extent of distributions received by them upon redemption of their shares.**

Under the DGCL, stockholders may be held liable for claims by third parties against a corporation to the extent of distributions received by them operate that airspace in a dissolution. safe, efficient and affordable manner. The pro rata portion expansion of our trust account distributed to our public stockholders upon the redemption of our public shares in the event we do not complete our initial business combination within 24 months from the closing of the IPO may be considered a liquidating distribution under Delaware law. If a corporation complies with certain procedures set forth in Section 280 of the DGCL intended to ensure that it makes reasonable provision for all claims against it, including a 60-day notice period during which any third-party claims can be brought against the corporation, a 90-day period during which the corporation may reject any claims brought, and an additional 150-day waiting period before any liquidating distributions are made to stockholders, any liability of stockholders with respect to a liquidating distribution is limited to the lesser of such stockholder's pro rata share of the claim or the amount distributed to the stockholder, and any liability of the stockholder would be barred after the third anniversary of the dissolution. However, it is our intention to redeem our public shares as soon as reasonably possible following the 24th month from the closing of the IPO in the event we do not complete our initial business combination and, therefore, we do not intend to comply with the foregoing procedures.

Because we will not be complying with Section 280, Section 281(b) of the DGCL requires us to adopt a plan, based on facts known to us at such time that will provide for our payment of all existing and pending claims or claims that may be potentially brought against us within the 10 years following our dissolution. However, because we are a blank check company, rather than an operating company, and our operations will be limited to searching for prospective target businesses to acquire, the only likely claims to arise would be from our vendors (such as lawyers, investment bankers, etc.) or prospective target businesses. If our plan of distribution complies with Section 281(b) of the DGCL, any liability of stockholders with respect to a liquidating distribution is limited to the lesser of such stockholder's pro rata share of the claim or the amount distributed to the stockholder, and any liability of the stockholder would likely be barred after the third anniversary of the dissolution. We cannot assure you that we will properly assess all claims that may be potentially brought against us. As such, our stockholders could potentially be liable for any claims to the extent of distributions received by them (but no more) and any liability of our stockholders may extend beyond the third anniversary of such date. Furthermore, if the pro rata portion of our trust account distributed to our public stockholders upon the redemption of our public shares in the event we do not complete our initial business combination within 24 months from the closing of the IPO is not considered a liquidating distribution under Delaware law and such redemption distribution is deemed to be unlawful (potentially due to the imposition of legal proceedings that a party may bring or due to other circumstances that are currently unknown), then pursuant to Section 174 of the DGCL, the statute of limitations for claims of creditors could then be six years after the unlawful redemption distribution, instead of three years, as in the case of a liquidating distribution.

***We may not hold an annual meeting of stockholders until after the consummation of our initial business combination, which could delay the opportunity for our stockholders to elect directors.***

We may not hold an annual meeting of stockholders until after we consummate a business combination (unless required by the NYSE), and thus may not be in compliance with Section 211(b) of the DGCL, which requires an annual meeting of stockholders be held for the purposes of electing directors in accordance with a company's bylaws unless such election is made by written consent in lieu of such a meeting. Therefore, if our stockholders want us to hold an annual meeting prior to our consummation of a business combination, they may attempt to force us to hold one by submitting an application to the Delaware Court of Chancery in accordance with Section 211(c) of the DGCL.

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***Holders of Class A common stock will not be entitled to vote on any election of directors we hold prior to our initial business combination.***

Prior to our initial business combination, only holders of our founder shares will have the right to vote on the election of directors. Holders of our public shares will not be entitled to vote on the election of directors during such time. In addition, prior to the completion of an initial business combination, holders of a majority of our founder shares may remove a member of the board of directors for any reason. Accordingly, you may not have any say in the management of our company prior to the consummation of an initial business combination.

***We are not registering the shares of Class A common stock issuable upon exercise of the warrants under the Securities Act or any state securities laws at this time, and such registration may not be in place when an investor desires to exercise warrants, thus precluding such investor from being able to exercise its warrants except on a cashless basis. If the issuance of the shares upon exercise of warrants is not registered, qualified or exempt from registration or qualification, the holder of such warrant will not be entitled to exercise such warrant and such warrant may have no value and expire worthless.***

We are not registering the shares of Class A common stock issuable upon exercise of the warrants under the Securities Act or any state securities laws at this time. However, under the terms of the warrant agreement, we have agreed that as soon as practicable, but in no event later than 15 business days after the closing of our initial business combination, we will use our best efforts to file with the SEC a registration statement for the registration under the Securities Act of the shares of Class A common stock issuable upon exercise of the warrants and thereafter will use our best efforts to cause the same to become effective within 60 business days following our initial business combination and to maintain a current prospectus relating to the Class A common stock issuable upon exercise of the warrants, until the expiration of the warrants in accordance with the provisions of the warrant agreement. We cannot assure you that we will be able to do so if, for example, any facts or events arise which represent a fundamental change in the information set forth in the registration statement or prospectus, the financial statements contained or incorporated by reference therein are not current or correct or the SEC issues a stop order. If the shares issuable upon exercise of the warrants are not registered under the Securities Act, we will be required to permit holders to exercise their warrants on a cashless basis. However, no warrant will be exercisable for cash or on a cashless basis, and we will not be obligated to issue any shares to holders seeking to exercise their warrants, unless the issuance of the shares upon such exercise is registered or qualified under the securities laws of the state of the exercising holder, or an exemption from registration is available. If that exemption, or another exemption, is not available, holders will not be able to exercise their warrants on a cashless basis. In no event will we be required to net cash settle any warrant, or issue securities or other compensation in exchange for the warrants in the event that we are unable to register or qualify the shares underlying the warrants under applicable state securities laws and there is no exemption available. If the issuance of the shares upon exercise of the warrants is not so registered or qualified or exempt from registration or qualification, the holder of such warrant will not be entitled to exercise such warrant and such warrant may have no value and expire worthless. In such event, holders who acquired their warrants as part of a purchase of units will have paid the full unit purchase price solely for the shares of Class A common stock included in the units. If and when the warrants become redeemable by us, we may not exercise our redemption right if the issuance of shares of Class A common stock upon exercise of the warrants is not exempt from registration or qualification under applicable state blue sky laws or we are unable to effect such registration or qualification. We will use our best efforts to register or qualify such shares of Class A common stock under the blue sky laws of the state of residence in those states in

which the warrants were offered by us in the IPO. However, there may be instances in which holders of our public warrants may be unable to exercise such public warrants but holders of our private warrants may be able to exercise such private warrants.

***If you exercise your public warrants on a “cashless basis,” you will receive fewer shares of Class A common stock from such exercise than if you were to exercise such warrants for cash.***

There are circumstances in which the exercise of the public warrants may be required or permitted to be made on a cashless basis. First, if a registration statement covering the shares of Class A common stock issuable upon exercise of the warrants is not effective by the 60th business day after the closing of our initial business combination, warrant holders may, until such time as there is an effective registration statement, exercise warrants on a cashless basis in accordance with Section 3(a)(9) of the Securities Act or another exemption. Second, if a registration statement covering the Class A common stock issuable upon exercise of the warrants is not effective within a specified period following the consummation of our initial business combination, warrant holders may, until such time as there is an effective registration statement and during any period when we shall have failed to maintain an effective registration statement, exercise warrants on a cashless basis pursuant to the exemption provided by Section 3(a)(9) of the Securities Act, provided that such exemption is available; if that exemption, or another exemption, is not available, holders will not be able to exercise their warrants on a cashless basis. Third, if we call the public warrants for redemption, our management will have the option to require all holders that wish to exercise warrants to do so on a cashless basis. In the event of an exercise on a cashless basis, a holder would pay the warrant exercise price by surrendering the warrants for that number of shares of Class A common stock equal to the quotient obtained by dividing (x) the product of the number of shares of Class A common stock underlying the warrants, multiplied by the excess of the “fair market value” (as defined in the next sentence) over the exercise price of the warrants by (y) the fair market value. The “fair market value” is the average reported last sale price of the Class A common stock for the 10 trading days ending on the third trading day prior to the date on which the notice of exercise is received by the warrant agent or on which the notice of redemption is sent to the holders of warrants, as applicable. As a result, you would receive fewer shares of Class A common stock from such exercise than if you were to exercise such warrants for cash.

***The grant of registration rights to our initial stockholders may make it more difficult to complete our initial business combination, and the future exercise of such rights may adversely affect the market price of our Class A common stock.***

Pursuant to an agreement to be entered into concurrently with the issuance and sale of the securities in the IPO, our initial stockholders and their permitted transferees can demand that we register the Private Placement Warrants, the shares of Class A common stock issuable upon exercise of the founder shares and the Private Placement Warrants held, or to be held, by them and holders of warrants that may be issued upon conversion of working capital loans may demand that we register such warrants or the Class A common stock issuable upon exercise of such warrants. We will bear the cost of registering these securities. The registration and availability of such a significant number of securities for trading in the public market may have an adverse effect on the market price of our Class A common stock. In addition, the existence of the registration rights may make our initial business combination more costly or difficult to conclude. This is because the stockholders of the target business may increase the equity stake they seek in the combined entity or ask for more cash consideration to offset the negative impact on the market price of our Class A common stock that is expected when the securities owned by our initial stockholders or holders of working capital loans or their respective permitted transferees are registered.

***To the extent we complete our initial business combination, we may be affected by numerous risks inherent in the business operations with which we combine, and you may not be able to ascertain the merits or risks of any particular target business’s operations, including the merits or risks of LGM’s operations.***

To the extent we complete our initial business combination, we may be affected by numerous risks inherent in the business operations with which we combine. For example, if we combine with a financially unstable business or an entity lacking an established record of sales or earnings, we may be affected by the risks inherent in the business and operations of a financially unstable or a development stage entity. Although our officers and directors will endeavor to evaluate the risks inherent in a particular target business, we

cannot assure you that we will properly ascertain or assess all of the significant risk factors or that we will have adequate time to complete due diligence. Furthermore, some of these risks may be outside of our control and leave us with no ability to control or reduce the chances that those risks will adversely impact a target business. We also cannot assure you that an investment in our units will ultimately prove to be more favorable to investors than a direct investment, if such opportunity were available, in a business combination target. Accordingly, any stockholders who choose to remain stockholders following our initial business combination could suffer a reduction in the value of their securities. Such stockholders are unlikely to have a remedy for such reduction in value unless they are able to successfully claim that the reduction was due to the breach by our officers or directors of a duty of care or other fiduciary duty owed to them, or if they are able to successfully bring a private claim under securities laws that the proxy solicitation or tender offer materials, as applicable, relating to the business combination contained an actionable material misstatement or material omission.

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***Past performance by our management team, EnTrust Global or GMF Capital may not be indicative of future performance of an investment in the Company.***

Information regarding performance by, or businesses associated with our management team, EnTrust Global or GMF Capital and their affiliates is presented for informational purposes only. Any past performance by our management team, EnTrust Global and GMF Capital in another venture is not a guarantee either (i) of success with respect to any business combination we may initiate or consummate or (ii) that we will be able to locate a suitable candidate for our initial business combination. You should not rely on the historical record of our management team's or their affiliates' performance as indicative of the future performance of an investment in the company or the returns the company will, or is likely to, generate going forward. Our officers and affiliated directors have not had experience operating blank check companies or special purpose acquisition companies in the past.

***Although we have identified general criteria and guidelines that we believe are important in evaluating prospective target businesses, we may enter into our initial business combination with a target that does not meet such criteria and guidelines, and as a result, the target business with which we enter into our initial business combination may not have attributes entirely consistent with our general criteria and guidelines.***

Although we have identified general criteria and guidelines for evaluating prospective target businesses, it is possible that a target business with which we enter into our initial business combination will not have all of these positive attributes. If we complete our initial business combination with a target that does not meet some or all of these guidelines, such combination may not be as successful as a combination with a business that does meet all of our general criteria and guidelines. In addition, if we announce a prospective business combination with a target that does not meet our general criteria and guidelines, a greater number of stockholders may exercise their redemption rights, which may make it difficult for us to meet any closing condition with a target business that requires us to have a minimum net worth or a certain amount of cash. In addition, if stockholder approval of the transaction is required by law, or we decide to obtain stockholder approval for business or other legal reasons, it may be more difficult for us to attain stockholder approval of our initial business combination if the target business does not meet our general criteria and guidelines. If we do not complete our initial business combination, our public stockholders may receive only approximately \$10.00 per share on the liquidation of our trust account and our warrants will expire worthless. In certain circumstances, our public stockholders may receive less than \$10.00 per share on the redemption of their shares. See “-If third parties bring claims against us, the proceeds held in the trust account could be reduced and the per-share redemption amount received by stockholders may be less than \$10.00 per share” and other risk factors below.

***We may seek business combination opportunities with a financially unstable business or an entity lacking an established record of revenue, cash flow or earnings, which could subject us to volatile revenues, cash flows or earnings or difficulty in retaining key personnel.***

To the extent we complete our initial business combination with a financially unstable business or an entity lacking an established record of revenues or earnings, we may be affected by numerous risks inherent in the operations of the business with which we combine. These risks include volatile revenues or earnings and difficulties in obtaining and retaining key personnel. Although our officers and

directors will endeavor to evaluate the risks inherent in a particular target business, we may not be able to properly ascertain or assess all of the significant risk factors and we may not have adequate time to complete due diligence. Furthermore, some of these risks may be outside of our control and leave us with no ability to control or reduce the chances that those risks will adversely impact a target business.

***We may seek business combination opportunities with a high degree of complexity that require significant operational improvements, which could delay or prevent us from achieving our desired results.***

We may seek business combination opportunities with large, highly complex companies that we believe would benefit from operational improvements. While we intend to implement such improvements, to the extent that our efforts are delayed or we are unable to achieve the desired improvements, the business combination may not be as successful as we anticipate. To the extent we complete our initial business combination with a large complex business or entity with a complex operating structure, we may also be affected by numerous risks inherent in the operations of the business with which we combine, which could delay or prevent us from implementing our strategy. Although our management team will endeavor to evaluate the risks inherent in a particular target business and its operations, we may not be able to properly ascertain or assess all of the significant risk factors until we complete our business combination. If we are not able to achieve our desired operational improvements, or the improvements take longer to implement than anticipated, we may not achieve the gains that we anticipate. Furthermore, some of these risks and complexities may be outside of our control and leave us with no ability to control or reduce the chances that those risks and complexities will adversely impact a target business. Such combination may not be as successful as a combination with a smaller, less complex organization.

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***We are not required to obtain an opinion from an independent investment banking firm or from an independent accounting firm, and consequently, you may have no assurance from an independent source that the price we are paying for the business is fair to our company or the stockholders from a financial point of view.***

Unless we complete our initial business combination with an affiliated entity or our board cannot independently determine the fair market value of the target business or businesses (including with the assistance of financial advisors), we are not required to obtain an opinion from an independent investment banking firm or another independent entity that commonly renders valuation opinions that the price we are paying is fair to our company from a financial point of view. If no opinion is obtained, our stockholders will be relying on the judgment of our board of directors, who will determine fair market value based on standards generally accepted by the financial community. Such standards used will be disclosed in our proxy materials or tender offer documents, as applicable, related to our initial business combination. In connection with the proposed Business Combination we have obtained an opinion from an independent entity that commonly renders valuation opinions that the price we are paying is fair to our company from a financial point of view.

***Certain agreements related to the IPO may be amended without stockholder approval.***

Each of the agreements related to the IPO to which we are a party, other than the warrant agreement and the investment management trust agreement, may be amended without stockholder approval. Such agreements include the underwriting agreement and the letter agreement among us and our initial stockholders, sponsor, officers and directors. These agreements contain various provisions that our public stockholders might deem to be material. For example, our letter agreement and the underwriting agreement contain certain lock-up provisions with respect to the founder shares, Private Placement Warrants and other securities held by our initial stockholders, sponsor, officers and directors. Amendments to such agreements would require the consent of the applicable parties thereto and would need to be approved by our board of directors, which may do so for a variety of reasons, including to facilitate our initial business combination. While we do not expect our board of directors to approve any amendment to any of these agreements prior to our initial business combination, it may be possible that our board of directors, in exercising its business judgment and subject to its fiduciary duties, chooses to approve one or more amendments to any such agreement. Any amendment entered into in connection with the consummation of our initial business combination will be disclosed in our proxy materials or tender offer documents, as applicable, related to such initial business combination, and any other material amendment to any of our material agreements will be disclosed in a filing with the SEC. Any such amendments would not require approval from our stockholders, may result in the completion of our initial business combination that

may not otherwise have been possible, and may have an adverse effect on the value of an investment in our securities. For example, amendments to the lockup provision discussed above may result in our initial stockholders selling their securities earlier than they would otherwise be permitted, which may have an adverse effect on the price of our securities.

**We may issue additional common stock or preferred stock to complete our initial business combination or under an employee incentive plan after completion of our initial business combination. We may also issue shares of Class A common stock upon the conversion of the Class B common stock at a ratio greater than one-to-one at the time of our initial business combination as a result of the anti-dilution provisions contained in our amended and restated certificate of incorporation. Any such issuances would dilute the interest of our stockholders and likely present other risks.**

Our amended and restated certificate of incorporation authorizes the issuance of up to 100,000,000 shares of Class A common stock, par value \$0.0001 per share, 10,000,000 shares of Class B common stock, par value \$0.0001 per share, and 1,000,000 shares of preferred stock, par value \$0.0001 per share. Immediately after the IPO, there were 75,000,000 and 3,750,000 authorized but unissued shares of Class A common stock and Class B common stock, respectively, available for issuance, which amount does not take into account the shares of Class A common stock reserved for issuance upon exercise of outstanding warrants. Immediately after the consummation of the IPO, there were no shares of preferred stock issued and outstanding. Shares of Class B common stock are convertible into shares of our Class A common stock initially at a one-for-one ratio but subject to adjustment as set forth herein, including in certain circumstances in which we issue Class A common stock or equity-linked securities related to our initial business combination. Shares of Class B common stock are also convertible at the option of the holder at any time.

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We may issue a substantial number of additional shares of common or preferred stock to complete our initial business combination or under an employee incentive plan after completion of our initial business combination (although our amended and restated certificate of incorporation provides that we may not issue securities that can vote with common stockholders on matters related to our pre-initial business combination activity). We may also issue shares of Class A common stock upon conversion of the Class B common stock at a ratio greater than one-to-one at the time of our initial business combination as a result of the anti-dilution provisions contained in our amended and restated certificate of incorporation. However, our amended and restated certificate of incorporation provides, among other things, that prior to our initial business combination, we may not issue additional shares of capital stock that would entitle the holders thereof to (i) receive funds from the trust account or (ii) vote on any initial business combination. These provisions of our amended and restated certificate of incorporation, like all provisions of our amended and restated certificate of incorporation, may be amended with the approval of our stockholders. However, our executive officers and directors have agreed, pursuant to a written agreement with us, that they will not propose any amendment to our amended and restated certificate of incorporation (A) to modify the substance or timing of our obligation to redeem 100% of our public shares if we do not complete our initial business combination within 24 months from the closing of the IPO or (B) with respect to any other provision relating to stockholders' rights or pre-initial business combination activity, unless we provide our public stockholders with the opportunity to redeem their shares of common stock upon approval of any such amendment at a per-share price, payable in cash, equal to the aggregate amount then on deposit in the trust account, including interest (which interest shall be net of taxes payable), divided by the number of then outstanding public shares.

The issuance of additional shares of common or preferred stock:

- may significantly dilute the equity interest of investors in the IPO;
- may subordinate the rights of holders of common stock if preferred stock is issued with rights senior to those afforded our common stock;
- could cause a change of control if a substantial number of shares of our common stock are issued, which may affect, among other things, our ability to use our net operating loss carry forwards, if any, and could result in the resignation or removal of our present officers and directors; and
- may adversely affect prevailing market prices for our units, Class A common stock and/or warrants.

***We are subject to changing law and regulations regarding regulatory matters, corporate governance and public disclosure that have increased both our costs and the risk of non-compliance.***

We are subject to rules and regulations by various governing bodies, including, for example, the Securities and Exchange Commission, which are charged with the protection of investors and the oversight of companies whose securities are publicly traded, and to new and evolving regulatory measures under applicable law. Our efforts to comply with new and changing laws and regulations have resulted in and are likely to continue to result in, increased general and administrative expenses and a diversion of management time and attention from revenue-generating activities to compliance activities. Moreover, because these laws, regulations and standards are subject to varying interpretations, their application in practice may evolve over time as new guidance becomes available. This evolution may result in continuing uncertainty regarding compliance matters and additional costs necessitated by ongoing revisions to our disclosure and governance practices. If we fail to address and comply with these regulations and any subsequent changes, we may be subject to penalty and our business may be harmed.

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***Resources could be wasted in researching business combinations that are not completed, which could materially adversely affect subsequent attempts to locate and acquire or merge with another business. If we do not complete our initial business combination, our public stockholders may receive only approximately \$10.00 per share, or less than such amount in certain circumstances, on the liquidation of our trust account and our warrants will expire worthless.***

We anticipate that the investigation of each specific target business and the negotiation, drafting and execution of relevant agreements, disclosure documents and other instruments will require substantial management time and attention and substantial costs for accountants, attorneys, consultants and others. If we decide not to complete a specific initial business combination, the costs incurred up to that point for the proposed transaction likely would not be recoverable. Furthermore, if we reach an agreement relating to a specific target business, we may fail to complete our initial business combination for any number of reasons including those beyond our control. Any such event international markets will result in a loss to us greater degree of interaction with the regulatory authorities of the related costs incurred foreign countries in which we may operate. The air traffic control system, which is operated by the FAA, faces challenges in managing the growing demand for U.S. air travel. U.S. and foreign air-traffic controllers often rely on outdated technologies that routinely overwhelm the system and compel aviation operators to fly inefficient, indirect routes resulting in delays and increased operational cost. In addition, there are currently proposals before Congress that could materially adversely affect subsequent attempts potentially lead to locate and acquire or merge with another business. If we do not complete our initial business combination, our public stockholders may receive only approximately \$10.00 per share on the liquidation of our trust account and our warrants will expire worthless. In certain circumstances, our public stockholders may receive less than \$10.00 per share on the redemption of their shares. See “If third parties bring claims against us, the proceeds held in the trust account could be reduced and the per-share redemption amount received by stockholders may be less than \$10.00 per share” and other risk factors below.

***Our ability to successfully effect our initial business combination and to be successful thereafter will be totally dependent upon the efforts of our key personnel, some of whom may join us following our initial business combination. The loss of key personnel could negatively impact the operations and profitability of our post-combination business.***

Our ability to successfully effect our initial business combination is dependent upon the efforts of our key personnel. The role of our key personnel in the target business, however, cannot presently be ascertained. Although some of our key personnel may remain with the target business in senior management or advisory positions following our initial business combination, it is likely that some or all privatization of the management of the target business will remain in place. While we intend to closely scrutinize any individuals we employ after our initial business combination, we cannot assure you that our assessment of these individuals will prove to be correct. These individuals may be unfamiliar with the requirements of operating a company regulated by the SEC, U.S. air traffic control system, which could cause us to have to expend time and resources helping them become familiar with such requirements. In addition, the officers and directors of an initial business combination candidate may resign upon completion of our initial business combination. The departure of an initial business combination target's key personnel could negatively impact the operations and profitability of our post-combination business. The role of an initial business combination candidate's key personnel upon the completion of our initial business combination

cannot be ascertained at this time. Although we contemplate that certain members of an initial business combination candidate's management team will remain associated with the initial business combination candidate following our initial business combination, it is possible that members of the management of an initial business combination candidate will not wish to remain in place. The loss of key personnel could negatively impact the operations and profitability of our post-combination business.

***We are dependent upon our executive officers and directors and their departure could adversely affect our ability to operate.***

Our operations are dependent upon a relatively small group of individuals and, in particular, our executive officers and directors. We believe that our success depends on the continued service of our executive officers and directors, at least until we have completed our initial business combination. We do not have an employment agreement with, or key-man insurance on the life of, any of our directors or executive officers. The unexpected loss business. Further, implementation of the services of one or more of our directors or executive officers could have a detrimental effect on us.

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***Our key personnel may negotiate employment or consulting agreements as well as reimbursement of out-of-pocket expenses, if any, with a target business in connection with a particular business combination. These agreements may provide for them to receive compensation or reimbursement for out-of-pocket expenses, if any, following our initial business combination and as a result, may cause them to have conflicts of interest in determining whether a particular business combination is Next Generation Air Transport System by the most advantageous.***

Our key personnel may be able to remain with the company after the completion of our initial business combination only if they are able to negotiate employment or consulting agreements in connection with the initial business combination. Additionally, they may negotiate reimbursement of any out-of-pocket expenses incurred on our behalf prior to the consummation of our initial business combination, should they choose to do so. Such negotiations FAA would take place simultaneously with the negotiation of the initial business combination and could provide for such individuals to receive compensation in the form of cash payments and/or our securities for services they would render to us after the completion of the initial business combination, or as reimbursement for such out-of-pocket expenses. The personal and financial interests of such individuals may influence their motivation in identifying and selecting a target business. However, we believe the ability of such individuals to remain with us after the completion of our initial business combination will not be the determining factor in our decision as to whether or not we will proceed with any potential business combination. There is no certainty, however, that any of our key personnel will remain with us after the completion of our initial business combination. We cannot assure you that any of our key personnel will remain in senior management or advisory positions with us. The determination as to whether any of our key personnel will remain with us will be made at the time of our initial business combination. In addition, pursuant to an agreement to be entered into concurrently with the issuance and sale of the securities in the IPO, our sponsor, upon consummation of an initial business combination, will be entitled to nominate three individuals for election to our board of directors.

***We may have limited information or ability to assess the management of a prospective target business and, as a result, may affect our initial business combination with a target business that is not as profitable as we suspected, if at all, or whose management may not have the skills, qualifications or abilities to manage a public company, which could, in turn, negatively impact the value of our stockholders' investment in us.***

When evaluating the desirability of effecting our initial business combination with a prospective target business, our ability to assess the target business's management may be limited due to a lack of time, resources or information. Our assessment of the capabilities of the target's management, therefore, may prove to be incorrect and such management may lack the skills, qualifications or abilities we anticipated. Should the target's management not possess the skills, qualifications or abilities necessary to manage a public company, the operations and profitability of the post-combination business may be negatively impacted. Accordingly, any stockholders who choose to remain stockholders following the initial business combination could suffer a reduction in the value of their shares. Such stockholders are unlikely to have a remedy for such reduction in value unless they are able to successfully claim that the reduction was due to the breach by our officers or directors of a duty of care or other fiduciary duty owed to them, or if they are able to successfully bring a private claim

under securities laws that the proxy solicitation or tender offer materials, as applicable, relating to the business combination contained an actionable material misstatement or material omission.

***Our officers and directors will allocate their time to other businesses thereby causing conflicts of interest in their determination as to how much time to devote to our affairs. This conflict of interest could have a negative impact on our ability to complete our initial business combination.***

Our officers and directors are not required to, and will not, commit their full time to our affairs, which may result in a conflict of interest in allocating their time between our operations changes to aircraft routings and our search for an initial business combination and their other businesses. We do not intend to have any full-time employees prior to the completion of our initial business combination. Each of our officers is engaged in other business endeavors for which he may be entitled to substantial compensation and our officers are not obligated to contribute any specific number of hours per week to our affairs. Our independent directors may also serve as officers or board members for other entities. If our officers' or directors' other business affairs require them to devote substantial amounts of time to such affairs in excess of their current commitment levels, it flight paths that could limit their ability to devote time to our affairs which may have a negative impact on our ability to complete our initial business combination. For a complete discussion of our officers' and directors' other business affairs, please see the section of the prospectus entitled "Management-Directors and Officers."

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***Certain of our officers and directors are now, and all of them may in the future become, affiliated with entities engaged in business activities similar to those intended to be conducted by us and, accordingly, may have conflicts of interest in allocating their time and determining to which entity a particular business opportunity should be presented.***

Until we consummate the proposed Business Combination, we will be engaged in the business of identifying and combining with one or more businesses. Our officers and directors are, and may in the future become, affiliated with entities (such as operating companies or investment vehicles) that are engaged in a similar business, including without limitation, any future special purpose acquisition companies we expect they may be involved in.

EnTrust Global, GMF Capital and their affiliates have invested in diverse industries. As a result, there may be substantial overlap between companies that would be a suitable business combination for us and companies that would make an attractive target for such other affiliates. Our officers and directors also may become aware of business opportunities which may be appropriate for presentation to us and the other entities to which they owe certain fiduciary or contractual duties. Any such companies may present additional conflicts of interest in pursuing an acquisition target.

Accordingly, they may have conflicts of interest in determining to which entity a particular business opportunity should be presented. These conflicts may not be resolved in our favor and a potential target business may be presented to another entity prior to its presentation to us. Our amended and restated certificate of incorporation provides that we renounce our interest in any corporate opportunity offered to any director or officer unless such opportunity is expressly offered to such person solely in his or her capacity as a director or officer of our company and such opportunity is one we are legally and contractually permitted to undertake and would otherwise be reasonable for us to pursue, and to the extent the director or officer is permitted to refer that opportunity to us without violating another legal obligation.

For a complete discussion of our officers' and directors' business affiliations and the potential conflicts of interest that you should be aware of, please see the sections of the prospectus entitled "Management-Directors and Officers," "Management-Conflicts of Interest" and "Certain Relationships and Related Party Transactions."

***Our officers, directors, security holders and their respective affiliates may have competitive pecuniary interests that conflict with our interests.***

We have not adopted a policy that expressly prohibits our directors, officers, security holders or affiliates from having a direct or indirect pecuniary or financial interest in any investment to be acquired or disposed of by us or in any transaction to which we are a party or have an interest. In fact, we may enter into an initial business combination with a target business that is affiliated with our sponsor, our directors or officers, although we do not intend to do so. We do not have a policy that expressly prohibits any such persons from engaging for their own account in business activities of the types conducted by us. Accordingly, such persons or entities may have a conflict between their interests and ours.

***We may engage in an initial business combination with one or more target businesses that have relationships with entities that may be affiliated with our sponsor, officers, directors or existing holders which may raise potential conflicts of interest.***

In light of the involvement of our sponsor, officers and directors with other entities, we may decide to acquire one or more businesses affiliated with our sponsor, officers or directors, including EnTrust Global or GMF Capital. Our directors also serve as officers and board members for other entities, including, without limitation, those described under the section of the prospectus entitled "Management-Conflicts of Interest." Such entities may compete with us for business combination opportunities. Our sponsor, officers and directors are not currently aware of any specific opportunities for us to complete our initial business combination with any entities with which they are affiliated, there have been no preliminary discussions concerning an initial business combination with any such entity or entities, and our sponsor, officers and directors are not affiliated with LGM, the target in the Proposed Business Combination. Although we will not be specifically focusing on, or targeting, any transaction with any affiliated entities, we would pursue such a transaction if we determined that such affiliated entity met our criteria for an initial business combination as set forth in the section of the prospectus entitled "Proposed Business-Selection of a Target Business and Structuring of our Initial Business Combination" and such transaction was approved by a majority of our disinterested directors. Despite our agreement to obtain an opinion from an independent investment banking firm or another independent entity that commonly renders valuation opinions, regarding the fairness to our stockholders from a financial point of view of an initial business combination with one or more domestic or international businesses affiliated with our officers, directors or existing holders, potential conflicts of interest still may exist and, as a result, the terms of the initial business combination may not be as advantageous to our public stockholders as they would be absent any conflicts of interest.

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***Since our sponsor, officers and directors will lose their entire investment in us if our initial business combination is not completed, a conflict of interest may arise in determining whether a particular business combination target is appropriate for our initial business combination.***

Our sponsor owns 5,625,000 founder shares. The number of founder shares issued was determined based on the expectation that such founder shares would represent 20% of the outstanding shares after the IPO. The founder shares will be worthless if we do not complete an initial business combination. In addition, our sponsor purchased an aggregate of 4,333,333 warrants at a price of \$1.50 per warrant (\$6,500,000 in the aggregate), that will also be worthless if we do not complete an initial business combination. Holders of founder shares have agreed (A) to vote any shares owned by them in favor of any proposed initial business combination and (B) not to redeem any founder shares in connection with a stockholder vote to approve a proposed initial business combination. In addition, we may obtain loans from our sponsor, affiliates of our sponsor or an officer or director. The personal and financial interests of our officers and directors may influence their motivation in identifying and selecting a target business combination, completing an initial business combination and influencing the operation of the business following the initial business combination.

***We may issue notes or other debt securities, or otherwise incur substantial debt, to complete an initial business combination, which may adversely affect our leverage and financial condition and thus negatively impact the value of our stockholders' investment in us.***

Although we have no commitments to issue any notes or other debt securities (other than the Bridge Notes issued by LGM in connection with our proposed business combination, which will be exchanged for PubCo Class A Common Stock upon the closing thereof, as described elsewhere herein), or to otherwise incur outstanding debt following the IPO, we may choose to incur substantial debt to

complete our initial business combination. We have agreed that we will not incur any indebtedness unless we have obtained from the lender a waiver of any right, title, interest or claim of any kind in or to the monies held in the trust account.

As such, no issuance of debt will affect the per-share amount available for redemption from the trust account. Nevertheless, the incurrence of debt could have a variety of negative effects, including:

- default and foreclosure on our assets if our operating revenues after an initial business combination are insufficient to repay our debt obligations;
- acceleration of our obligations to repay the indebtedness even if we make all principal and interest payments when due if we breach certain covenants that require the maintenance of certain financial ratios or reserves without a waiver or renegotiation of that covenant;
- our immediate payment of all principal and accrued interest, if any, if the debt security is payable on demand;
- our inability to obtain necessary additional financing if the debt security contains covenants restricting our ability to obtain such financing while the debt security is outstanding;
- our inability to pay dividends on our common stock;
- using a substantial portion of our cash flow to pay principal and interest on our debt, which will reduce the funds available for dividends on our common stock if declared, our ability to pay expenses, make capital expenditures and acquisitions, and fund other general corporate purposes;
- limitations on our flexibility in planning for and reacting to changes in our business and in the industry in which we operate;

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- increased vulnerability to adverse changes in general economic, industry and competitive conditions and adverse changes in government regulation;
  - limitations on our ability to borrow additional amounts for expenses, capital expenditures, acquisitions, debt service requirements, and execution of our strategy; and
  - other disadvantages compared to our competitors who have less debt.

We may only be able to complete one business combination with the proceeds of the IPO and the sale of the Private Placement Warrants which will cause us to be solely dependent on a single business which may have a limited number of services and limited operating activities. This lack of diversification may negatively impact our operating results and profitability.

Of the net proceeds from the IPO and the sale of the Private Placement Warrants, \$225,000,000 will be available to complete our initial business combination and pay related fees and expenses (which includes up to \$7,875,000 for the payment of deferred underwriting commissions).

We may effectuate our initial business combination with a single target business or multiple target businesses simultaneously or within a short period of time. However, we may not be able to effectuate our initial business combination with more than one target business because of various factors, including the existence of complex accounting issues and the requirement that we prepare and file pro forma financial statements with the SEC that present operating results and the financial condition of several target businesses as if they had been operated on a combined basis. By completing our initial business combination with only a single entity, our lack of diversification may subject us to numerous economic, competitive and regulatory developments. Further, we would not be able to diversify our operations or benefit from the possible spreading of risks or offsetting of losses, unlike other entities which may have the resources to complete several business combinations in different industries or different areas of a single industry. In addition, we intend to focus our search for an initial business combination in a single industry. Accordingly, the prospects for our success may be:

- solely dependent upon the performance of a single business, property or asset, or
- dependent upon the development or market acceptance of a single or limited number of products, processes or services.

This lack of diversification may subject us to numerous economic, competitive and regulatory risks, any or all of which may have a substantial adverse impact upon the particular industry in which we may operate subsequent to our initial business combination.

***We may attempt to simultaneously complete business combinations with multiple prospective targets, which may hinder our ability to complete our initial business combination and give rise lead to increased costs noise complaints and risks that could negatively impact our operations and profitability.***

If we determine to simultaneously acquire several businesses that are owned by different sellers, we will need for each of such sellers to agree that our purchase of its business is contingent on the simultaneous closings of the other business combinations, which may make it more difficult for us, and delay our ability, to complete our initial business combination. We do not, however, intend to purchase multiple businesses in unrelated industries in conjunction with our initial business combination. With multiple business combinations, we could also face additional risks, including additional burdens and costs with respect to possible multiple negotiations and due diligence investigations (if there are multiple sellers) and the additional risks associated with the subsequent assimilation of the operations and services or products of the acquired companies in a single operating business. If we are unable to adequately address these risks, it could negatively impact our profitability and results of operations.

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***We may attempt to complete our initial business combination with a private company about which little information is available, which may result in an initial business combination with a company that is not as profitable as we believed, if at all.***

In pursuing our initial business combination strategy, we may seek to effectuate our initial business combination with a privately held company. Very little public information generally exists about private companies, and we could be required to make our decision on whether to pursue a potential initial business combination on the basis of limited information, which may result in an initial business combination with a company that is not as profitable as we believed, if at all.

***Our management may not be able to maintain control of a target business after our initial business combination.***

We may structure an initial business combination so that the post-transaction company in which our public stockholders own shares will own less than 100% of the equity interests or assets of a target business, but we will only complete such business combination if the post-transaction company owns or acquires 50% or more of the outstanding voting securities of the target or otherwise acquires a controlling interest in the target sufficient for us not to be required to register as an investment company under the Investment Company Act. We will not consider any transaction that does not meet such criteria. Even if the post-transaction company owns 50% or more of the voting securities of the target, our stockholders prior to the initial business combination may collectively own a minority interest in the post business combination company, depending on valuations ascribed to the target and us in the initial business combination. For example, we could pursue a transaction in which we issue a substantial number of new shares of Class A common stock in exchange for all of the outstanding capital stock, shares or other equity interests of a target. In this case, we would acquire a 100% interest in the target. However, as a result of the issuance of a substantial number of new shares of common stock, our stockholders immediately prior to such transaction could own less than a majority of our outstanding shares of common stock subsequent to such transaction. In addition, other minority stockholders may subsequently combine their holdings lawsuits, resulting in a single person or group obtaining a larger share of the company's stock than we initially acquired. Accordingly, this may make it more likely that our management will not be able to maintain our control of the target business. We cannot provide assurance that, upon loss of control of a target business, new management will possess the skills, qualifications or abilities necessary to profitably operate such business.

***We do not have a specified maximum redemption threshold. The absence of such a redemption threshold may make it possible for us to complete an initial business combination with which a substantial majority of our stockholders do not agree.***

Our amended and restated certificate of incorporation does not provide a specified maximum redemption threshold, except that in no event will we redeem our public shares in an amount that would cause our net tangible assets to be less than \$5,000,001 upon consummation of our initial business combination and after payment of underwriters' fees and commissions (such that we are not subject to the SEC's "penny stock" rules) or any greater net tangible asset or cash requirement which may be contained in the agreement relating to our initial business combination. As a result, we may be able to complete our initial business combination even though a substantial majority of our public stockholders do not agree with the transaction and have redeemed their shares or, if we seek stockholder approval

of our initial business combination and do not conduct redemptions in connection with our initial business combination pursuant to the tender offer rules, have entered into privately negotiated agreements to sell their shares to our sponsor, officers, directors, advisors or their affiliates. In the event the aggregate cash consideration we would be required to pay for all shares of Class A common stock that are validly submitted for redemption plus any amount required to satisfy cash conditions pursuant to the terms of the proposed initial business combination exceed the aggregate amount of cash available to us, we will not complete the initial business combination or redeem any shares, all shares of Class A common stock submitted for redemption will be returned to the holders thereof, and we instead may search for an alternate business combination.

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increased costs.

*In order to effectuate an initial business combination, blank check companies have, in the recent past, amended various provisions of their charters Extreme weather, natural disasters and other governing instruments, including their warrant agreements. We cannot assure you that we will not seek to amend our amended and restated certificate of incorporation or governing instruments in a manner that will make it easier for us to complete our initial business combination that our stockholders may not support.*

*In order to effectuate an initial business combination, blank check companies have, in the recent past, amended various provisions of their charters and modified governing instruments, including their warrant agreements. For example, blank check companies have amended the definition of business combination, increased redemption thresholds and extended the time to consummate an initial business combination and, with respect to their warrants, amended their warrant agreements to require the warrants to be exchanged for cash and/or other securities. Amending our amended and restated certificate of incorporation requires the approval of holders of 65% of our common stock, and amending our warrant agreement requires a vote of holders of at least 50% of the public warrants and, solely with respect to any amendment to the terms of the Private Placement Warrants or any provision of the warrant agreement with respect to the Private Placement Warrants, 50% of the number of the then outstanding Private Placement Warrants. In addition, our amended and restated certificate of incorporation requires us to provide our public stockholders with the opportunity to redeem their public shares for cash if we propose an amendment to our amended and restated certificate of incorporation (A) to modify the substance or timing of our obligation to redeem 100% of our public shares if we do not complete our initial business combination within 24 months from the closing of the IPO or (B) with respect to any other provision relating to stockholders' rights or pre-initial business combination activity. To the extent any such amendments would be deemed to fundamentally change the nature of any securities offered through this registration statement, we would register, or seek an exemption from registration for, the affected securities. We cannot assure you that we will not seek to amend our charter or governing instruments or extend the time to consummate an initial business combination in order to effectuate our initial business combination.*

*The provisions of our amended and restated certificate of incorporation that relate to our pre-business combination activity (and corresponding provisions of the agreement governing the release of funds from our trust account), including an amendment to permit us to withdraw funds from the trust account such that the per share amount investors will receive upon any redemption or liquidation is substantially reduced or eliminated, may be amended with the approval of holders of 65% of our common stock, which is a lower amendment threshold than that of some other blank check companies. It may be easier for us, therefore, to amend our amended and restated certificate of incorporation and the trust agreement to facilitate the completion of an initial business combination that some of our stockholders may not support.*

*Our amended and restated certificate of incorporation provides that any of its provisions related to pre-initial business combination activity (including the requirement to deposit proceeds of the IPO and the private placement of warrants into the trust account and not release such amounts except in specified circumstances, and to provide redemption rights to public stockholders as described herein and including to permit us to withdraw funds from the trust account such that the per share amount investors will receive upon any redemption or liquidation is substantially reduced or eliminated) may be amended if approved by holders of 65% of our common stock entitled to vote thereon, and corresponding provisions of the trust agreement*

**governing the release of funds from our trust account may be amended if approved by holders of 65% of our common stock entitled to vote thereon. In all other instances, our amended and restated certificate of incorporation may be amended by holders of a majority of our outstanding common stock entitled to vote thereon, subject to applicable provisions of the DGCL or applicable stock exchange rules. We may not issue additional securities that can vote on amendments to our amended and restated certificate of incorporation. Our initial stockholders, who will collectively beneficially own up to 20% of our common stock upon the closing of the IPO, will participate in any vote to amend our amended and restated certificate of incorporation and/or trust agreement and will have the discretion to vote in any manner they choose. As a result, we may be able to amend the provisions of our amended and restated certificate of incorporation which govern our pre-initial business combination behavior more easily than some other blank check companies, and this may increase our ability to complete an initial business combination with which you do not agree. Our stockholders may pursue remedies against us for any breach of our amended and restated certificate of incorporation.**

**Our sponsor, officers and directors have agreed, pursuant to a written agreement with us, that they will not propose any amendment to our amended and restated certificate of incorporation (i) to modify the substance or timing of our obligation to redeem 100% of our public shares if we do not complete our initial business combination within 24 months from the closing of the IPO or (ii) with respect to any other provision relating to stockholders' rights or pre-initial business combination activity, unless we provide our public stockholders with the opportunity to redeem their shares of Class A common stock upon approval of any such amendment at a per-share price, payable in cash, equal to the aggregate amount then on deposit in the trust account, divided by the number of then outstanding public shares. These agreements are contained in a letter agreement that we have entered into with our sponsor, officers and directors. Our stockholders are not parties to, or third-party beneficiaries of, these agreements and, as a result, will not have the ability to pursue remedies against our sponsor, officers or directors for any breach of these agreements. As a result, in the event of a breach, our stockholders would need to pursue a stockholder derivative action, subject to applicable law.**

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**We may be unable to obtain additional financing to complete our initial business combination or to fund the operations and growth of a target business, which could compel us to restructure or abandon a particular business combination.**

We intend to target businesses larger than we could acquire with the net proceeds of the IPO and the sale of the Private Placement Warrants. As a result, we may be required to seek additional financing to complete such proposed initial business combination. We cannot assure you that such financing will be available on acceptable terms, if at all. To the extent that additional financing proves to be unavailable when needed to complete our initial business combination, we would be compelled to either restructure the transaction or abandon that particular business combination and seek an alternative target business candidate. Further, the amount of additional financing we may be required to obtain could increase as a result of future growth capital needs for any particular transaction, the depletion of the available net proceeds in search of a target business, the obligation to repurchase for cash a significant number of shares from stockholders who elect redemption in connection with our initial business combination and/or the terms of negotiated transactions to purchase shares in connection with our initial business combination. We may also be required to obtain additional financing in connection with the closing of our initial business combination for general corporate purposes, including for maintenance or expansion of operations of the post-transaction businesses, the payment of principal or interest due on indebtedness incurred in completing our initial business combination, or to fund the purchase of other companies. If we do not complete our initial business combination, our public stockholders may receive only approximately \$10.00 per share plus any pro rata interest earned on the funds held in the trust account and not previously released to us to pay our franchise and income taxes on the liquidation of our trust account and our warrants will expire worthless. In addition, even if we do not need additional financing to complete our initial business combination, we may require such financing to fund the operations or growth of the target business. The failure to secure additional financing **adverse events** could have a material adverse effect on our **business, results of operations and financial condition.**

**Adverse weather conditions and natural disasters, such as hurricanes, winter snowstorms or earthquakes, can cause flight cancellations or significant delays. Cancellations or delays due to adverse weather conditions or natural disasters, air traffic control problems or inefficiencies, breaches in security or other factors may affect us to a greater degree than our competitors who may be able to recover more quickly from these events, and**

therefore could have a material adverse effect on our business, results of operations and financial condition to a greater degree than other air carriers. Any general reduction in passenger traffic could have a material adverse effect on our business, results of operations and financial condition.

***We are subject to risks associated with climate change, including the continued development potential increased impacts of severe weather events on our operations and infrastructure.***

Climate change-related regulatory activity and developments may adversely affect our business and financial results by requiring us to reduce our emissions, make capital investments to modernize certain aspects of our operations, purchase carbon offsets, or growth otherwise pay for our emissions. Such activity may also impact us indirectly by increasing our operating costs.

The potential physical effects of climate change, such as increased frequency and severity of storms, floods, fires, fog, mist, freezing conditions, sea-level rise and other climate-related events, could affect our operations, infrastructure, and financial results. Operational impacts, such as the delay or cancellation of flights, could result in loss of revenue. In addition, certain of our fixed base operators are in locations susceptible to the impacts of storm-related flooding and sea-

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level rise, which could result in costs and loss of revenue. We could incur significant costs to improve the climate resiliency of our infrastructure and otherwise prepare for, respond to, and mitigate such physical effects of climate change. We are not able to accurately predict the materiality of any potential losses or costs associated with the physical effects of climate change.

***Our business is primarily focused on certain targeted geographic regions making us vulnerable to risks associated with having geographically concentrated operations.***

While our customer base is located throughout the continental United States, approximately 70% of our flight demand is within two flight hours of our headquarters in Kinston, North Carolina. As a result, our business, financial condition and results of operations are susceptible to certain regional factors, including state regulations and severe weather conditions, catastrophic events or other disruptions.

***The operation of aircraft is subject to various risks, and failure to maintain an acceptable safety record may have an adverse impact on our ability to obtain and retain customers.***

The operation of aircraft is subject to various risks, including catastrophic disasters, crashes, mechanical failures and collisions, which may result in loss of life, personal injury and/or damage to property and equipment. We may experience accidents in the future. These risks could endanger the safety of our customers, our personnel, third parties, equipment, cargo and other property (both ours and that of third parties), as well as the environment. If any of these events were to occur, we could experience loss of revenue, termination of customer contracts, higher insurance rates, litigation, regulatory investigations and enforcement actions (including potential grounding of our fleet and suspension or revocation of our operating authorities) and damage to our reputation and customer relationships. In addition, to the extent an accident occurs with an aircraft we operate or charter, we could be held liable for resulting damages, which may involve claims from injured passengers and survivors of deceased passengers. There can be no assurance that the amount of our insurance coverage available in the event of such losses would be adequate to cover such losses, or that we would not be forced to bear substantial losses from such events, regardless of our insurance coverage. Moreover, any aircraft accident or incident, even if fully insured, and whether involving us or other private aircraft operators, could create a public perception that we are less safe or reliable than other private aircraft operators, which could cause our customers to lose confidence in us and switch to other private aircraft operators or other means of transportation. In addition, any aircraft accident or incident, whether involving us or other private aircraft operators, could also affect the public's view of industry safety, which may reduce the amount of trust by our customers.

We incur considerable costs to maintain the quality of (i) our safety program, (ii) our training programs and (iii) our fleet of aircraft. We cannot guarantee that these costs will not increase. Likewise, we cannot guarantee that our efforts will provide an adequate level of safety or an acceptable safety record. If we are unable to maintain an acceptable safety record, we might not be able to retain existing customers or attract new customers, which could have a material adverse effect on our business, financial condition and results of operations. Failure to comply with regulatory requirements related to the maintenance of our aircraft and associated operations may result in enforcement actions, including revocation or suspension of our operating authorities in the United States and potentially other countries.

***Any damage to our reputation or brand image could adversely affect our business or financial results.***

Maintaining a good reputation is critical to our business. Our reputation or brand image could be adversely impacted by, among other things, any failure to maintain high ethical, social and environmental sustainability practices for all of our operations and activities, our impact on the environment, any failure to provide consistent and high-quality customer service, public pressure from investors or policy groups to change our policies, customer perceptions of our advertising campaigns, sponsorship arrangements or marketing programs, customer perceptions of our use of social media, or customer perceptions of statements made by us, our employees and executives, agents or other third parties. In addition, we operate in a highly visible

industry that has significant exposure on social media. Negative publicity, including as a result of misconduct by our customers, vendors or employees, can spread rapidly through social media. Should we not respond in a timely and appropriate manner to address negative publicity, our brand and reputation may be significantly harmed. Damage to our reputation or brand image or loss of customer confidence in our services could adversely affect our business and financial results as well as require additional resources to rebuild or repair our reputation.

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### ***We could suffer losses and adverse publicity stemming from any accident involving our aircraft models operated by third parties.***

Certain aircraft models that we operate have experienced accidents while operated by third parties. If other operators experience accidents with aircraft models that we operate, obligating us to take such aircraft out of service until the cause of the **target** accident is determined and rectified, we might lose revenues and might lose customers. It is also possible that the FAA or other regulatory bodies in another country could ground the aircraft and restrict it from flying. In addition, safety issues experienced by a particular model of aircraft could result in customers refusing to use that particular aircraft model or a regulatory body grounding that particular aircraft model. The value of the aircraft model might also be permanently reduced in the secondary market if the model were to be considered less desirable for future service. Such accidents or safety issues related to aircraft models that we operate could have a material adverse effect on our business, financial condition and results of operations.

### ***Terrorist activities or warnings have dramatically impacted the aviation industry and will likely continue to do so.***

The terrorist attacks of September 11, 2001, and their aftermath have negatively impacted the aviation business in general. If additional terrorist attacks are launched against the aviation industry, there will be lasting consequences of the attacks, which may include loss of life, property damage, increased security and insurance costs, increased concerns about future terrorist attacks, increased government regulation and airport delays due to heightened security. We cannot provide any assurance that these events will not harm the aviation industry generally or our operations or financial condition in particular.

### ***We lease our corporate headquarters and operations facilities from third-party affiliates and a failure to renew such leases could adversely affect our business. **None*****

Certain subsidiaries of LGM Ventures, LLC (“LGMV”), which is owned by Segrave Jr., lease to us a substantial portion of our **officers, directors** headquarters and maintenance and operations facilities. During the year ended December 31, 2023, rental payments under the leases related to LGMV were \$1.6 million. While the majority of these leases have terms greater than 10 years we have no assurance that these related parties will renew the lease agreements after expiration or **stockholders** is that any renewal offered to us will be on terms that we find acceptable. If we cannot renew the leases, we will be required to **provide** move a substantial portion of our headquarters and operations, which may adversely affect our reputation, financial condition and results of operation.

### ***On June 30, 2023, we terminated our agreement with Wheels Up that accounted for a significant portion of our total revenues the past two years. Such termination could have an adverse effect on our business, results of operations and financial condition if we fail to materially replace the revenue derived from Wheels Up moving forward as expected.***

For the years ended December 31, 2023 and 2022, WUP accounted for 22% and 39% of total revenue, respectively. On June 30, 2023, we terminated our agreement with WUP. Subsequently, on July 5, 2023, WUP initiated a lawsuit against us, see the section entitled “*Other Information About LGM — Legal Proceedings*” for more information about such lawsuit.

Although the termination of the agreement with WUP was material to our total revenues for the year ended December 31, 2023, we had already expected the percentage of total revenue concentrated in WUP to continue to decrease over the next few years and had already planned to scale down business with WUP relative to our other revenue streams prior to terminating our agreement with WUP (see “*Management’s Discussion and Analysis of Financial Condition and Results of Operations of LGM — Key Factors Affecting Results of Operations — Wheel’s Up (“WUP”) Termination*”). However, a failure to materially replace the revenue derived from WUP in the future may adversely affect our financial condition and results of operations.

Additionally, as of June 27, 2023, WUP accounted for \$15.7 million in receivables, which was a significant majority of total receivables at that time. When the agreement with WUP was terminated on June 30, 2023 the receivable balances were eliminated, as allowable under relevant accounting standards, by being applied against existing deposits held under the agreement.

### ***It may ultimately be determined that we did not qualify for the Employee Retention Credit and we may be required to repay the ERC amounts received, which could have a material adverse effect on our business, results of operations and financial condition.***

As of December 31, 2023, LGM had applied for \$9.5 million and received the Employee Retention Credit (“ERC”) in the total amount of \$9.0 million. Our legal counsel has issued a legal opinion that we, more likely than not, qualified for

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the ERC. However, it remains uncertain whether we meet the qualifications required to receive the ERC. If we are ultimately required to repay the ERC it may materially adversely affect our financial condition and results of operations.

## **Legal and Regulatory Risks Relating to Our Business**

***We are subject to significant governmental regulation and changes in government regulations imposing additional requirements and restrictions on our operations could increase our operating costs and result in service delays and disruptions.***

All FAA certified air carriers, including us, are subject to regulation by the DOT, the FAA and other governmental agencies, including the DHS, the TSA, the CBP and others. The laws and regulations enforced by these and other agencies impose substantial costs on us, may reduce air travel demand, and also may restrict the manner in which we conduct our business now or in the future, resulting in a material adverse effect on our operations. The FAA recently issued a proposed rulemaking that, when finalized, would expand the requirement for a safety management system to all certificate holders operating under FAA Part 135, which will likely increase our regulatory compliance costs. We also incur substantial costs in maintaining our current certifications and otherwise complying with the laws to which we are subject. An adverse decision by a federal agency may have a material adverse effect on our operations, such as an FAA decision to ground, or require time consuming inspections of or maintenance on, all or any financing of our aircraft. Our business may also be affected if government agencies shut down for any reason or if there is significant automation or another operational disruption, such as those attributed to us Air Traffic Control or weather.

In addition, as described under the caption entitled “—Foreign Ownership,” we are also subject to restrictions imposed by federal law on the maximum amount of foreign ownership of U.S. airlines and oversight by the DOT in connection maintaining our status as a “citizen of the United States” (as defined at 49 U.S.C. Section 40102(a)(15) and administrative interpretations thereof issued by the DOT or its predecessor or successors, or as the same may be from time to time amended). A failure to comply with or after changes to these restrictions may materially adversely affect our initial business combination. If and force a divestiture of any foreign investment in excess of the applicable thresholds.

### **Foreign Ownership**

Under DOT regulations and federal law, we must be owned and controlled by U.S. citizens. The restrictions imposed by federal law and regulations currently require that at least 75% of our voting stock must be owned and controlled, directly and indirectly, by persons or entities who are U.S. citizens, as defined in the Federal Aviation Act, that our president and at least two-thirds of the members of our Board of Directors and other managing officers be U.S. citizens, and that we be under the actual control of U.S. citizens. In addition, at least 51% of our total outstanding stock must be owned and controlled by U.S. citizens and no more than 49% of our stock may be held, directly or indirectly, by persons or entities who are not U.S. citizens and are from countries that have entered into “open skies” air transport agreements with the U.S. which allow unrestricted access between the United States and the applicable foreign country and to points beyond the foreign country on flights serving the foreign country. We are currently in compliance with these ownership provisions.

### **Revocation of permits, approvals, authorizations and licenses.**

Our business also requires a variety of federal, state and local permits, approvals, authorizations and licenses. Our business depends on the maintenance of such permits, approvals, authorizations and licenses. Our business is subject to regulations and requirements and may be adversely affected if we are unable to comply with existing regulations or requirements or if changes in applicable regulations or requirements occur.

***We are subject to various environmental and noise laws and regulations, which could have a material adverse effect on our business, results of operations and financial condition.***

We are subject to increasingly stringent federal, state, local and foreign laws, regulations and ordinances relating to the protection of the environment and noise, including those relating to emissions to the air, discharges (including storm water and de-icing fluid discharges) to surface and subsurface waters, safe drinking water and the use, management, disposal and release of, and exposure to, hazardous substances, oils and waste materials. We are or may be subject to new or proposed laws and regulations that may have a direct effect (or indirect effect through our third-party relationships or airport facilities at which we operate) on our operations. Any such existing, future, new or potential laws and regulations could have an adverse impact on our business, results of operations and financial condition.

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Similarly, we are subject to environmental laws and regulations that require us to investigate and remediate soil or groundwater to meet certain remediation standards. Under certain laws, generators of waste materials, and current and former owners or operators of facilities, can be subject to liability for investigation and remediation costs at locations that have been identified as requiring response actions. Liability under these laws may be strict, joint and several, meaning that we could be liable for the costs of cleaning up environmental contamination regardless of fault or the amount of wastes directly attributable to us.

***Environmental regulation and liabilities, including new or developing laws and regulations, or our initiatives in response to pressure from our stakeholders may increase our costs of operations and adversely affect us.***

In recent years, governments, customers, suppliers, employees and other of our stakeholders have increasingly focused on climate change, carbon emissions, and energy use. Laws and regulations that curb the use of conventional energy or require the use of renewable fuels or renewable sources of energy, such as wind or solar power, could result in a reduction in demand for hydrocarbon-based fuels such as oil and natural gas. In addition, governments could pass laws, regulations or taxes that increase the cost of such fuels, thereby decreasing demand for our services and also increasing the costs of our operations. Other laws or pressure from our stakeholders may adversely affect our business and financial results by requiring, or otherwise causing, us to reduce our emissions, make capital investments to modernize certain aspects of our operations, purchase carbon offsets or otherwise pay for our emissions. Such activity may also impact us indirectly by increasing our operating costs. More stringent environmental laws, regulations or enforcement policies, as well as motivation to maintain our reputation with our key stakeholders, could have a material adverse effect on our business, financial condition and results of operations.

***The issuance of operating restrictions applicable to one of the fleet types we operate could have a material adverse effect on our business, results of operations and financial condition.***

Our owned and leased fleet is comprised of a limited number of aircraft types, including the Citation CJ3 / CJ3+, Citation Excel / XLS / XLS+, Citation Encore+, Citation Sovereign, Citation X, Gulfstream GIV-SP aircraft. The issuance of FAA or manufacturer directives restricting or prohibiting the use of any one or more of the aircraft types we operate could have a material adverse effect on our business, results of operations and financial condition.

***We may become involved in litigation that may materially adversely affect us.***

From time to time, we may become involved in various legal proceedings relating to matters incidental to the ordinary course of our business, including employment, commercial, product liability, class action, whistleblower and other litigation and claims, and governmental and other regulatory investigations and enforcement proceedings. Such matters can be time-consuming, divert management attention and resources, cause us to incur significant expenses or liability and/or require us to change our business practices. Because of the potential risks, expenses and uncertainties of litigation, we may, from time to time, settle disputes, even where we believe that we have meritorious claims or defenses. Because litigation is inherently unpredictable, the results of any of these actions may have a material adverse effect on our business, results of operations and financial condition.

#### **Risks Relating to Our Organization and Structure**

***Our only significant asset is our ownership interest in LGM and such ownership might not be sufficient to pay dividends or make distributions or loans to enable us to pay any dividends on our Common Stock or satisfy our other financial obligations.***

We have no direct operations and no significant assets other than our ownership of LGM. We depend on LGM for distributions, loans and other payments to generate the funds necessary to meet our financial obligations, including our expenses as a publicly traded company and to pay any dividends with respect to our Class A Common Stock or any payments we are required to pay under the Tax Receivable Agreement, which is discussed in further detail in Item 13 - *Certain Relationships and Related Transactions, and Director Independence*. The financial condition and operating requirements of LGM may limit our ability to obtain cash from LGM. The earnings from, or other available assets of, LGM might not be sufficient to pay dividends or make distributions or loans to enable us to pay any dividends on the Common Stock or satisfy our other financial obligations.

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***We are a “controlled company” within the meaning of the NYSE American listing standards and, as a result, qualify for, and intend to rely on, exemptions from certain corporate governance requirements. You will not have the same protections afforded to stockholders of***

**companies that are subject to such requirements.**

As of the date of this Report, the Existing Equityholders hold a majority of our Class B Common Stock and as a result, control a majority of the voting power of the Company. As a result of the Existing Equityholders' holdings, we are a "controlled company" within the meaning of the corporate governance standards of the NYSE American. Under these rules, a listed company of which more than 50% of the voting power is held by an individual, group or another company is a "controlled company" and may elect not to comply with certain corporate governance requirements, including the requirement that (i) a majority of our Board consist of independent directors, (ii) we have a compensation committee that is composed entirely of independent directors and (iii) we have a nominating/corporate governance committee that is composed entirely of independent directors.

We rely on certain of these exemptions. As a result, we are not required to have a compensation committee consisting entirely of independent directors and we do not complete our initial business combination, our public stockholders have a nominating/corporate governance committee that is composed entirely of independent directors. We may only receive approximately \$10.00 per share also rely on the liquidation other exemptions so long as we qualify as a "controlled company." To the extent we rely on any of these exemptions, holders of Class A Common Stock will not have the same protections afforded to stockholders of companies that are subject to all of the corporate governance requirements of the NYSE American.

**The multi-class structure of our trust account, and Common Stock has the effect of concentrating voting power with our warrants Chief Executive Officer, which will expire worthless. Furthermore, as described in limit other stockholders' ability to influence the risk factor entitled "If third parties bring claims against us, the proceeds held in the trust account could be reduced and the per-share redemption amount received by stockholders may be less than \$10.00 per share," under certain circumstances our public stockholders may receive less than \$10.00 per share upon the liquidation outcomes of the trust account.**

**Our initial stockholders may exert important transactions, including a substantial influence on actions requiring a stockholder vote, potentially in a manner that you do not support.**

**Upon the closing change of the IPO, our initial stockholders own shares representing 20% control.**

As of our issued and outstanding shares of common stock. Accordingly, they may exert a substantial influence on actions requiring a stockholder vote, potentially in a manner that you do not support, including amendments to our amended and restated certificate of incorporation and approval of major corporate transactions. Factors that would be considered in making such additional purchases would include consideration of the current trading price March 31, 2024, Segrave Jr. beneficially owned approximately 70.8% of our Class A common stock. In addition, our board of directors, whose members were elected by our initial stockholders, is Common Stock and will be divided into three classes, each of which will generally serve for a term of three years with only one class of directors being elected in each year. We may not hold an annual meeting of stockholders to elect new directors prior to the completion 100% of our initial business combination, in which case Class B Common Stock outstanding representing a combined voting power of approximately 70.8%, assuming that all of the current directors will continue in office until at least the completion of the initial business combination. If there is an annual meeting, as a consequence LGM Common Unit, Public Warrants and Private Placement Warrants are exercised or exchanged for one share of our "staggered" board of directors, only a minority of the board of directors will be considered Class A Common Stock and that such shares are deemed issued and outstanding. Accordingly, Segrave Jr. is able to control or exert substantial influence over all matters submitted to our stockholders for election and our initial stockholders and only holders of our founder shares will have the right to vote on approval, including the election of directors prior to our initial business combination.

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**Unlike many other similarly structured blank check companies, our initial stockholders will receive additional shares of Class A common stock if we issue shares to consummate an initial business combination.**

The founder shares will automatically convert into Class A common stock at the time and amendments of our initial business combination, or earlier at the option organization documents. Segrave Jr. may have interests that differ from those of the holders, on other stockholders and may vote in 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 convertible or exercisable for Class A common stock, are issued or deemed issued in excess of the amounts offered in the prospectus and related to the closing of the initial business combination, the ratio at which founder shares shall convert into Class A common stock will, unless such provision is waived by the holders thereof, be adjusted so that the number of Class A common stock issuable upon conversion of all founder shares will equal, in the aggregate, on an as-converted basis, 20% of the total number of all outstanding shares of common stock upon completion of the initial business combination, excluding any shares or equity-linked securities issued, or to be issued, to any seller in the business combination and any private placement-equivalent warrants issued to our sponsor or its affiliates upon conversion of loans made to us. This is different from most other similarly structured blank check companies in way with which the initial stockholder will only be issued an aggregate of 20% of the total number of shares to be outstanding

prior to the initial business combination. Additionally, the aforementioned adjustment will not take into account any shares of Class A common stock redeemed in connection with the business combination. Accordingly, the holders of the founder shares could receive additional shares of Class A common stock even if the additional shares of Class A common stock, or equity-linked securities convertible or exercisable for Class A common stock, are issued or deemed issued solely to replace those shares that were redeemed in connection with the business combination. The foregoing may make it more difficult other stockholders disagree and expensive for us to consummate an initial business combination.

**We may amend the terms of the warrants in a manner that which may be adverse to holders their interests. This concentrated control may have the effect of public warrants with the approval by the holders delaying, preventing or deterring a change of at least 50% control of the then outstanding public warrants. As Company, could deprive our stockholders of an opportunity to receive a result, premium for their capital stock as part of a sale of the exercise Company, and might ultimately affect the market price of your warrants could be increased, the exercise period could be shortened and the number of shares of our Class A common Common Stock.**

**We cannot predict the impact our multi-class structure may have on the stock purchasable upon exercise price of our Class A Common Stock.**

We cannot predict whether our multi-class structure will result in a warrant could lower or more volatile market price of our Class A Common Stock or in adverse publicity or other adverse consequences. For example, certain index providers have announced restrictions on including companies with multiple-class share structures in certain of their indices. In July 2017, FTSE Russell and S&P Dow Jones announced that they would cease to allow most newly public companies utilizing dual or multi-class capital structures to be decreased, all without your approval.

Our warrants will be issued included in registered form under a warrant agreement between Continental Stock Transfer & Trust Company, as warrant agent, and us. The warrant agreement provides that their indices.

Affected indices include the terms of the warrants may be amended without the consent of any holder to cure any ambiguity or correct any mistake, including to conform the provisions of the warrant agreement to the description of the terms of the warrants Russell 2000 and the warrant agreement set forth S&P 500, S&P MidCap 400 and S&P SmallCap 600, which together make up the S&P Composite 1500. Under the announced policies, our multi-class capital structure would make us ineligible for inclusion in certain indices, and as a result, mutual funds, exchange-traded funds and other investment vehicles that attempt to passively track those indices will not be investing in our stock. It is possible that these policies may depress valuations compared to those of other similar companies that are included in such indices. Because of our multi-class structure, we will likely be excluded from certain of these indices and we cannot assure you that other stock indices will not take similar actions. Given the prospectus, or defective provision, but requires sustained flow of investment funds into passive strategies that seek to track certain indices, exclusion from stock indices would likely preclude investment by many of these funds and could make shares of our Class A Common Stock less attractive to other investors. As a result, the approval by the holders of at least 50% of the then outstanding public warrants to make any change that adversely affects the interests of the registered holders of public warrants. Accordingly, we may amend the terms of the public warrants in a manner adverse to a holder if holders of at least 50% of the then outstanding public warrants approve of such amendment. Although our ability to amend the terms of the public warrants with the consent of at least 50% of the then outstanding public warrants is unlimited, examples of such amendments could be amendments to, among other things, increase the exercise market price of the warrants, convert the warrants into cash or stock, shorten the exercise period or decrease the number of shares of our Class A common stock purchasable upon exercise of a warrant.

**Our warrants will Common Stock could be accounted for adversely affected.**

**We qualify as a warrant liability and will be recorded at fair value upon issuance with any changes in fair value each period reported in earnings, which may have an adverse effect on the market price of our securities or may make it more difficult for us to consummate an initial business combination.**

**Following the consummation of the IPO and the concurrent private placement of warrants, we have 11,833,333 warrants outstanding (comprised of the 7,500,000 warrants included in the units and the 4,333,333 Private Placement Warrants). We will account for these warrants as a warrant liability, which means that we will record them at fair value, based upon a valuation report obtained from the Company's independent third party valuation firm, upon issuance with any changes in fair value each period reported in earnings. The impact of changes in fair value on earnings may have an adverse effect on the market price of our securities. In addition, potential targets may seek a business combination partner that does not have warrants that are accounted for as a warrant liability, which may make it more difficult for us to consummate an initial business combination with a target business.**

***The value of the founder shares following completion of our initial business combination is likely to be substantially higher than the nominal price paid for them, even if the trading price of our common stock at such time is substantially less than \$10.00 per share.***

Upon the closing of the IPO, our sponsor invested in us an aggregate of \$6,525,000, comprised of the \$25,000 purchase price for the founder shares and the \$6,500,000 purchase price for the Private Placement Warrants. Assuming a trading price of \$10.00 per share upon consummation of our initial business combination, the 6,468,750 founder shares would have an aggregate implied value of \$64,687,500. Even if the trading price of our common stock was as low as \$1.12 per share, and the Private Placement Warrants were worthless, the value of the founder shares would be approximately equal to the sponsor's initial investment in us. As a result, our sponsor is likely to be able to recoup its investment in us and make a substantial profit on that investment, even if our public shares have lost significant value. Accordingly, our management team, which owns interests in our sponsor, may have an economic incentive that differs from that of the public shareholders to pursue and consummate an initial business combination rather than to liquidate and to return all of the cash in the trust to the public shareholders, even if that business combination were with a riskier or less-established target business. For the foregoing reasons, you should consider our management team's financial incentive to complete an initial business combination when evaluating whether to redeem your shares prior to or in connection with the initial business combination.

***A provision of our warrant agreement may make it more difficult for us to consummate an initial business combination.***

Unlike most blank check companies, if

- (i) we issue additional shares of common stock or equity-linked securities for capital raising purposes in connection with the closing of our initial business combination at a Newly Issued Price of less than \$9.20 per share;
- (ii) the aggregate gross proceeds from such issuances represent more than 60% of the total equity proceeds, and interest thereon, available for the funding of our initial business combination on the date of the consummation of our initial business combination (net of redemptions), and
- (iii) the Market Value is below \$9.20 per share,

then the exercise price of the warrants will be adjusted to be equal to 115% of the higher of the Market Value and the Newly Issued Price, and the \$18.00 per share redemption trigger price will be adjusted (to the nearest cent) to be equal to 180% of the higher of the Market Value and the Newly Issued Price. This may make it more difficult for us to consummate an initial business combination with a target business.

***We may redeem your unexpired warrants prior to their exercise at a time that is disadvantageous to you, thereby making your warrants worthless.***

We have the ability to redeem outstanding warrants at any time after they become exercisable and prior to their expiration, at a price of \$0.01 per warrant, provided that the last reported sales price of our 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 ending on the third trading day prior to the date on which we give proper notice of such redemption and provided certain other conditions are met. If and when the warrants become redeemable by us, we may not exercise our redemption right if the issuance of shares of common stock upon exercise of the warrants is not exempt from registration or qualification under applicable state blue sky laws or we are unable to effect such registration or qualification. We will use our best efforts to register or qualify such shares of common stock under the blue sky laws of the state of residence in those states in which the warrants were offered by us in the IPO. Redemption of the outstanding warrants could force you (i) to exercise your warrants and pay the exercise price therefor at a time when it may be disadvantageous for you to do so, (ii) to sell your warrants at the then-current market price when you might otherwise wish to hold your warrants or (iii) to accept the nominal redemption price which, at the time the outstanding warrants are called for redemption, is likely to be substantially less than the market value of your warrants. None of the Private Placement Warrants will be redeemable by us so long as they are held by the sponsor or its permitted transferees.

***Our warrants and founder shares may have an adverse effect on the market price of our Class A common stock and make it more difficult to effectuate our initial business combination.***

We issued warrants to purchase 7,500,000 shares of our Class A common stock as part of the units offered in the IPO and, simultaneously with the closing of the IPO, we issued Private Placement Warrants to purchase an aggregate of 4,333,333 shares of Class A common stock at \$11.50 per share. Our initial stockholders currently own an aggregate of 7,187,500 founder shares. The founder shares are convertible into shares of Class A common stock on a one-for-one basis, subject to adjustment as set forth herein. In addition, if our sponsor makes any working capital loans, up to \$1,500,000 of such loans may be converted into warrants, at the price of \$1.50 per warrant at the option of the lender. Such warrants would be identical to the Private Placement Warrants, including as to exercise price, exercisability and exercise period.

To the extent we issue shares of Class A common stock to effectuate an initial business combination, the potential for the issuance of a substantial number of additional shares of Class A common stock upon exercise of these warrants and conversion rights could make us a less attractive business combination vehicle to a target business. Any such issuance will increase the number of issued and outstanding shares of our Class A common stock and reduce the value of the shares of Class A common stock issued to complete the initial business combination. Therefore, our warrants and founder shares may make it more difficult to effectuate an initial business combination or increase the cost of acquiring the target business.

The Private Placement Warrants are identical to the warrants sold as part of the units in the IPO except that, so long as they are held by our sponsor or its permitted transferees, (i) they will not be redeemable by us, (ii) they (including the Class A common stock issuable upon exercise of these warrants) may not, subject to certain limited exceptions, be transferred, assigned or sold by our sponsor until three years after the completion of our initial business combination and (iii) they may be exercised by the holders on a cashless basis.

***Because we must furnish our stockholders with target business financial statements, we may lose the ability to complete an otherwise advantageous initial business combination with some prospective target businesses.***

The federal proxy rules require that a proxy statement with respect to a vote on an initial business combination meeting certain financial significance tests include historical and/or pro forma financial statement disclosure in periodic reports. We will include the same financial statement disclosure in connection with our tender offer documents, whether or not they are required under the tender offer rules. These financial statements may be required to be prepared in accordance with, or be reconciled to, accounting principles generally accepted in the United States of America, or GAAP, or international financial reporting standards as issued by the International Accounting Standards Board, or IFRS, depending on the circumstances and the historical financial statements may be required to be audited in accordance with the standards of the Public Company Accounting Oversight Board (United States), or PCAOB. These financial statement requirements may limit the pool of potential target businesses we may acquire because some targets may be unable to provide such financial statements in time for us to disclose such statements in accordance with federal proxy rules and complete our initial business combination within the prescribed time frame.

***We are an emerging “emerging growth company” within the meaning of the Securities Act, and if we take advantage of certain exemptions from disclosure requirements available to emerging growth companies, this it could make our***

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***securities less attractive to investors and may make it more difficult to compare our performance with to the performance of other public companies.***

We are qualify as an “emerging growth company” within the meaning as defined in Section 2(a)(19) of the Securities Act, as modified by the JOBS Act. As such, we are eligible for and we may intend to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not emerging growth companies for as long as we continue to be an emerging growth company, including, but not limited to, (i) not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, SOX, (ii) reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements and (iii) exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved. As a result, our stockholders may might not have access to certain information they may deem important. We could be will remain an emerging growth company for up until the earliest of (i) the last day of the fiscal year (a) following the fifth anniversary of the completion of our IPO, (b) in which we have total annual gross revenue of at least \$1.07 billion, or (c) in which we are deemed to five years, although circumstances could cause us to lose that status earlier, including if be a large accelerated filer, which means the market value of our Class A common stock that is held by non-affiliates exceeds \$700 million as of anythe prior June 30 before that time, 30th, and (ii) the date on which we have issued more than \$1.0 billion in which case we would no longer be an emerging growth company as of non-convertible debt securities during the following December 31. prior three year period. We cannot predict whether investors will find our securities less attractive because we will rely on these exemptions. If some investors find our securities less attractive as a result of our its reliance on these exemptions, the trading prices of our securities may be lower than they otherwise would be, there may be a less active trading market for our securities and the trading prices of our securities may be more volatile.

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***The requirements of being a public company may strain our resources and divert management's attention.***

Further, Section 102(b)(1) As a public company, we are subject to the reporting requirements of the JOBS Exchange 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 the SOX, the Dodd-Frank Wall Street Reform and Consumer Protection Act, registration statement declared effective or do not have a class of securities registered under 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 listing requirements of the extended transition period NYSE American and comply other applicable securities rules and regulations. Compliance with the requirements that apply to non-emerging growth companies but any such an election to opt out is irrevocable. We have elected not to opt out of such extended transition period, which means that when a standard is issued or revised these rules and it has different application dates for public or private companies, we, 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 regulations increase our legal and financial compliance costs, make comparison of our financial statements 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.

***Compliance obligations under the Sarbanes-Oxley Act may make it some activities more difficult, for us to effectuate our initial business combination, require substantial financial and management resources, time-consuming or costly and increase the time demand on our systems and costs of completing resources, particularly after we are no longer an initial business combination.***

Section 404 of the Sarbanes-Oxley Act “emerging growth company.” The SOX requires, among other things, that we evaluate maintain effective disclosure controls and report on our system of internal controls. Only in the event we are deemed to be a large accelerated filer or an accelerated filer, procedures and no longer qualify as an emerging growth company, will we be required to comply with the independent registered public accounting firm attestation requirement on our internal control over financial reporting. Further, for as long as we remain an emerging growth company, we will not be In order to maintain and, if required, to comply with the independent registered public accounting firm attestation requirement on improve our disclosure controls and procedures and internal control over financial reporting. The fact that we are reporting to meet this standard, significant resources and management oversight may be required. As a blank check company makes compliance with the requirements of the Sarbanes-Oxley Act particularly burdensome on us as compared to result, management's attention may be diverted from other public companies because a target company with which we seek to complete our initial business combination may not be in compliance with the provisions of the Sarbanes-Oxley Act regarding adequacy of its internal controls. The development of the internal control of any such entity to achieve compliance with the Sarbanes-Oxley Act may increase the time and costs necessary to complete any such business combination.

**Provisions in our amended and restated certificate of incorporation and Delaware law may inhibit a takeover of us, concerns, which could limit the price investors might be willing adversely affect our business and operating results. We may need to pay hire more employees in the future for or engage outside consultants to comply with these requirements, which will increase our Class A common stock and could entrench management.**

Our amended and restated certificate of incorporation contains provisions that may discourage unsolicited takeover proposals that stockholders may consider to be in their best interests. These provisions include a staggered board of directors and the ability of the board of directors to designate the terms of and issue new series of preferred shares, which may make the removal of management more difficult and may discourage transactions that otherwise could involve payment of a premium over prevailing market prices for our securities.

We are also subject to anti-takeover provisions under Delaware law, which could delay or prevent a change of control. Together these provisions may make the removal of management more difficult and may discourage transactions that otherwise could involve payment of a premium over prevailing market prices for our securities.

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**Our amended and restated certificate of incorporation requires, to the fullest extent permitted by law, that derivative actions brought in our name, actions against our directors, officers, other employees or stockholders for breach of fiduciary duty and other similar actions may be brought only in the Court of Chancery in the State of Delaware and, if brought outside of Delaware, the stockholder bringing the suit will be deemed to have consented to service of process on such stockholder's counsel, which may have the effect of discouraging lawsuits against our directors, officers, other employees or stockholders.**

Our amended and restated certificate of incorporation requires, to the fullest extent permitted by law, that derivative actions brought in our name, actions against our directors, officers, other employees or stockholders for breach of fiduciary duty and other similar actions may be brought only in the Court of Chancery in the State of Delaware and, if brought outside of Delaware, the stockholder bringing the suit will be deemed to have consented to service of process on such stockholder's counsel except any action (A) as to which the Court of Chancery in the State of Delaware determines that there is an indispensable party not subject to the jurisdiction of the Court of Chancery (and the indispensable party does not consent to the personal jurisdiction of the Court of Chancery within ten days following such determination), (B) which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, (C) for which the Court of Chancery does not have subject matter jurisdiction, or (D) any action arising under the Securities Act, as to which the Court of Chancery and the federal district court for the District of Delaware shall have concurrent jurisdiction. Any person or entity purchasing or otherwise acquiring any interest in shares of our capital stock shall be deemed to have notice of and consented to the forum provisions in our amended and restated certificate of incorporation. This choice of forum provision may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or any of our directors, officers, other employees or stockholders, which may discourage lawsuits with respect to such claims, although our stockholders will not be deemed to have waived our compliance with federal securities laws and the rules and regulations thereunder. Alternatively, if a court were to find the choice of forum provision contained in our amended and restated certificate of incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could harm our business, operating results and financial condition.

Our amended and restated certificate of incorporation provides that the exclusive forum provision will be applicable to the fullest extent permitted by applicable law. Section 27 of the Exchange Act creates exclusive federal jurisdiction over all suits brought to enforce any duty or liability created by the Exchange Act or the rules and regulations thereunder. As a result, the exclusive forum provision will not apply to suits brought to enforce any duty or liability created by the Exchange Act or any other claim for which the federal courts have exclusive jurisdiction.

**Cyber incidents or attacks directed at us could result in information theft, data corruption, operational disruption and/or financial loss.**

We depend on digital technologies, including information systems, infrastructure and cloud applications and services, including those of third parties with which we may deal. Sophisticated and deliberate attacks on, or security breaches in, our systems or infrastructure, or the systems or infrastructure of third parties or the cloud, could lead to corruption or misappropriation of our assets, proprietary information and sensitive or confidential data. As a blank-check company without significant investments in data security protection, we may not be sufficiently protected against such occurrences. We may not have sufficient resources to adequately protect against, or to investigate and remediate any vulnerability to, cyber incidents. It is possible that any of these occurrences, or a combination of them, could have adverse consequences on our business and lead to financial loss.

**If we effect our initial business combination with a company with operations or opportunities outside of the United States, we would be subject to a variety of additional risks that may negatively impact our operations.**

If we effect our initial business combination with a company with operations or opportunities outside of the United States, we would be subject to any special considerations or risks associated with companies operating in an international setting, including any of the following:

- higher costs and difficulties inherent in managing cross-border business operations and complying with different commercial and legal requirements of overseas markets; expenses.

**rules and regulations regarding currency redemption;**

- complex corporate withholding taxes on individuals;
- laws governing the manner in which future business combinations may be effected;

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- exchange listing and/or delisting requirements;
  - tariffs and trade barriers;
  - regulations related to customs and import/export matters;
  - local or regional economic policies and market conditions;
  - unexpected changes in regulatory requirements;
  - challenges in managing and staffing international operations;
  - longer payment cycles and challenges in collecting accounts receivable;
  - tax issues, including but not limited to tax law changes and variations in tax laws as compared to the United States;
  - currency fluctuations and exchange controls;
  - rates of inflation;
  - cultural and language differences;
  - employment regulations;
  - corruption;
  - protection of intellectual property;
  - data privacy;
  - changes in industry, regulatory or environmental standards within the jurisdictions where we operate;
    - public health or safety concerns and governmental restrictions, including those caused by outbreaks of pandemic disease such as the coronavirus (COVID-19) pandemic;
  - crime, strikes, riots, civil disturbances, terrorist attacks, natural disasters and wars;
  - deterioration of political relations with the United States; and
  - government appropriations of assets.

We may not be able to adequately address these additional risks. If we were unable to do so, our operations might suffer, which may adversely impact our results of operations and financial condition.

**Changes in the market for directors and officers liability insurance could make it more difficult and more expensive for us to negotiate and complete an initial business combination.**

In recent months, the market for directors and officers liability insurance for special purpose acquisition companies has changed in ways adverse to us and our management team. Fewer insurance companies are offering quotes for directors and officers liability coverage, the premiums charged for such policies have generally increased and the terms of such policies have generally become less favorable. These trends may continue into the future.

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The increased cost and decreased availability of directors and officers liability insurance could make it more difficult and more expensive for us to negotiate an initial business combination. In order to obtain directors and officers liability insurance or modify its coverage as a result of becoming a public company, the post-business combination entity might need to incur greater expense, accept less favorable terms or both. However, any failure to obtain adequate directors and officers liability insurance could have an adverse impact on the post-business combination's ability to attract and retain qualified officers and directors.

In addition, even after we were to complete an initial business combination, our directors and officers could still be subject to potential liability from claims arising from conduct alleged to have occurred prior to the initial business combination. As a result, in order to protect our directors and officers, the post-business combination entity may need to purchase additional insurance with respect to any such claims ("run-off insurance"). The need for run-off insurance would be an added expense for the post-business combination entity, and could interfere with or frustrate our ability to consummate an initial business combination on terms favorable to our investors.

**We may engage one or more of our underwriters or one of their respective affiliates to provide additional services to us after the IPO, which may include acting as a mergers and acquisitions advisor in connection with an initial business combination or as placement agent in connection with a related financing transaction. Our underwriters are entitled to receive deferred underwriting commissions that will be released from the trust account only upon a completion of an initial business combination. These financial incentives may cause them to have potential conflicts of interest in rendering any such additional services to us after the IPO, including, for example, in connection with the sourcing and consummation of an initial business combination.**

We may engage one or more of our underwriters or one of their respective affiliates to provide additional services to us, including, for example, identifying potential targets, providing mergers and acquisitions advisory services, acting as a placement agent in a private offering or arranging debt financing transactions. We may pay such underwriter or its affiliate fair and reasonable fees or other compensation that would be determined at that time in an arm's length negotiation; *provided* that no agreement will be entered into with any of the underwriters or their respective affiliates and no fees or other compensation for such services will be paid to any of the underwriters or their respective affiliates prior to the date that is 60 days from the date of the prospectus, unless FINRA determines that such payment would not be deemed underwriters' compensation in connection with the IPO. The underwriters are also entitled to receive deferred underwriting commissions that are conditioned on the completion of an initial business combination. The underwriters' or their respective affiliates' financial interests tied to the consummation of a business combination transaction may give rise to potential conflicts of interest in providing any such additional services to us, including potential conflicts of interest in connection with the sourcing and consummation of an initial business combination. In connection with the Proposed Business Combination, we engaged BTIG, LLC as financial advisor and placement agent.

**We have identified material weaknesses in our internal control over financial reporting. This reporting, and we may identify additional material weakness could continue weaknesses in the future that may cause us to adversely affect fail to meet our reporting obligations or result in material misstatements of our financial statements. If we fail to remediate any material weaknesses or if we otherwise fail to establish and maintain effective control over financial reporting, our ability to accurately and timely report our financial results of operations and financial condition accurately and in a timely manner.**

could be adversely affected.

Our management is responsible for establishing and maintaining adequate internal control over financial reporting designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP. Our management is likewise required, on a quarterly basis, to evaluate the effectiveness of our internal controls and to disclose any changes and material weaknesses identified through such evaluation in those internal controls. A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis.

We have identified a material weakness in our internal control over financial reporting related to the Company's application of ASC 480-10-S99-3A to its accounting classification of the public shares and related earnings per share calculations. As a result of this material weakness, our management has Based upon management's evaluation, we concluded that our internal control over financial reporting was not effective as of December 31, 2021. Historically, December 31, 2023, due primarily to: a portion failure to design and maintain formal accounting policies, procedures and controls to achieve complete, accurate and timely financial accounting, reporting and disclosures, including controls over the preparation and review of account reconciliations and journal entries; a failure to maintain a sufficient complement of personnel possessing the appropriate technical accounting competency, training, and experience to address, review, and record financial reporting transactions under U.S. GAAP; a failure to design and maintain adequate segregation of duties consistent with control objectives for key information technology systems that support financial reporting processes; and a failure to design and maintain formal and effective controls over information technology general controls for IT systems that are relevant to the preparation of the public shares was classified as permanent equity to maintain stockholders' equity greater than \$5 million on the basis that the Company will not redeem its public shares in an amount that would cause its net tangible assets to be less than \$5,000,001, as described in the Charter. Pursuant to the Company's re-evaluation financial statements.

[Table of the Company's application of ASC 480-10-S99-3A to its accounting classification of the public shares, the Company's management has determined that the public shares include certain provisions that require classification of all of the public shares as temporary equity regardless of the net tangible assets redemption limitation contained in the Charter. For a discussion of management's consideration of the material weakness identified related to the Company's application of ASC 480-10-S99-3A to its accounting classification of the public shares, see Part II, Item 9A: Controls and Procedures included in this Report.](#)

[We have identified a material weakness in our internal control over financial reporting related to the Company's evaluation of key terms of the Management Award Agreements granted to the directors of the Company. Stock based compensation related to awards contingent on a performance condition should not be recognized until that condition is met; therefore no stock-based compensation for these awards should have been recorded from the IPO through September 30, 2022.](#)

[We have identified a material weakness in our internal control over financial reporting related to the Company's recognition of fees incurred related to a certain agreement with a service provider which resulted in an understatement of the reported accrued expenses during the quarter ended December 31, 2022.](#)

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To respond to these material weaknesses we have devoted significant effort and resources to the remediation and improvement of our internal control over financial reporting, and we intend to take additional steps to remediate these material weaknesses including plans to enhance processes to better evaluate our research and understanding of the nuances of the complex accounting standards that apply to our financial statements, enhance access to accounting literature, research materials and documents and increase communication among our personnel and third-party professionals with whom we consult regarding complex accounting applications. The elements of our remediation plan can only be accomplished over time, and we can offer no assurance that these initiatives will ultimately have the intended effects.

Our efforts to remediate these material weaknesses may/might not be effective or prevent any future material weaknesses or significant deficiency in our internal control over financial reporting. If our efforts are not successful or other material weaknesses or control deficiencies occur in the future, we may be unable to report our financial results accurately on a timely basis, basis. In fact, we did not timely file a Form 10-Q for the quarter ended September 30, 2023 or a Form 10-K for the year ended December 31, 2023. We might not

be able to file timely reports in the future, which could cause our reported financial results to be materially misstated and result in the loss of investor confidence and cause the market price of our securities to decline.

### **Our management concluded**

**The Tax Receivable Agreement will require us to make cash payments to the Existing Equityholders in respect of certain tax benefits and such payments may be substantial. In certain cases, payments under the Tax Receivable Agreement may (i) exceed any actual tax benefits the Tax Group realizes or (ii) be accelerated.**

At the closing of the Business Combination, we, LGM, the Existing Equityholders and the TRA Holder Representative entered into the Tax Receivable Agreement, dated as of December 27, 2023. Pursuant to the Tax Receivable Agreement, we will generally be required to pay the Existing Equityholders 85% of the amount of savings, if any, in U.S. federal, state, local, and foreign taxes that there are based on, or measured with respect to, net income or profits, and any interest related thereto that the Tax Group (i.e., us and our applicable consolidated, unitary, or combined subsidiaries) realizes, or is substantial doubt about our ability deemed to continue realize, as a "going concern." result of certain Tax Attributes, which include:

- tax basis adjustments resulting from the repurchase by LGM of LGM Common Units (including any such adjustments resulting from certain payments made by us under the Tax Receivable Agreement) in accordance with the Company's assessment terms of going concern considerations accordance the Equity Purchase Agreement.
- tax basis adjustments resulting from taxable exchanges of LGM Common Units (including any such adjustments resulting from certain payments made by us under the Tax Receivable Agreement) acquired by us from an Existing Equityholder pursuant to the terms of the A&R Operating Agreement; and
- tax deductions in respect of portions of certain payments made under the Tax Receivable Agreement.

Payments under the Tax Receivable Agreement generally will be based on the tax reporting positions that we determine (with the amount of subject payments determined in consultation with FASB's Accounting Standards Update ("ASU") 2014-15, an advisory firm and subject to the TRA Holder Representative's review and consent), and the IRS or another taxing authority may challenge all or any part of a position taken with respect to Tax Attributes or the utilization thereof, as well as other tax positions that we take, and a court may sustain such a challenge. In the event that any Tax Attributes initially claimed or utilized by the Tax Group are disallowed, the Existing Equityholders will not be required to reimburse us for any excess payments that may previously have determined been made pursuant to the Tax Receivable Agreement, for example, due to adjustments resulting from examinations by taxing authorities. Rather, any excess payments made to such Existing Equityholder will be applied against and reduce any future cash payments otherwise required to be made by us to the applicable Existing Equityholders under the Tax Receivable Agreement, if any, after the determination of such excess. However, a challenge to any Tax Attributes initially claimed or utilized by the Tax Group might not arise for a number of years following the initial time of such payment and, even if challenged earlier, such excess cash payment may be greater than the amount of future cash payments that we might otherwise be required to make under the terms of the Tax Receivable Agreement. As a result, there might not be future cash payments against which such excess can be applied and we could be required to make payments under the Tax Receivable Agreement in excess of the Tax Group's actual savings in respect of the Tax Attributes.

Moreover, the Tax Receivable Agreement provides that, in certain Early Termination Events (as defined in the Tax Receivable Agreement), we will be required to make a lump-sum cash payment to all the Existing Equityholders equal to the present value of all forecasted future payments that would have otherwise been made under the Tax Receivable Agreement, which lump-sum payment would be based on certain assumptions, including those relating to there being sufficient future taxable income of the Tax Group to fully utilize the Tax Attributes over certain specified time periods and that all LGM Common Units that had not yet been exchanged for our Class A Common Stock or cash are deemed exchanged for cash. The lump-sum payment could be material and could materially exceed any actual tax benefits that the Tax Group realizes subsequent to such payment.

Payments under the Tax Receivable Agreement are our obligations and not obligations of LGM. Any actual increase in our allocable share of LGM and its relevant subsidiaries' tax basis in relevant assets, as well as the amount and timing of any payments under the Tax Receivable Agreement, will vary depending upon a number of factors, including the timing of exchanges, the market price of the our Class A Common Stock at the time of an exchange of LGM Common Units by an Existing Equityholder pursuant to the terms of the A&R Operating Agreement and the amount and timing of the

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recognition of the Tax Group's income for applicable tax purposes. While many of the factors that will determine the amount of payments that we will be required to make under the Tax Receivable Agreement are outside of our control, we expect that the aggregate payments we will be required to make under the Tax Receivable Agreement could be substantial and, if those payments substantially exceed the Company's tax benefit we realize in a given year or in the aggregate, could have an adverse effect on our financial condition, which may be material.

Any payments made by us under the Tax Receivable Agreement will generally reduce the amount of overall cash flow that might have otherwise been available to us. To the extent that we are unable to complete make timely payments under the Tax Receivable Agreement for any reason, the unpaid amounts will be deferred and will accrue interest until paid. Additionally, nonpayment for a business combination by May 28, 2023, then specified period and/or under certain circumstances may constitute a material breach of a material obligation under the Company will cease Tax Receivable Agreement and therefore accelerate payments due under the Tax Receivable Agreement. Furthermore, our future obligation to make payments under the Tax Receivable Agreement could make us a less attractive target for an acquisition, particularly in the case of an acquirer that cannot use some or all operations except for of the purpose of liquidating. The date for mandatory liquidation and subsequent dissolution raise substantial doubt about Tax Attributes that may be deemed realized under the Company's ability to continue as a going concern. The financial statements contained elsewhere Tax Receivable Agreement. Increases in this Report do not include any adjustments that might result from our inability to continue as a going concern.

**Adverse developments affecting the financial services industry, including events income tax rates, changes in income tax laws or concerns involving liquidity, defaults or non-performance by financial institutions, could disagreements with tax authorities can adversely affect our, LGM's or its subsidiaries' business, financial condition or results of operations, or our prospects.**

The funds in our operating account and our trust account are held in banks or other financial institutions. operations.

**Risks Related to Our cash held in non-interest bearing and interest-bearing accounts would exceed any applicable Federal Deposit Insurance Corporation ("FDIC") insurance limits. Should events, including limited liquidity, defaults, non-performance or other adverse developments occur with respect to the banks or other financial institutions that hold our funds, or that affect financial institutions or the financial services industry generally, or concerns or rumors about any events of these kinds or other similar risks, our liquidity may Securities**

**There can be adversely affected. For example, on March 10, 2023, the FDIC announced that Silicon Valley Bank had been closed by the California Department of Financial Protection and Innovation. Although we did not have any funds in Silicon Valley Bank or other institutions that have been closed, we cannot guarantee that the banks or other financial institutions that hold our funds will not experience similar issues.**

**In addition, investor concerns regarding the U.S. or international financial systems could result in less favorable commercial financing terms, including higher interest rates or costs and tighter financial and operating covenants, or systemic limitations on access to credit and liquidity sources, thereby making it more difficult for us to acquire financing on terms favorable to us in connection with a potential business combination, or at all, and could have material adverse impacts on our liquidity, our business, financial condition or results of operations, and our prospects. Our business may be adversely impacted by these developments in ways that we cannot predict at this time, there may be additional risks that we have not yet identified, and we cannot guarantee no assurance that we will be able to avoid negative comply with the continued listing standards of NYSE American, which could limit investors' ability to make transactions in our securities and subject us to additional trading restrictions.**

Our securities are currently listed on NYSE American. However, we cannot assure you that our securities will continue to be eligible for listing on NYSE American in the future. If NYSE American delists our securities from trading and we are not able to list our securities on another national securities exchange, our securities could be quoted on an over-the-counter-market, and we could face significant material adverse consequences, directly including:

- a limited availability of market quotations for our securities;
- reduced liquidity for our securities;
- a determination that the Class A Common Stock is a "penny stock" which will require brokers trading in the Class A Common Stock to adhere to more stringent rules and possibly result in a reduced level of trading activity in the secondary trading market for our securities;
- a limited amount of news and analyst coverage; and
- a decreased ability to issue additional securities or indirectly obtain additional financing in the future.

*We may redeem our publicly traded warrants prior to their exercise at a time that is disadvantageous to you, thereby making your warrants worthless.*

We have the ability to redeem outstanding warrants at any time after they become exercisable and prior to their expiration, at a price of \$0.01 per warrant, provided that the last reported sales price of our 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 ending on the third trading day prior to the date on which we give proper notice of such redemption and provided certain other conditions are met. If and when the warrants become redeemable by us, we may not exercise our redemption rights if the issuance of shares of common stock upon exercise of the warrants is not exempt from any failure registration or qualification under applicable state blue sky laws or we are unable to effect such registration or qualification. We will use our best efforts to register or qualify such shares of common stock under the blue sky laws of the state of residence in those states in which the warrants were offered by us in our IPO. Redemption of the outstanding warrants could force you (i) to exercise your warrants and pay the exercise price therefor at a time when it may be disadvantageous for you to do so, (ii) to sell your warrants at the then-current market price when you might otherwise wish to hold your warrants or (iii) to accept the nominal redemption price which, at the time the outstanding warrants are called for redemption, is likely to be substantially less than the market value of your warrants. None of the Private Placement Warrants will be redeemable by us so long as they are held by our Sponsor or its permitted transferees.

*If we raise capital in the future by issuing shares of common or preferred stock or other equity or equity-linked securities, convertible debt or other hybrid equity securities, our then existing stockholders may experience dilution,*

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*such new securities may have rights senior to those of our common stock, and the market price of our common stock may be adversely effected.*

If we raise capital in the future, our then existing stockholders may experience dilution. The Company's Certificate of Incorporation provide that preferred stock may be issued from time to time in one or more banks series. Our Board is authorized to fix the voting rights, if any, designations, powers, preferences, the relative, participating, optional or other financial institutions.

#### **ITEM 1B. UNRESOLVED STAFF COMMENTS**

Not applicable.

#### **ITEM 2. PROPERTY**

special rights and any qualifications, limitations and restrictions thereof, applicable to the shares of each series. Our executive offices are located at 375 Park Avenue, 24th Floor, New York, NY 10152 Board may, without stockholder approval, issue preferred stock with voting and our telephone number is 212-888-1040. Our executive offices are provided to us by our Sponsor. Effective as other rights that could adversely affect the voting power and other rights of May 25, 2021, we agreed to pay our sponsor a total the holders of \$10,000 per month for office space, utilities and secretarial and administrative support. We consider our current office space adequate for our current operations.

#### **ITEM 3. LEGAL PROCEEDINGS**

None.

#### **ITEM 4. MINE SAFETY DISCLOSURES**

Not applicable.

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### **PART II**

#### **ITEM 5. MARKET FOR COMMON EQUITY AND RELATED SHAREHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES**

##### **Market Information**

Our units, Class A the shares of common stock and warrants could have anti-takeover effects. The ability of our Board to issue preferred stock without stockholder approval could have the effect of delaying, deferring or preventing a change of control of us or the

removal of existing management. The issuance of any such securities may have the impact of adversely affecting the market price of our common stock.

***The Company's Certificate of Incorporation contains forum limitations for certain disputes between us and our stockholders that could limit the ability of stockholders to bring claims against us or our directors, officers and employees in jurisdictions preferred by stockholders.***

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

The foregoing forum provisions do not apply to claims arising under the Securities Act, the Exchange Act or other federal securities laws for which there is exclusive federal or concurrent federal and state jurisdiction. The Company's Charter also provides that, unless we consent in writing to the selection of an alternative forum, the federal district courts of the United States of America are the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act. The foregoing forum provisions may prevent or limit a stockholder's ability to file a lawsuit in a judicial forum that it prefers for disputes with us or our directors, officers or employees, which may discourage such lawsuits, make them more difficult or expensive to pursue, and result in outcomes that are less favorable to such stockholders than outcomes that may have been attainable in other jurisdictions, although stockholders will not be deemed to have waived our compliance with federal securities laws and the rules and regulations thereunder.

There is uncertainty as to whether a court would enforce such forum selection provisions as contained in the Company's Charter in connection with claims arising under the Securities Act because Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all such Securities Act claims.

In addition, notwithstanding the inclusion of the foregoing forum provisions in the Company's Charter, courts may find the foregoing forum provisions to be inapplicable or unenforceable in certain cases that the foregoing forum provisions purport to address, including claims brought under the Securities Act. If this were to occur in any particular lawsuit, we may incur additional costs associated with resolving such lawsuit in other jurisdictions or resolving lawsuits involving similar claims in multiple jurisdictions, all of which could harm our business, results of operations, and financial condition.

***We do not expect to declare any dividends in the foreseeable future.***

We do not anticipate declaring any cash dividends to holders of our Common Stock in the foreseeable future. Consequently, investors may need to rely on sales of their shares of our Common Stock after price appreciation, which may never occur, as the only way to realize any future gains on their investment.

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***If securities or industry analysts do not publish or cease publishing research or reports about our Company, our business, or our market, or if they change their recommendations regarding our securities adversely, the price and trading volume of our securities could decline.***

The trading market for our securities will be influenced by the research and reports that industry or securities analysts may publish about our Company, our business, market or competitors. Securities and industry analysts do not currently, and may never, publish research on our Company. If any of the analysts who may cover our Company change their recommendation regarding our shares of common stock adversely, or provide more favorable relative recommendations about our competitors, the price of our shares of common stock would likely decline. If any analyst who may cover our Company were to cease coverage of our Company or fail to regularly publish reports on it, we could lose visibility in the financial markets, which in turn could cause our share price or trading volume to decline.

***Substantial future sales of our Class A Common Stock by existing stockholders could cause the market price of our Class A Common Stock to decline.***

We are required to register, and have filed a registration statement to register, shares of our Class A Common Stock for resale by existing stockholders that represent approximately 92% of our total shares of Class A Common Stock outstanding on a fully diluted basis as at March 31, 2024, including shares owned by Segrave Jr., our CEO and Chairman, and EG Sponsor LLC. The shares of Class A Common Stock beneficially owned by Segrave Jr. are subject to a one-year lock-up period subject to the terms and conditions of the Stockholders' Agreement and the 5,625,000 shares of Class A Common Stock beneficially owned by EG Sponsor LLC are subject to a three-year lock-up period subject to the terms of the letter agreement executed in connection with the initial public offering of EG Acquisition Corp.

For existing stockholders who are not subject to contractual lock-up restrictions, and for Segrave Jr. and EG Sponsor LLC once their respective lock-up periods expire, after the registration statement for the resale of such shares is effective and until such time that it is no longer effective, the resale of these securities will be permitted pursuant to that registration statement. The resale, or expected or potential resale, of a substantial number of our shares of Class A Common Stock in the public market could adversely affect the market price for our Class A Common Stock and make it more difficult for you to sell your shares of Class A Common Stock at such times and at such prices that you deem desirable. Furthermore, we expect that because there will be a large number of securities registered pursuant to the registration statement, those existing selling stockholders will continue to offer the securities covered by the registration statement for a significant period of time, the precise duration of which cannot be predicted. Accordingly, the adverse market and price pressures resulting from an offering pursuant to the registration statement may continue for an extended period of time. In addition, the market reaction to such sales of our Class A Common Stock could also negatively affect the price of our publicly traded warrants.

#### **Item 1B. Unresolved Staff Comments**

None.

#### **Item 1C. Cybersecurity**

flyExclusive's management and Board of Directors recognize the importance of information security and managing risks from cybersecurity threats across the enterprise. We have designed our cybersecurity risk management program (the "Cybersecurity Program") to assess, identify, and manage these risks.

##### **Risk Management Strategy**

###### **Overview**

Our Cybersecurity Program is based on the Cybersecurity Framework ("CSF") promulgated by the National Institute of Standards and Technology ("NIST") and other applicable industry standards, and includes the following key elements:

1. identification and assessment of cybersecurity threats based on periodic internal and external assessments and monitoring, information from internal stakeholders, and external publications and resources;
2. technical and organizational safeguards designed to protect against identified threats, including documented policies and procedures, technical controls, and employee education and awareness;
3. processes to detect the occurrence of cybersecurity events, and maintenance of incident response and recovery and business continuity plans and processes; and

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4. a third-party risk management process to manage cybersecurity risks associated with our service providers, suppliers, and vendors.

The Cybersecurity Program is designed to foster a culture of cybersecurity risk management across the Company.

###### **Integration of Risk Management Processes**

Our Cybersecurity Program is integrated into the Company's overall risk management framework and function, which is overseen by management and the Audit and Risk Committee of the Board of Directors. To that end, management has implemented, with oversight from the Audit and Risk Committee, risk management policies and procedures designed to identify, assess, and mitigate enterprise risks, including those arising from cybersecurity threats.

###### **Engagement of Third Parties in Connection with Cybersecurity Risk Management**

The Company engages a range of external experts to assist in its assessment, identification, and management of risks from cybersecurity threats. These experts include cybersecurity consultants that we engage as part of our continuing efforts to evaluate and improve the effectiveness of

our Cybersecurity Program, and other cybersecurity service providers that help identify and detect cybersecurity threats and secure our systems and networks.

#### **Oversight of Third-Party Risks**

Our third-party service providers, suppliers, and vendors face their own risks from cybersecurity threats that could impact flyExclusive in certain circumstances. We have implemented processes for overseeing and managing these risks. Those processes include assessing these third parties' information security practices and requiring them to implement appropriate cybersecurity controls and otherwise agree to contractual terms designed to address cybersecurity risks in our agreements with them.

#### **Risks from Cybersecurity Threats**

As of the date of this report, flyExclusive has not identified any risks from cybersecurity threats, including as a result of any previous cybersecurity incidents, that could be considered material, individually or in the aggregate. Notwithstanding our vigilance and our Cybersecurity Program, we may not be successful in preventing or mitigating a cybersecurity incident that could have a material adverse effect on us. For further information, refer to Section 1A, Risk Factors, for a discussion of risks related to cybersecurity and technology.

#### **Governance**

flyExclusive seeks to ensure effective governance in managing risks associated with cybersecurity threats, as more thoroughly described below.

#### **Board of Directors Oversight**

The Audit and Risk Committee of the Board of Directors is responsible for the oversight of risks from cybersecurity threats. The Audit and Risk Committee receives periodic reports from the Company's Interim Chief Financial Officer ("ICFO") regarding risks from cybersecurity threats and the implementation and effectiveness of our Cybersecurity Program. The Audit and Risk Committee in turn briefs the Board at scheduled meetings about cybersecurity developments.

#### **Management's Role in Cybersecurity Risk Management**

Management recognizes the importance and its responsibility for day-to-day implementation of the Cybersecurity Program. To this end, we have implemented a governance structure that assigns specific responsibilities to key members of our management team, with oversight by our Board of Directors. The Director of Information Technology ("Director of IT") is primarily responsible for the operational aspects of our cybersecurity program. This includes the implementation of technical security measures, monitoring of our network and systems for security threats, and working with external experts in the assessment, identification and management of cybersecurity threats. The ICFO has primary responsibility for overseeing the Cybersecurity Program and assessing and managing risks from cybersecurity threats. Our ICFO holds a Bachelor of Science degree in English from the East Carolina University and has held an active CPA license from the state of North Carolina since 1987. The Director of IT has over 16 years of experience in Information Technology roles and holds a diploma of Applied Science in Graphic Arts and Imaging Technology.

#### **Monitoring of Cybersecurity Incidents**

The ICFO oversees our processes for the prevention, detection, mitigation and remediation of cybersecurity incidents. In the event of a cybersecurity incident, we have an established incident response plan and processes for investigating, responding to, and recovering from the incident. Depending on the nature and severity of the incident, the

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plan and those processes also provide for escalating notification of management and the Audit and Risk Committee of the Board of Directors.

### **Item 2. Properties**

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

### **Item 3. Legal Proceedings**

#### ***Wheels Up Partners LLC v. Exclusive Jets, LLC***

On June 30, 2023, flyExclusive served Wheels Up Partners, LLC ("WUP") a Notice of Termination of the parties' Fleet Guaranteed Revenue Program Agreement, dated November 1, 2021 (the "GRP Agreement") following material breaches of the GRP Agreement by WUP, including WUP's failure to pay outstanding amounts owed to flyExclusive under the GRP Agreement. Subsequently, on July 5, 2023, WUP filed a lawsuit against flyExclusive in the United States District Court for the Southern District of New York, alleging that flyExclusive breached the GRP Agreement and the

implied duty of good faith and fair dealing therein by wrongfully terminating the GRP Agreement. WUP contends that flyExclusive did not have a right to terminate the GRP Agreement, that the termination was thus ineffective, and instead constituted a material breach of the GRP Agreement. WUP alleges this gave WUP the right to terminate the GRP Agreement, which WUP alleges it has done. The complaint seeks compensatory damages in an unspecified amount and attorney's fees and costs. flyExclusive plans to defend this action vigorously. On August 23, 2023, WUP voluntarily dismissed from the original Southern District of New York lawsuit, but refiled an identical lawsuit against flyExclusive in New York state court. On September 12, 2023, flyExclusive removed the state court lawsuit to the United States District Court of the Southern District of New York. flyExclusive has filed a motion to dismiss for lack of personal jurisdiction or, in the alternative, to transfer venue to the United States District Court for the Eastern District of North Carolina.

#### Item 4. Mine Safety Disclosures

None.

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## PART II

#### Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

##### Market Information

Our shares of Class A Common Stock are listed on The New York Stock Exchange ("NYSE") the NYSE American under the symbols EGGFU, EGGF and EGGFW, respectively.

symbol "FLYX." Our warrants issued in our IPO are listed on the NYSE American under the symbol "FLYX.WS."

##### Holders

###### of Common Stock

As of December 31, 2022 March 31, 2024, there was one holder of record of our units, one holder we had approximately 683 stockholders of record of our Class A ordinary shares and three holders of record of our warrants.

###### Common Stock.

##### Dividends

We have not never paid any cash dividends on our common stock to date and do not intend to pay cash dividends prior to the completion of our initial business combination. Class A Common Stock. The payment of cash dividends by us in the future will be dependent upon our revenues and earnings, if any, capital requirements and general financial condition subsequent to completion of the Business Combination. The payment of any cash dividends will be within the discretion of our initial board of directors and the board of directors will consider whether or not to institute a dividend policy. The board of directors currently anticipates that we will retain all of our earnings, if any, for use in our business combination. If we incur and operations and, accordingly, the board of directors does not anticipate declaring any indebtedness dividends in connection the foreseeable future.

##### Equity Compensation Plans

The following table sets forth the indicated information as of December 31, 2023 with respect to our initial business combination, equity compensation plans:

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

Our 2023 Equity Incentive Plan (the “2023 Plan”) became effective on December 27, 2023 after its approval by our ability to declare dividends may be limited by restrictive covenants we may agree to in connection therewith.

#### stockholders on December 7, 2023.

#### Recent Sales of Unregistered Securities; Use of Proceeds from Registered Securities

On January 29, 2021, EG Sponsor LLC, our sponsor (the “Sponsor”) paid \$25,000 to cover certain of the Company’s offering costs in exchange for 5,750,000 founder shares. In March 2021, the Company effected a stock dividend of 1,437,500 shares with respect to its Class B common stock, resulting in its initial stockholders holding an aggregate of 7,187,500 founder shares. On May 25, 2021, the Sponsor surrendered an aggregate of 718,750 shares of Class B common stock for no consideration, which were cancelled, resulting in an aggregate of 6,468,750 shares of Class B common stock outstanding and held by the Sponsor. Up to 843,750 of the founder shares were subject to forfeiture depending on the extent to which the underwriters’ over-allotment was exercised. In July 2021, the 843,750 of the founder shares were forfeited due to the underwriters’ over-allotment not exercised.

The registration statement for the IPO was declared effective on May 25, 2021. On May 28, 2021, we consummated an IPO of 22,500,000 units (the “Units”), at an offering price of \$10.00 per Unit, generating gross proceeds of approximately \$225 million, and incurring offering costs of approximately \$13 million, inclusive of \$7.875 million in deferred underwriting commissions.

Simultaneously with the closing of the IPO, the Sponsor purchased an aggregate of 4,333,333 Private Placement Warrants at a price of \$1.50 per Private Placement Warrant, for an aggregate purchase price of \$6,500,000, in a private placement (the “Private Placement”). Each Private Placement Warrant entitles the holder to purchase one share of the Class A common stock at a price of \$11.50 per share. The Private Placement Warrants (including the Class A common stock issuable upon exercise of the Private Placement Warrants) will not be transferable, assignable or salable until three years after the completion of the initial Business Combination and they will not be redeemable by the Company so long as they are held by the Sponsor or its permitted transferees. The Sponsor, or its permitted transferees, has the option to exercise the Private Placement Warrants on a cashless basis. Except as described below, the Private Placement Warrants have terms and provisions that are identical to those of the warrants sold as part of the Units in the IPO, including as to exercise price, exercisability and exercise period. If the Private Placement Warrants are held by holders other than the Sponsor or its permitted transferees, the Private Placement Warrants will be redeemable by the Company and exercisable by the holders on the same basis as the warrants included in the Units sold in the IPO.

The Company incurred offering costs amounting to \$13,000,756 as a result of the IPO consisting of a \$4,500,000 underwriting discount, \$7,875,000 of deferred underwriting discount, and \$625,756 of other offering costs. The Company recorded \$12,609,646 of offering costs as a reduction of equity in connection with the Class A common stock included in the Units. The Company immediately expensed \$391,110 of offering costs in connection with the Warrants that were classified as liabilities.

We intend to use substantially all of the funds held in the trust account, including any amounts representing interest earned on the trust account (less taxes payable and deferred underwriting commissions), to complete our initial business combination. We may withdraw

interest income (if any) to pay income taxes, if any. We expect the interest income earned on the amount in the trust account (if any) will be sufficient to pay our income taxes. To the extent that our equity or debt is used, in whole or in part, as consideration to complete our initial business combination, the remaining proceeds held in the trust account will be used as working capital to finance the operations of the target business or businesses, make other acquisitions and pursue our growth strategies.

Prior to the completion of our initial business combination, we will have available to us the proceeds held outside the trust account, as well as certain funds from loans from our sponsor, members of our management team or any of their affiliates. We intend to use these funds to primarily identify and evaluate target businesses, perform business due diligence on prospective target businesses, travel to and from the offices, plants or similar locations of prospective target businesses or their representatives or owners, review corporate documents and material agreements of prospective target businesses, and structure, negotiate and complete a business combination.

**ITEM 6. [RESERVED]**

**ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

The following discussion and analysis of the Company's financial condition and results of operations should be read in conjunction with our audited financial statements and the notes related thereto which are included in "Item 8. Financial Statements and Supplementary Data" of this Annual Report on Form 10-K. Certain information contained in the discussion and analysis set forth below includes forward-looking statements. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of many factors, including those set forth under "Special Note Regarding Forward-Looking Statements," "Item 1A. Risk Factors" and elsewhere in this Annual Report on Form 10-K.

### **Overview**

We are a blank check company incorporated as a Delaware corporation and formed for the purpose of effecting a merger, capital stock exchange, asset acquisition, stock purchase, reorganization or similar business combination with one or more businesses. We intend to effectuate our initial business combination using cash from the proceeds of the initial public offering and the private placement of the private placement warrants, the proceeds of the sale of our shares in connection with our initial business combination (pursuant to a forward purchase agreement), shares issued to the owners of the target, debt issued to bank or other lenders or the owners of the target, or a combination of the foregoing.

On May 28, 2021, we consummated the initial public offering of 22,500,000 units, at a price of \$10.00 per unit, generating gross proceeds of \$225,000,000. Simultaneously with the closing of the initial public offering, we consummated the sale of 4,333,333 private placement warrants, at a price of \$1.50 per private placement warrant, in a private placement to the Sponsor, generating gross proceeds of \$6,500,000.

Of the net proceeds from the IPO and associated private placements, \$225,000,000 of cash was placed in the trust account. We cannot assure you that our plans to complete our Initial Business Combination will be successful.

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## **Recent Developments**

### ***Equity Purchase Agreement***

On October 17, 2022, we entered into an Equity Purchase Agreement with LGM, for certain limited purposes, the LGM Existing Equityholders and, for certain limited purposes, our sponsor, and, as the representative of the LGM Existing Equityholders, Thomas James Segrave, Jr.

### ***Business Combination***

Pursuant to the Equity Purchase Agreement, following the Closing, PubCo will be organized in Up-C structure, in which substantially all of the assets of the combined company will be held by LGM, and PubCo's only assets will be its equity interests in LGM. At the Closing:

- We will amend our existing certificate of incorporation to: (a) change our name to “flyExclusive, Inc.,” (b) convert all then-outstanding shares of our Class B common stock, par value \$0.0001 per share, into PubCo Class A Common Stock, and (c) issue to the LGM Existing Equityholders PubCo Class B Common Stock, which carries one vote per share but no economic rights;
- LGM and its members will adopt the Amended and Restated Limited Liability Company Agreement of LGM to: (a) restructure its capitalization to (i) issue to us the number of common units of LGM equal to the number of outstanding shares of PubCo Class A Common Stock immediately after giving effect to the Business Combination (taking into account any redemption of our Class A common stock, any potential PIPE investment, and the conversion of the Bridge); and (ii) reclassify the existing LGM common units into LGM common units, and (b) appoint PubCo as the managing member of LGM;
- As consideration for the PubCo Units, we will contribute to LGM the amount held in the trust account, less the amount of cash required to fund the redemption of our Class A common stock, par value \$0.0001 per share, held by eligible stockholders who elect to have their shares redeemed as of the Closing, plus the aggregate proceeds from any potential PIPE investment and the deemed contribution of the aggregate proceeds of the Bridge Notes, less the deferred underwriting commission payable to BTIG, LLC. Immediately after the contribution of the Contribution Amount, LGM will pay the amount of unpaid fees, commissions, costs or expenses that have been incurred by LGM and us in connection with the Business Combination by wire transfer of immediately available funds on behalf of LGM and us to those persons to whom such amounts are owed;
- Prior to the Closing, an aggregate amount equal to the sum of (without duplication), (a) an amount equal to (1) the amount of cash in the Trust Account, less (2) the required amount of cash taken from the Trust Account to fund any redemptions of our Class A common stock, plus (b) the aggregate proceeds received by the Company from the Post-Signing PIPE Investment (if any), plus (c) the aggregate proceeds received by LGM from the funding of the Bridge Notes, less (d) \$7,875,000 (representing the amount held in the Trust Account for the deferred underwriting commission) (the “Closing Date Cash Contribution Amount”);
- An amount equal to: (i) \$0, in the event the Closing Date Cash Contribution Amount is \$85,000,000 or less; (ii) the lesser of (A) \$15,000,000 and (B) the excess of the Closing Date Cash Contribution Amount over \$85,000,000, in the event the Closing Date Cash Contribution Amount is more than \$85,000,000 and less than \$185,000,000; and (iii) the lesser of (A) \$20,000,000 and (B) \$15,000,000 plus the excess of the Closing Date Cash Contribution Amount over \$185,000,000, in the event the Closing Date Cash Contribution Amount is more than \$185,000,000 (the “Closing Date Cash Repurchase Amount”); provided that should the Closing Date Cash Repurchase Amount result in the LGM Existing Equityholders owning, in the aggregate, less than fifty one percent (51%) of the outstanding LGM common units as of immediately following the Closing, the Closing Date Cash Repurchase Amount shall be capped at such amount as would result in the LGM Existing Equityholders owning, in the aggregate fifty one percent (51%) of the LGM common units; and
- Without any action on the part of any holder of our warrants, each warrant that is issued and outstanding immediately prior to the Closing will be converted into a warrant to purchase one whole share of PubCo Class A Common Stock in accordance with its terms.

### Bridge Note

In connection with the execution of the Equity Purchase Agreement, on October 17, 2022, LGM entered into a Senior Subordinated Convertible Note senior subordinated convertible note with an investor and, for certain limited provisions thereof, us, EGA, pursuant to which LGM borrowed an aggregate principal amount of \$50,000,000 at a rate of 10% per annum, payable in kind in additional shares of the Company upon the Closing. On October 28, 2022, LGM also entered into an Incremental Amendment with additional investors the ETG Omni LLC and EnTrust Magnolia Partners LP (together with EnTrust Emerald (Cayman) LP, the “Bridge Note Lenders”) on the same terms for an aggregate principal amount of \$35,000,000 (together with the subordinated convertible note discussed in this paragraph, the “Bridge Notes”), bringing the total principal amount of the Bridge Notes to \$85,000,000 in the aggregate. Concurrently with the Closing, the Bridge Notes will be automatically exchanged for the number of PubCo Class A Common Stock equal to the quotient of (a) the total amount owed by LGM under the Bridge Notes divided by (b) \$10.00 (subject to adjustment On December 27, 2023, in certain instances, as described in the Bridge Notes). Unless otherwise consented to by the Bridge Note Lenders, the proceeds of the Bridge Notes are to be used primarily for the acquisition of additional aircraft and payment of expenses related thereto.

## Results of Operations

We have neither engaged in any operations nor generated any revenues to date. The only activities through December 31, 2022 were organizational activities and those necessary to prepare for the initial public offering. We do not expect to generate any operating revenues until after the completion of our initial business combination. We will generate non-operating income in the form of interest income on marketable securities held in the trust account. We will incur expenses as a result of being a public company (for legal, financial reporting, accounting and auditing compliance), as well as for due diligence expenses in connection with searching for, and completing, a business combination.

For the year ended December 31, 2022, we had net income of \$3,666,886, which consisted of \$5,099,750 in change in fair value of warrants, and \$3,245,484 in interest earned on marketable securities held in the Trust Account, offset by \$4,077,647 in formation and operating costs and provision for income taxes of \$600,701.

For the period from January 28, 2021 (inception) through December 31, 2021, we had net income of \$2,146,285, which consisted of \$3,301,678 in change in fair value of warrants, \$228,557 in change in fair value of over-allotment liability and \$8,593 in interest earned on marketable securities held in the Trust Account, offset by \$1,001,433 in formation and operating costs and \$391,110 in warrant issuance costs.

## Going Concern and Liquidity

As of December 31, 2022, we had \$87,853 in our operating bank account, and working capital deficit of \$3,073,843.

Until the consummation of a business combination, the Company will be using the funds not held in the Trust Account for identifying and evaluating prospective acquisition candidates, performing due diligence on prospective target businesses, paying for travel expenditures, selecting the target business to acquire, and structuring, negotiating and consummating the business combination.

In addition, in order to finance transaction costs in connection with a business combination, our Sponsor or an affiliate of the Sponsor or certain of our officers and directors may, but are not obligated to, provide us Working Capital Loans. To date, there were no amounts outstanding under any Working Capital Loans.

The Company has incurred and expects to continue to incur significant costs in pursuit of its acquisition plans. The Company will need to raise additional capital through loans or additional investments from its Sponsor, stockholders, officers, directors, or third parties. The Company's officers, directors and Sponsor may, but are not obligated to, loan the Company funds, from time to time or at any time, in whatever amount they deem reasonable in their sole discretion, to meet the Company's working capital needs. Accordingly, the Company may not be able to obtain additional financing. Additionally, it is uncertain that we will have sufficient liquidity to fund the working capital needs of the Company through May 28, 2023 or through twelve months from the issuance of this report. These conditions raise substantial doubt about the Company's ability to continue as a going concern for a period of time within one year after the date that the financial statements are issued. If the estimate of the costs of identifying a target business, under taking in-depth due diligence and negotiating a business combination are less than the actual amount necessary to do so, the Company may have insufficient funds available to operate its business prior to its business combination. Moreover, the Company may need to obtain additional financing or draw on the Working Capital Loans (as defined below) either to complete a Business Combination or because it becomes obligated to redeem a significant number of the Public Shares upon consummation of the Business Combination, in which case the Company may issue additional securities or incur debt in connection with such Business Combination. Subject to compliance with applicable securities laws, the Company would only complete such financing simultaneously with the completion of the Business Combination.

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Combination and as contemplated by the Equity Purchase Agreement, the Bridge Notes automatically converted into the 9,550,274 shares of PubCo Class A Common Stock. The issuance of the Bridge Notes and their conversion into shares of our Class A Common Stock were exempt from registration under Section 4(a)(2) of the Securities Act.

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As previously reported, on December 26, 2023 and December 27, 2023, the Company and certain holders (the “Warrant Holders”) of EGA Public Warrants entered into a Warrant Exchange Agreements (the “Warrant Exchange Agreements”), which were privately negotiated with the holders party thereto. The EGA Public Warrants were previously issued pursuant to the Company’s public offering registered under the Securities Act of 1933, as amended (the “Securities Act”), pursuant to a prospectus dated May 25, 2021. Pursuant to the Warrant Exchange Agreements, the Warrant Holders agreed to exchange each of its EGA Public Warrants for shares of the Company’s Class A Common Stock. As a result of the warrant exchange under the Warrant Exchange Agreements (the “Warrant Exchange”), a total of 1,694,456 EGA Public Warrants were exchanged for 372,780 shares of Class A Common Stock. The Warrant Exchange was exempt from registration under Section 3(a)(9) of the Securities Act.

As previously reported, on March 4, 2024 the Company entered into a Securities Purchase Agreement (the “Stock Purchase Agreement”) with EnTrust Emerald (Cayman) LP, a Cayman Islands limited partnership (the “Preferred Purchaser”), pursuant to which the Company agreed to issue and sell to the Preferred Purchaser 25,000 shares of Series A Non-Convertible Redeemable Preferred Stock, par value \$0.0001 per share (the “Series A Preferred Stock”), at a purchase price of \$1,000 per share and a warrant (the “March 2024 Warrant”) to purchase shares of the Company’s Class A common stock. The transaction closed on March 4, 2024 and provided the Company approximately \$25 million of capital. Gregg S. Hymowitz, a member of the Company’s Board of Directors, to which position he was designated by an affiliate of the Purchaser, serves as the Founder and Chief Executive Officer of EnTrust Global Partners LLC (“EnTrust Global”), which is an affiliate of the Preferred Purchaser and may be deemed to be the beneficial owner of approximately 21.0% of the Company’s outstanding Common Stock. Each of EnTrust Global and Mr. Hymowitz disclaims beneficial ownership of such securities except to the extent of its or his pecuniary interest therein. Gary Fegel is also a member of the Company’s Board of Directors, to which position he was designated by an affiliate of the Preferred Purchaser. As required by the Company’s internal policies, this transaction was approved by the Audit Committee of the Company’s Board of Directors, which consists of independent disinterested directors, and was also approved by the Company’s Board of Directors, with only disinterested directors voting (which excluded Mr. Hymowitz and Mr. Fegel).

#### Issuer Purchases of Equity Securities

We did not make any purchases of our common stock during the three months ended December 31, 2023, which is the fourth quarter of our fiscal year.

#### Item 6. [Reserved]

#### Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations

*The following discussion and analysis of our financial condition and results of operations should be read together with our financial statements and related notes included elsewhere in this Report. Management’s discussion and analysis contains forward-looking statements, such as statements of our plans, objectives, expectations, and intentions. Any statements that are not statements of historical fact are forward-looking statements. When used, the words “believe,” “plan,” “intend,” “anticipate,” “target,” “estimate,” “expect” and the like, and/or future tense or conditional constructions (“will,” “may,” “could,” “should,” etc.), or similar expressions, identify these forward-looking statements. These forward-looking statements are subject to risks and uncertainties including those under “Risk Factors” in Item 1A in this Report that could cause actual results or events to differ materially from those expressed or implied by the forward-looking statements. Our actual results and the timing of events could differ materially from those anticipated in these forward-looking statements as a result of several factors. We do not undertake any obligation to update forward-looking statements to reflect events or circumstances occurring after the filing date of this report.*

#### Overview of Our Business

flyExclusive is a premier owner and operator of curated private aviation experiences dedicated to surpassing passenger expectations for quality, convenience, and safety. Our mission is to be the world’s most vertically integrated private aviation company through capital-efficient program growth, an industry-leading pricing model, optimal dispatch availability, in-house training, and a controlled premium customer experience on modernized aircraft. As of December 31, 2023, we had over 100 aircraft in our owned and leased fleet that includes light, midsize, super-midsize, and large jets. As one of the nation’s largest Citation operators, flyExclusive has curated a versatile fleet of Citation CJ3 / CJ3+, Citation Excel / XLS / XLS+, Citation Encore+, Citation Sovereign, and Citation X aircraft. Gulfstream jets round out our

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Company fleet of large aircraft. We have a long track record of success and growth across a full range of industry services. Our core competitive advantage is the purpose-built, in-house control of decisions and processes needed to operate a successful private aviation company through a range of market environments.

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

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

GRP revenue is derived from contracts with wholesale customers whereby the customer commits to utilize a specified minimum number of hours per quarter in exchange for guaranteed access to aircraft. Each aircraft requires a deposit that is recorded on the balance sheet. Revenue is billed weekly and guaranteed based on contract rates for light, midsize, and super-midsize aircraft. Contract terms allow us to bill for ancillary services based on the circumstances of a flight. Rates are assessed each quarter to account for changes in fuel cost. Revenue from GRP was not derived during the second half of the year ended December 31, 2023 and we do not anticipate future revenue from GRP. See discussion of the termination of the GRP Agreement in the following section.

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

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

### **Key Factors Affecting Results of Operations**

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

#### ***Economic Conditions***

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

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#### ***Competition***

Many of the markets in which we operate are competitive as a result of the expansion of existing private aircraft operators, expanding private aircraft ownership and alternatives such as luxury commercial airline service. We compete against a number of private aviation operators with different business models, and local and regional private charter operators. Factors that affect competition in our industry include price, reliability, safety, regulations, professional reputation, aircraft availability, equipment, the quality, consistency and ease of service, willingness and ability to serve specific

airports or regions and investment requirements. Our competitors might capture a share of our present or potential customer base, which could adversely affect our business, financial condition and results of operations.

#### **Pilot Availability and Attrition**

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

#### **Wheels Up (“WUP”) Termination**

On June 30, 2023, we served WUP a Notice of Termination of the parties' Fleet Guaranteed Revenue Program Agreement, dated November 1, 2021 (the “GRP Agreement”). As a result of the termination, we do not believe that the GRP program will generate revenue following the date of the GRP Agreement's termination, which will have a material impact on the financial statements for the year ending December 31, 2023. For some time prior to the termination of the GRP Agreement we were planning, for the strategic reasons of avoiding excessive reliance on a single customer and shifting towards focusing on wholesale and contractual retail customers, to scale down business with WUP, and we had already reflected scaled down revenue accordingly in our publicly disclosed projections, with GRP revenue expected to total only 1.5% of total forecasted revenue for fiscal year 2024. However, the termination of the GRP Agreement will have a material impact on the financial statements beyond 2023 until we are able to successfully effectuate this planned strategic shift and replace the revenue lost from the termination of the GRP Agreement. Additionally, as of June 27, 2023, WUP accounted for \$15.7 million in receivables, which was a significant majority of total receivables at that time. When the agreement with WUP was terminated on June 30, 2023 the receivable balances were eliminated, as allowable under relevant accounting standards, by being applied against existing deposits held under the agreement. The Agreement provided for an orderly draw down period of the designated aircraft at a maximum of two aircraft per month. The Company submitted a bill for monies due under the GRP Agreement during the draw down period through July 31, 2024. Billed but unrecorded amounts through December 31, 2023 totaled \$59.0 million.

See the section entitled “Risk Factors — Risks Relating to LGM - On June 30, 2023, we terminated our agreement with Wheels Up that accounted for a significant portion of our total revenues the past two years. Such termination could have an adverse effect on our business, results of operations and financial condition if we fail to materially replace the revenue derived from Wheels Up moving forward as expected” and Note 22 “Commitments and Contingencies” of the notes to the consolidated financial statements included elsewhere in this Report, for more information on the WUP termination.

#### **Fleet Modernization**

During the fourth quarter of 2023, we began the process of modernizing our fleet. Our plan is to sell a portion of our fleet that is older and replace those aircraft with newer models, which will grant our customers access to newer aircraft. We expect the fleet modernization to take place over the next two years and do not anticipate a material decline to revenue as we will replace sold models with the newer aircraft.

#### **Business Impact of COVID-19**

In March 2020, the COVID-19 outbreak was declared a pandemic by the World Health Organization. During the first half of 2020, in order to minimize the adverse impact of the COVID-19 pandemic on our operating costs and cash flows we took a number of temporary actions, including offering voluntary furloughs to our employees, implementing a mandatory reduction in all work schedules and delaying certain planned initiatives and internal investments. Since that time, we have reduced or eliminated the majority of these temporary actions. However, as a result of the increased rate of COVID-19 spread during a portion of the fourth quarter of 2021 and into the first quarter of 2022, flight volumes were negatively impacted, primarily due to a combination of customer cancellations, access to third-party supply and

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reduced crew availability resulting from COVID-19 exposure. These negative impacts could increase again at any time. Moving forward, however, we believe that COVID-19 pandemic has led to a shift in consumer prioritization of wellness and safety, with private aviation viewed increasingly by those in the addressable market as a health-conscious decision rather than a discretionary luxury. We believe this will translate into an increase in flight demand over time.

#### **CARES Act**

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

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

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

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

As of December 31, 2023, we had applied for \$9.5 million and received \$9.0 million of ERC. Our legal counsel has issued a legal opinion that we, more likely than not, qualified for the ERC. However, it remains uncertain whether we meet the qualifications required to receive the ERC. Therefore, the balance was included in accrued expenses and other current liabilities in the consolidated balance sheets should we be required to potentially repay the ERC.

### Non-GAAP Financial Measures

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

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

### Adjusted EBITDA

We calculate Adjusted EBITDA as net income (loss) adjusted for (i) interest income (expense), (ii) income tax expense, (iii) depreciation and amortization, (iv) Equity-based Compensation, (v) public company readiness expenses, (vi) gain on forgiveness of CARES Act Loan, (vii) change in fair value of derivative liability, (viii) change in fair value of warrant liabilities, and (ix) gain on extinguishment of debt (related to the derivative liability).

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

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

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

	Year Ended December 31,	
	2023	2022
Net loss	\$ (54,738)	\$ (4,152)

Add (deduct):		
Interest income	(4,629)	(782)
Interest expense	22,223	8,291
Income tax expense	—	—
Depreciation and amortization	26,982	23,114
Equity-based Compensation	882	—
Public company readiness expenses <sup>(1)</sup>	9,853	1,660
Gain on forgiveness of CARES Act Loan	(339)	—
Change in fair value of derivative liability	14,589	(470)
Change in fair value of warrant liabilities	334	—
Gain on extinguishment of debt	(14,843)	—
Adjusted EBITDA	\$ 314	\$ 27,661

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

### Key Operating Metrics

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

The following table summarizes our key operating metrics:

	December 31,	
	2023	2022
Ending aircraft on certificate	102	91

	Year Ended December 31,	
	2023	2022
Members contributing to revenues*	948	684
Active members*	876	670
Average aircraft on certificate	96	90
Aircraft contributing to revenues	104	91
Total flight hours**	55,518	58,207
Total hours per aircraft***	579.3	646.0
Members per aircraft*	9.1	7.5

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

\*\* LGM's historical flight hours for the last two fiscal years, without flight hours derived from GRP are as follows: 47,663 hours for the year ended December 31, 2023 and 37,971 hours for the year ended December 31, 2022.

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\*\*\* LGM's historical hours per aircraft for the last two fiscal years, without flight hours derived from GRP are as follows: 497.4 hours per aircraft for the year ended December 31, 2023 and 421.4 hours per aircraft for the year ended December 31, 2022.

### Members contributing to revenues

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

#### **Active Members**

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

#### **Average aircraft on certificate**

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

#### **Ending aircraft on certificate**

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

#### **Aircraft contributing to revenues**

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

#### **Total flight hours**

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

#### **Total hours per aircraft**

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

#### **Members per aircraft**

We define members per aircraft as members contributing to revenues divided by aircraft contributing to revenues. We use members per aircraft to control the customer experience through the management of our customer to aircraft ratio. In the fourth quarter of 2023, 99.5% of our customers were fulfilled on our fleet without the potential high-cost of reliance of third parties to meet demand. An optimal customer to aircraft ratio allows us to gain a competitive advantage by having sufficient aircraft available to meet member demand and be flexible to backfill unused aircraft for wholesale use.

### **Components of Results of Our Operations**

The key components of our results of operations include:

#### **Revenue**

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

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

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

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

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

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

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

### **Costs and expenses**

#### *Cost of revenue*

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

#### *Selling, general and administrative*

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

#### *Depreciation and amortization*

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

### **Other income (expense)**

#### *Interest income*

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

#### *Interest expense*

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

#### *Gain on forgiveness of CARES Act loan*

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

#### *Gain on sale of property and equipment*

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

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#### *Gain on lease termination*

Consists of gains (losses) that arise from the difference between the carrying amount of right-of-use assets and lease liability recorded on the consolidated balance sheets.

#### *Change in fair value of derivative liability*

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

### Change in fair value of warrant liabilities

Change in fair value of warrant liabilities reflects the non-cash change in fair value of our warrant liabilities attributed to our warrants.

### Gain on extinguishment of debt

Consists of gain on the conversion of our bridge notes at the closing of the Merger.

### Other expense

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

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## Results of Operations

### Results of Our Operations for the Year Ended December 31, 2023 Compared to the Year Ended December 31, 2022

The following table sets forth our results of operations for the years ended December 31, 2023 and 2022 (in thousands, except percentages):

	Year Ended December 31,		Change in	
	2023	2022	\$	%
<b>Revenue</b>	\$ 315,362	\$ 320,042	\$ (4,680)	(1 %)
<b>Costs and expenses</b>				
Cost of revenue	264,176	255,441	8,735	3 %
Selling, general and administrative	75,430	53,794	21,636	40 %
Depreciation and amortization	26,982	23,114	3,868	17 %
<b>Total costs and expenses</b>	<b>366,588</b>	<b>332,349</b>	<b>34,239</b>	<b>10 %</b>
<b>Loss from operations</b>	<b>(51,226)</b>	<b>(12,307)</b>	<b>(38,919)</b>	<b>N/M</b>
<b>Other income (expense)</b>				
Interest income	4,629	782	3,847	N/M
Interest expense	(22,223)	(8,291)	(13,932)	(168 %)
Gain on forgiveness of CARES Act loan	339	—	339	N/M
Gain on sale of property and equipment	13,905	15,333	(1,428)	(9) %
Gain on lease termination	29	143	(114)	(80 %)
Change in fair value of derivative liability	(14,589)	470	(15,059)	N/M
Change in fair value of warrant liabilities	(334)	—	(334)	N/M
Gain on extinguishment of debt	14,843	—	14,843	N/M
Other expense	(111)	(282)	171	61 %
<b>Total other income (expense), net</b>	<b>(3,512)</b>	<b>8,155</b>	<b>(11,667)</b>	<b>(143) %</b>
Loss before income taxes	(54,738)	(4,152)	(50,586)	N/M
Income tax expense	—	—	—	N/M
<b>Net loss</b>	<b>(54,738)</b>	<b>(4,152)</b>	<b>(50,586)</b>	<b>N/M</b>
Less: Net income attributable to redeemable noncontrolling interests	1,080	—	1,080	N/M
Less: Net loss attributable to noncontrolling interests	(8,983)	(10,200)	1,217	12 %
<b>Net income (loss) attributable to flyExclusive, Inc.*</b>	<b>\$ (46,835)</b>	<b>\$ 6,048</b>	<b>\$ (52,883)</b>	<b>N/M</b>

### Revenue

(In thousands)	Year Ended December 31,		Change	
	2023	2022	Amount	%
Jet club and charter	\$ 237,802	\$ 194,874	\$ 42,928	\$— 22 %
Guaranteed revenue program	66,916	123,104	(56,188)	0 (46) %
Fractional ownership	6,038	508	5,530	0 N/M
Maintenance, repair, and overhaul	4,606	1,556	3,050	0 196 %
<b>Total revenue</b>	<b>\$ 315,362</b>	<b>\$ 320,042</b>	<b>\$ (4,680)</b>	<b>\$— (1 %)</b>

Jet club and charter revenue increased by \$42.9 million, or 22%, to \$237.8 million for the year ended December 31, 2023 as compared to the year ended December 31, 2022. 105.2% of the increase in jet club and charter revenue was attributable to an increase in flight hours, partially offset by a decrease in effective hourly rates of 5.2% during the year ended December 31, 2023 compared to the year ended December 31, 2022.

GRP revenue decreased by \$56.2 million, or 46%, to \$66.9 million for the year ended December 31, 2023 as compared to the year ended December 31, 2022. The decrease was due to the termination of the WUP agreement that

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occurred on June 30, 2023, resulting in no GRP revenue during the third and fourth quarters of 2023. Due to the termination of the GRP Agreement with WUP, our sole GRP customer, we do not expect new GRP generated revenue beyond the year ended December 31, 2023.

Fractional ownership revenue increased by \$5.5 million for the year ended December 31, 2023 as compared to the year ended December 31, 2022 as the fractional ownership program was not introduced until the second quarter of 2022 and generated an immaterial amount of revenue during the year ended December 31, 2022.

Maintenance, repair, and overhaul revenue increased by \$3.0 million for the year ended December 31, 2023 as compared to the year ended December 31, 2022 as the MRO program was launched in the third quarter of 2021, but the Company did not start performing substantial services for outside customers until the second half of 2022.

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

### **Costs and expense**

#### *Cost of revenue*

Cost of revenue increased by \$8.7 million, or 3%, for the year ended December 31, 2023 compared to the year ended December 31, 2022, primarily due to:

- An increase of \$9.8 million for salaries & wage related expense;
- An increase of \$5.9 million for aircraft lease expense;
- An increase of \$4.7 million for aircraft repair & maintenance;
- An increase of \$2.0 million for affiliate lift expense;
- An increase of \$0.9 million in aircraft IT & WIFI;
- A decrease of \$13.5 million for cost of fuel mainly due to a national decrease in fuel prices, which was slightly offset by an overall increase in our aircraft usage for the year ended December 31, 2023 as compared to the year ended December 31, 2022;
- A decrease of \$0.8 million for insurance expense; and
- A decrease of \$0.2 million for ground expenses.

The remaining fluctuations were not individually significant.

#### *Selling, general and administrative*

Selling, general and administrative expenses increased by \$21.6 million, or 40%, for the year ended December 31, 2023 compared to the year ended December 31, 2022. The increase in selling, general and administrative expenses was primarily attributable to:

- An increase of \$14.2 million in professional fees, advertising, and marketing costs;

- An increase of \$4.0 million in personnel-related expenses, as we expanded our headcount to serve our growing customer base;
- An increase of \$2.7 million in bad debt expense;
- An increase of \$1.2 million in software costs;
- An increase of \$0.9 million in rent expense; and
- A decrease of \$1.2 million in training costs.

The remaining fluctuations were not individually significant.

#### *Depreciation and amortization*

*Depreciation and amortization* expenses increased by \$3.9 million, or 17%, for the year ended December 31, 2023 compared to the year ended December 31, 2022. The increase was primarily due to an increase in depreciation expense resulting from newly purchased aircraft.

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#### **Other income (expense)**

##### *Gain on forgiveness of CARES Act loan*

Gain on forgiveness of CARES Act Loan reflects payroll protection program forgiveness. We did not access those programs in 2022 to support the operations of our business, whereas they resulted in \$0.3 million in grant income during the year ended December 31, 2023 due to additional payments being received in 2023. We do not expect significant grant income in the future.

##### *Interest income*

Interest income increased by \$3.8 million for the year ended December 31, 2023 compared to the year ended December 31, 2022, primarily as a result of an increase in interest income on treasury bills and no comparable activity during the year ended December 31, 2022.

##### *Interest expense*

Interest expense increased by \$13.9 million, or 168%, for the year ended December 31, 2023 compared to the year ended December 31, 2022. This increase in interest expense was primarily attributable to the \$85 million convertible notes funded in Q4 of 2022, an increase in the outstanding principal balance on notes payable, and an increase in the interest rate on our variable rate loans.

##### *Gain on sale of property and equipment*

Gain on sale of property and equipment decreased by \$1.4 million, or 9%, as a result of the favorable environment for selling aircraft for the year ended December 31, 2022 as compared to the year ended December 31, 2023.

##### *Change in fair value of derivative liability*

Change in fair value of derivative liability changed by \$15.1 million for the year ended December 31, 2023 compared to the year ended December 31, 2022 due to the identification and measurement of an embedded derivative related to our convertible notes in 2023. There was no comparable activity in 2022.

##### *Change in fair value of warrant liabilities*

Change in fair value of warrant liabilities changed by \$0.3 million for the year ended December 31, 2023 compared to the year ended December 31, 2022 due to warrants recorded during the fourth quarter of 2023 as a result of the Merger. There was no comparable activity in 2022.

##### *Gain on extinguishment of debt*

Gain on extinguishment of debt changed by \$14.8 million for the year ended December 31, 2023 compared to the year ended December 31, 2022 due to the identification of a gain upon the conversion of our Bridge Notes at closing of the Merger. There was no comparable activity in 2022.

##### *Other expense*

Other expense changed by \$0.2 million, or 61%, for the year ended December 31, 2023 compared to the year ended December 31, 2022, primarily as a result of a \$0.2 million decrease in dividend income and a \$0.5 million increase in state taxes, partially offset by a \$0.4 million increase on the write-off of an aircraft deposit credit balance and a \$0.2 million increase on realized losses related to marketable securities.

The remaining fluctuations were not individually significant.

#### **Liquidity and Capital Resources**

## **Sources and Uses of Liquidity**

Our principal sources of liquidity have historically consisted of financing activities, including proceeds from equity of the owner, notes payable, and operating activities, primarily from the increase in deferred revenue associated with prepaid flights. As of December 31, 2023 we had \$11.6 million of cash and cash equivalents, \$71.2 million in short-term investments in securities and \$2.1 million available borrowing capacity under the term loan. As of December 31, 2023, we had \$0.5 million of available borrowing capacity under the revolving line of credit. In addition, as described below, in January 2024 we entered into a senior secured note to borrow up to \$25.8 million and as described below, in March 2024, we issued non-convertible redeemable preferred stock providing the Company approximately \$25.0 million of capital. Our

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cash equivalents primarily consist of liquid money market funds, and our investments primarily consist of fixed-income securities including corporate bonds, government bonds, municipal issues, and U.S. treasury bills.

We have consistently maintained a working capital deficit, in which our current liabilities exceed our current assets. We believe that the working capital deficit is common within the private aviation industry and is primarily, but not wholly, due to the nature of our deferred revenue, primarily related to prepaid flights, which are performance obligations generally for future flights. Our primary needs for liquidity are to fund working capital, debt service requirements, lease and purchase obligations, capital expenditures, and for general corporate purposes. Our cash needs vary from period to period, primarily based on the timing of aircraft purchases and the costs of aircraft engine overhauls, repairs, and maintenance.

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

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

### **Cash Requirements**

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

#### *Short Term Notes Payable*

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

#### *Credit Facility*

In August 2018, we entered into a term loan agreement with a maximum borrowing capacity of \$12.3 million. We have since entered into amended term loan agreements, which have raised the maximum borrowing capacity to \$15.3 million as of December 31, 2023.

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

#### *Convertible Notes*

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

The Bridge Notes accrue interest daily at annual rate of 10% prior to the occurrence of the termination of the Equity Purchase Agreement (the "De-SPAC Termination Event") and 15% after the De-SPAC Termination Event. Before the De-SPAC Termination Event, interest is payable in kind, with accrued interest added to the outstanding principal balance and deemed to be paid. In the event of a De-SPAC Termination Event, the outstanding principal amount, plus payable in-kind interest, becomes payable in a monthly amount equal to the outstanding obligation divided by 24 months. The convertible notes were exchanged for equity on December 27, 2023 upon the closing of the De-SPAC combination.

#### *Credit Facility (Revolving Line of Credit)*

In March 2023, the Company entered into a revolving uncommitted line of credit loan (the "Master Note"). The Master Note provides a line of credit of up to \$60.0 million. At the Company's option, the annual interest rate on term loans drawn from the Master Note is equal to either the Prime-Based Rate, defined as the greater of 1.25% or the prime rate minus 1.88%, or the Daily Simple SOFR-Based Rate, defined as the greater of 1.25% or the Daily Simple SOFR plus 1.25%. On March 9, 2024, we entered into an amendment to extend the maturity date of the Master Note from March 9, 2024 to September 9, 2025.

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We drew an initial \$44.3 million principal amount in March 2023, with the selected interest option of SOFR plus 1.25%. In April, September and October 2023, we drew additional \$3.3 million, \$8.7 million and \$3.0 million principal amounts, respectively, under the Master Note with the selected interest option of SOFR plus 1.25%.

### *Senior Secured Notes*

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

### *Long-Term Loan Agreement*

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

See Note 15, "Debt," to our financial statements included elsewhere in this filing for further information of our debt arrangements.

### *January 2024 Senior Secured Note*

On January 26, 2024 (the "Effective Date"), FlyExclusive Jet Share, LLC (the "Borrower"), a wholly-owned indirect subsidiary of the Company entered into a Senior Secured Note (the "Senior Secured Note") with ETG FE LLC (the "Noteholder"), Kroll Agency Services, Limited, as administrative agent (the "Administrative Agent") and Kroll Trustee Services, Limited, (the "Collateral Agent").

The Senior Secured Note covers borrowings of an aggregate principal amount of up to approximately \$25.8 million, up to \$25.0 million of which is to finance the purchase or refinancing of aircraft relating to the Company's fractional ownership program (the "Revolving Loan"). The Senior Secured Note matures on January 26, 2026 (the "Maturity Date"), at which time the aggregate outstanding principal amount and all accrued and unpaid interest (including accrued and unpaid fees and expenses) shall be due and payable.

Following the occurrence of any Prepayment Event (as defined in the Senior Secured Note), at the option of the then majority Noteholders, the Borrower shall prepay the outstanding principal amount, all accrued and unpaid interest, and all other amounts in cash necessary to pay the Senior Secured Note in full.

The Senior Secured Note carries an interest rate of 3.00% per annum for the outstanding principal amount on deposit in the cash escrow account and 13.00% per annum for the outstanding principal amount that is withdrawn and released to the Borrower. All accrued and unpaid interest is due and payable in arrears on the last day of each calendar month (a "Payment Date"), commencing with the last day of the first calendar month following the first borrowing date and continuing until payment in full. On each Payment Date, the Borrower shall make a payment of the outstanding principal amount equal to 1.00% of each advance amount withdrawn from the cash escrow account and released to the Borrower and that has been outstanding for more than thirty (30) days.

### *March 2024 Non-Convertible Redeemable Preferred Stock*

On March 4, 2024 (the "Effective Date" or the "Initial Issue Date"), flyExclusive, Inc., a Delaware corporation (the "Company") entered into a Securities Purchase Agreement (the "Agreement") with EnTrust Emerald (Cayman) LP, a Cayman Islands limited partnership (the "Purchaser"), pursuant to which the Company agreed to issue and sell to the Purchaser 25,000 shares of Series A Non-Convertible Redeemable Preferred Stock, par value \$0.0001 per share (the "Series A Preferred Stock"), at a purchase price of \$1,000 per share and a warrant (the "Warrant") to purchase shares of the Company's Class A common stock, par value \$0.0001 per share (the "Common Stock"). The transaction closed on the Effective Date and provides the Company approximately \$25 million of capital.

Dividends will be due and payable annually in arrears on March 4 (the "Dividend Payment Date") by either (A) cash payment or (B) to the extent not declared and paid in cash on the Dividend Payment Date, automatically compounded; provided that, the Company may not declare and pay in cash any dividends prior to the third Dividend Payment Date. On the third Dividend Payment Date, the Company must declare and pay at least 43% of the dividends in cash, and with respect to each subsequent Dividend Payment Date, the Company must pay 100% of the dividends in cash.

After the first-year anniversary of the Initial Issue Date, to the extent not prohibited by law, the Company may elect to redeem all outstanding shares of Series A Preferred Stock, or any portion thereof, for cash at a redemption price per

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share as detailed in the Series A Certificate of Designation. After the fifth-year anniversary of the Initial Issue Date, each holder of the Series A Preferred Stock may elect to require the Company to redeem all of its outstanding shares of Series A Preferred Stock, or any portion thereof, for cash at a redemption price per share as detailed in the Series A Certificate of Designation. The Series A Certificate of Designation also describes events triggering mandatory redemption of the Series A Preferred Stock, including a Bankruptcy Event or a Change of Control Event, each as defined in the Series A Certificate of Designation.

### **Leases**

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

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

See Note 16, "Leases" to our financial statements included elsewhere in this filing for further detail of our lease arrangements.

### **Short-Term Expenditures**

We currently anticipate that cash required for expenditures for the next 12 months is approximately \$137.6 million, which includes accounts payable of \$30.2 million, other current liabilities of \$28.7 million, short-term notes payable of \$33.3 million, short-term debt contractual principal payments due of \$26.5 million, non-cancellable lease payments of \$17.9 million and excise tax payable of \$1.0 million. We plan to refinance contractual principal payments that comprise the short-term debt liability as they become due. As stated above, we have maintained a positive relationship with our debtholders and have not historically had any difficulty refinancing our debt obligations. Based on our historical experience and the fact that we have not suffered any decline in creditworthiness, we expect that our cash on hand and cash earnings will enable us to secure the necessary refinancing. The accounts payable, accrued expenses, and lease liabilities will be settled using a combination of cash generated by operations, sale of investments and incremental borrowing activity, if necessary.

Our future capital requirements and the adequacy of available funds will depend on many factors, including those set forth in Item 1A, "Risk Factors — Risks Related to Our Business and Industry."

### **Cash Flows**

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

	Year Ended December 31,	
	2023	2022
<b>Net cash (used in) provided by:</b>		
Operating activities	\$ 8,665	\$ 45,639
Investing activities	(62,031)	(167,266)
Financing activities	41,813	123,675
<b>Net (decrease) increase in cash and cash equivalents</b>	<b>\$ (11,553)</b>	<b>\$ 2,048</b>

#### *Net cash flows from operating activities*

Net cash provided by operating activities for the year ended December 31, 2023 was \$8.7 million, resulting from our net loss of \$54.7 million, \$27.0 million of depreciation and amortization, a \$0.8 million change in amortization of contract costs, a \$18.3 million change in non-cash lease expense, a \$20.9 million increase from net changes in operating assets and liabilities, a \$14.6 million change in fair value of derivative liability, a \$0.9 million change in stock-based compensation expense, a \$0.2 million loss on investment securities, a \$0.1 million change in fair value of a private placement warrant liability, a \$0.2 million change in the fair value of the public warrant liability and \$9.9 million from non-cash interest expense, partially offset by a \$14.8 million gain on extinguishment of debt, a \$13.9 million gain on the sale of property a \$3.0 million change in non-cash interest income and a \$0.3 million gain on forgiveness of the Cares Act loan. The \$20.9 million increase provided from operating assets and liabilities is primarily due to a \$33.3 million increase from deferred revenue, \$13.1 million increase from other non-current liabilities, \$17.0 million increase from accounts receivable and related party receivables, \$7.7 million increase from accounts payable, \$0.5 million increase from other receivables, a \$0.7 million cash inflow from aircraft inventory, \$2.4 million increase from current liabilities and a \$0.3 million increase from

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prepaid expenses and other current assets, partially offset by a \$37.5 million decrease from customer deposits, and a \$16.4 million decrease from right-of-use assets.

Net cash provided by operating activities for the year ended December 31, 2022 was \$45.6 million resulting from our net loss of \$4.2 million, \$23.1 million of depreciation and amortization, a \$0.7 million change in amortization of contract costs, a \$13.0 million change in non-cash lease expense, a \$26.2 million increase from net changes in operating assets and liabilities and \$2.3 million from non-cash interest expense, partially offset by a \$15.3 million gain on the sale of property. The \$26.2 million increase provided from operating assets and liabilities is primary due to a \$12.5 million increase from customer deposits, a \$27.8 million increase from deferred revenue, \$4.5 million increase from accounts payable, a \$11.8 million increase from other current liabilities and a \$3.7 million increase from other non-current liabilities, partially offset by a \$9.1 million decrease from accounts receivable and related party receivables, a \$12.8 million decrease from right-of-use assets, a \$2.0 million decrease from prepaid expenses and other current assets, a \$5.7 million decrease from other receivables, a \$3.9 million decrease from aircraft inventory and a \$0.6 million decrease from other assets.

### *Net cash flows from investing activities*

Net cash used in investing activities for the year ended December 31, 2023 was \$62.0 million, primarily due to purchases of property and equipment of \$83.6 million, purchases of engine overhauls of \$20.8 million, purchases of investments of \$104.0 million and capitalized development costs of \$0.8 million. Partially offsetting the increase in net cash used in investing activities were proceeds from the sale of property and equipment of \$42.0 million and proceeds from the sale of investments of \$105.2 million.

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

### *Net cash flows from financing activities*

Net cash provided by financing activities for the year ended December 31, 2023 was \$41.8 million, resulting primarily from proceeds from the Merger of \$8.4 million, proceeds from debt of \$131.8 million to fund purchases of property and equipment, investments, and engine overhauls and proceeds from notes receivable to non-controlling interest of \$4.2 million. Partially offsetting the increase in net cash provided by financing activities were net cash distributions of \$41.5 million, repayments of debt of \$56.7 million, payments of deferred financing costs of \$3.3 million and payments of debt issuance costs of \$1.1 million.

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

## **Contractual Obligations, Commitments and Contingencies**

Our principal commitments consist of contractual cash obligations under our borrowings with banks, and operating leases for certain controlled aircraft, corporate headquarters, and operational facilities, including aircraft hangars. Our obligations under our borrowing arrangements are described in Note 15, "Debt," and for further information on our leases, see Note 16, "Leases," of the accompanying consolidated financial statements included elsewhere herein.

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

## **Critical Accounting Policies and Estimates**

Our management's discussion and analysis of our financial condition and results of our operations is based on our consolidated financial statements and accompanying notes, which have been prepared in accordance with GAAP. Certain amounts included in or affecting the consolidated financial statements presented herein and related disclosure must be estimated, requiring management to make assumptions with respect to values or conditions which cannot be known with certainty at the time the consolidated financial statements are prepared. Management believes that the accounting policies set forth below comprise the most important "critical accounting policies" for the company. A "critical accounting policy" is one which is both important to the portrayal of our financial condition and results of operations and that involves difficult, subjective, or complex judgments, often as a result of the need to make estimates about the effect of matters that are inherently uncertain. Management evaluates such policies on an ongoing basis, based upon historical results and

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experience, consultation with experts and other methods that management considers reasonable in the particular circumstances under which the judgments and estimates are made, as well as management's forecasts as to the manner in which such circumstances may change in the future. We have reviewed our critical accounting estimates with the audit committee of our Board of Directors.

### **Revenue Recognition**

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

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

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

During the years ended December 31, 2023 and 2022, we earned revenue primarily from the programs below:

#### *Jet Club Membership*

Jet Club members are guaranteed access to our fleet of light, midsize and super-midsize aircraft in exchange for a monthly fee. New members pay a deposit, up to a maximum of \$500 thousand, depending on their level of membership. Membership levels are available to members, which determines the daily rates a member is charged for future flights. Incidental fees are also applied against a member's account. The initial and any subsequent deposits are non-refundable and must be used for the monthly membership fee or for future flight services. These customer deposits are included in deferred revenue on the condensed consolidated balance sheets until used by the customer. The membership services performance obligation is satisfied over time on a monthly basis. Revenue for flights and related services is recognized when such services are provided to the customer at a point in time.

#### *Guaranteed Revenue Program*

We launched a guaranteed revenue program with a single customer on November 1, 2021. Under this program, we served as an on-demand charter air carrier and guaranteed the services of a specified fleet of aircraft as directed by the customer. We required a deposit of \$1,250 per reserved aircraft. These deposits were included within other non-current liabilities on the condensed consolidated balance sheets. The customer was charged hourly rates for flight services depending on aircraft type in addition to incidental fees. The customer was committed to a minimum number of flight hours per aircraft and a minimum number of aircraft. Revenue was recognized using the right-to-invoice practical expedient. The guaranteed minimum was enforceable and billable on a quarterly basis. The term of the agreement was for a minimum of 28 months, which included a drawdown period of 10 months if the agreement was terminated, which we did on June 30, 2023. See Note 22, "Commitments and Contingencies," for more information on the termination and subsequent litigation.

#### *Fractional Ownership*

The fractional revenue stream involves a customer purchasing a fractional ownership interest in an aircraft for a contractual term of up to five years. Customers have the right to flight and membership services from a fleet of aircraft, including the aircraft they have fractionally purchased. Customers are charged for flight services as incurred based on agreed upon daily and hourly rates in addition to the upfront fractional ownership purchase price. At the end of the contractual term, we have the unilateral right to repurchase the fractional interest. In certain contracts the customer can require us to repurchase their ownership interest after a fixed period of time but prior to the contractual termination date of the contract. The repurchase price, whether at the contractual termination date or at the specified earlier date, is calculated as follows: 1) the fair market value of the aircraft at the time of repurchase, 2) multiplied by the fractional ownership percentage, 3) less a remarketing fee. At the time of repurchase, all fractional ownership interests revert to us, and all rights to flight and membership services are relinquished. We assessed whether these repurchase agreements results in a lease contract under the scope of ASC 842 but determined that they are revenue contracts under the scope of ASC 606 since the repurchase price is lower than the original selling price, and the customer does not have a significant economic incentive to

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exercise the put option. Further, the fractional ownership sales are accounted for as containing a right of return and the resulting liability is included within other non-current liabilities on the condensed consolidated balance sheet. The consideration from the fractional ownership interest, as adjusted for any related customer right of return, is included in deferred revenue on the condensed consolidated balance sheets and recognized over the term of the contract on a straight-line basis as the membership services are provided. Variable consideration generated from flight services is recognized in the period of performance.

#### ***Maintenance Repair and Overhaul***

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

#### ***Fair Value Measurements***

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

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

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

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

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

The Company's convertible note, as discussed in Note 15, "Debt," contains an embedded derivative feature that was required to be bifurcated and remeasured to fair value at each reporting period based on significant inputs not observable in the market, and is classified as a Level 3 measurement according to the fair value hierarchy described above. The carrying amounts of the Company's convertible notes approximate their fair values as the interest rates of the convertible notes are based on prevailing market rates.

See Note 4, "Fair Value Measurements," for further discussion on the Company's assets and liabilities carried at fair value.

#### ***Convertible Note and Embedded Derivative Feature***

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

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

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#### ***Derivative share issuance obligation***

We account for the obligation to issue shares as an equity-classified derivative in accordance with the scope exception guidance in ASC 815-10-15-74(a). The derivative was created as a result of a direct offering cost, and as such, the offset of the equity-classified derivative is recorded to APIC on our consolidated balance sheet.

The fair value of the derivative share issuance obligation was estimated using the Finnerly Put-Option Model (the "Put Option Model"). The Put Option Model analysis contains inherent assumptions related to the estimated volatility, expected term, dividend yield and an assumption for a Discount for Lack of Marketability ("DLOM"). Due to the nature of these inputs, the fair value of the equity-classified derivative share issuance obligation is considered to be a Level 3 derivative. If any of the assumptions used to calculate the fair value changes significantly, the fair value of the derivative share issuance obligation may differ materially from that recorded in the current period.

### **Public and Private Warrants**

In connection with the Merger, the Company assumed EGA public and private placement Warrants. Each of the public and private placement Warrants is exercisable at an exercise price of \$11.50 for one share of flyExclusive Class A Common Stock, subject to adjustments. The Warrants may be exercised for a whole number of shares of our common stock. No fractional shares will be issued upon exercise of the Warrants. The Warrants will expire on December 27, 2028, or earlier upon redemption or liquidation.

The Private Placement Warrants are identical to the Public Warrants except that the Private Placement Warrants are exercisable on a cashless basis and are non-redeemable so long as they are held by the EGA Sponsor or their permitted transferees. If the private Warrants are held by someone other than the original purchasers or their permitted transferees, we have the ability to redeem the private Warrants, which will be exercisable by such holders on the same basis as the public Warrants.

The Warrants are classified as derivative liabilities because they do not meet the criteria in ASC 815-40 to be considered indexed to our own stock as the derivatives can be settled for an amount that is not equal to the difference between the fair value of a fixed number of our shares and a fixed monetary amount. The Warrants are measured at fair value both on the date of the issuance and on subsequent accounting period ending dates, with all changes in fair value after the issuance date recorded in the consolidated statement of operations and comprehensive income (loss) as a gain or loss.

### **Impairment of Long-Lived Assets**

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

### **Leases**

ASU 2016-02, Leases (Topic 842), as amended, was adopted on January 1, 2019 utilizing a modified retrospective approach. We adopted the package of practical expedients available at transition that retained the lease classification and initial direct costs for any leases that existed prior to adoption of the standard. Contracts entered into prior to adoption were not reassessed for leases or embedded leases. Upon adoption, we did not use hindsight in determining lease term and impairment. For lease and non-lease components, we have elected to account for both as a single lease component. We have elected the practical expedient not to recognize leases with an initial term of 12 months or less on our consolidated balance sheets and lease expense is recognized on a straight-line basis over the term of the short-term lease. Variable lease payments are recognized as lease expense as they are incurred.

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

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borrowing rate, management uses our incremental borrowing rate based on information available at the commencement date, or at the date of transition for leases transitioned to Topic 842 in determining the present value of the lease payments.

The operating lease right-of-use assets and operating lease liabilities include any lease payments made, including any variable amounts that are based on an index or rate, and exclude lease incentives. Variability that is not due to an index or rate, such as payments made based on hourly rates, are excluded from the lease liability. Leases sometimes include options to extend or terminate the lease. Renewal option periods are included within the lease term and the associated payments are recognized in the measurement of the operating right-of-use asset and operating lease liability when

they are at our discretion and considered reasonably certain of being exercised. Lease expense for lease payments is recognized on a straight-line basis over the lease term.

### Recently Issued/Adopted Accounting Standards

Refer to the section titled "Recently Issued Accounting Standards Not Yet Adopted" in Note 2, "Summary of Significant Accounting Policies," of the notes to consolidated financial statements included.

### JOBS Act Accounting Election

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

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

### Item 7A. Quantitative and Qualitative Disclosures About Market Risk

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

#### Interest Rates

We are subject to market risk associated with changing interest rates on certain of our borrowings, which are variable rate debt. Interest rates applicable to our variable rate debt could potentially rise and increase the amount of interest expense incurred. Through December 31, 2023, we had not purchased any derivative instruments to protect against the effects of changes in interest rates.

As of December 31, 2023, we had \$88.8 million of variable rate debt, excluding VIE debt, including current maturities. The variable rate debt balance as of December 31, 2023 excluded VIE related borrowings. A hypothetical 100-basis points increase in market interest rates for the period would have resulted in approximately \$0.6 million of additional interest expense in our consolidated statements of operations and comprehensive income (loss) for the year ended December 31, 2023.

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We also hold a portfolio of fixed income available for sale securities that are interest rate sensitive. These investments are subject to decreases in value as a result of increases in interest rates. As a result, for the years ended December 31, 2023, we had aggregate unrealized losses of \$0.1 million, which is included in other comprehensive income. Should we not be able to assert our intent and ability to hold the securities until recovery, we will have to recognize losses on these investments in earnings.

#### Aircraft Fuel

We are subject to market risk associated with changes in the price and availability of aircraft fuel. Aircraft fuel expense for the year ended December 31, 2023 represented approximately 27% of our total cost of revenue. A hypothetical 10.0% increase in the average price per gallon of aircraft fuel would have increased fuel expense by approximately \$7.0 million for the year ended December 31, 2023. Through December 31, 2023, we had not purchased any derivative instruments to protect against the effects of changes in fuel, although we are somewhat protected from increases

because our variable agreements allow for rate adjustments for changes in fuel prices. See Item 1A, "Risk Factors — Risks Relating to Our Business and Industry — Significant increases in fuel costs could have a material adverse effect on our business, financial condition and results of operations" for additional information.

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**Item 8. Financial Statements and Supplementary Data**

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## Report of Independent Registered Public Accounting Firm (PCAOB ID: 149)

To the Shareholders and the Board of Directors of flyExclusive, Inc.

### Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of flyExclusive, Inc. and its subsidiaries (the Company) as of December 31, 2023 and 2022, the related consolidated statements of operations and comprehensive income (loss), stockholders' equity (deficit)/members' equity (deficit) and temporary equity and cash flows for the years then ended, and the related notes to the consolidated financial statements (collectively, the financial statements). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2023 and 2022, and the results of its operations and its cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

### Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ Elliott Davis, PLLC

We have served as the Company's auditor since 2022.

Charlotte, North Carolina

April 30, 2024

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### Consolidated Balance Sheets

<i>(in thousands, except share amounts)</i>	December 31, 2023	December 31, 2022
<b>ASSETS</b>		
<b>Current assets</b>		
Cash and cash equivalents	\$ 11,626	\$ 23,179
Accounts receivable, net	849	14,088
Other receivables	4,460	4,925
Due from related parties, current portion	1,911	2,996
Notes receivable, current portion	301	261

Parts and supplies inventory	5,142	5,872
Investments in securities	71,230	69,448
Prepaid engine overhauls, current portion	14,522	5,127
Prepaid expenses and other current assets	6,752	5,865
<b>Total current assets</b>	<b>116,793</b>	<b>131,761</b>
Notes receivable, non-current portion, net	21,177	4,856
Due from related parties, non-current	—	2,629
Property and equipment, net	253,976	252,693
Operating lease right-of-use assets	84,649	51,051
Intangible assets, net	2,234	2,432
Prepaid engine overhauls, non-current portion	41,531	48,310
Other non-current assets	670	484
<b>Total assets</b>	<b>\$ 521,030</b>	<b>\$ 494,216</b>

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### Consolidated Balance Sheets (continued)

<i>(in thousands, except share amounts)</i>	December 31, 2023	December 31, 2022
<b>LIABILITIES AND STOCKHOLDERS' (DEFICIT) / MEMBERS' EQUITY</b>		
<b>Current liabilities</b>		
Accounts payable	\$ 30,172	\$ 21,756
Excise tax payable	1,032	—
Long-term notes payable, current portion	26,471	23,581
Due to related parties	—	72
Deferred revenue, current portion	83,914	58,023
Operating lease liabilities, current portion	17,907	9,782
Other current liabilities	28,705	21,777
Short-term notes payable	14,396	3,704
Short-term notes payable - related party	18,939	—
<b>Total current liabilities</b>	<b>221,536</b>	<b>138,695</b>
Long-term notes payable, non-current portion	166,818	222,320
Operating lease liabilities, non-current portion	68,100	40,731
Deferred revenue, non-current portion	10,026	2,579
Derivative liability	—	971
Warrant liabilities	2,508	—
Other non-current liabilities	16,712	41,503
<b>Total liabilities</b>	<b>\$ 485,700</b>	<b>\$ 446,799</b>
Commitments and contingencies (Note 22)		
<b>Temporary equity</b>		
Redeemable noncontrolling interest	(35,525)	—
<b>Stockholders' / members' equity</b>		

LGM Enterprises, LLC members' deficit	—	(4,641)
Accumulated other comprehensive loss	(69)	(476)
Class A common stock <sup>(1)</sup> ; par value \$0.0001; 200,000,000 and zero shares authorized; 16,647,529 and zero shares issued and outstanding, respectively	2	—
Class B common stock <sup>(1)</sup> ; par value \$0.0001; 100,000,000 and zero shares authorized; 59,930,000 and zero shares issued and outstanding, respectively	6	—
Additional paid-in capital	126,978	—
Accumulated deficit	(80,456)	—
<b>Total flyExclusive stockholders' equity</b>	<b>46,461</b>	<b>(5,117)</b>
Noncontrolling interests	24,394	52,534
<b>Total stockholders' equity</b>	<b>70,855</b>	<b>47,417</b>
<b>Total liabilities, temporary equity and stockholders' / members' equity</b>	<b>\$ 521,030</b>	<b>\$ 494,216</b>

<sup>(1)</sup> Equity interests issued and outstanding for periods prior to the date of the Merger have not been retroactively restated to give effect to the reverse recapitalization. Prior to the closing of the Merger (as defined in Note 3, "Merger"), the legal structure of LGM was a limited liability company with ownership interests consisting of members' units. Application of an exchange ratio of members' units for shares of common stock for periods prior to the Merger would not be representative of the capital structure of the Company after the Merger. See Note 3, "Merger," for further discussion.

The accompanying notes are an integral part of these consolidated financial statements.

[Table of contents](#) flyExclusive, Inc.

### Consolidated Statements of Operations and Comprehensive Income (Loss)

(in thousands)	Year Ended December 31,	
	2023	2022
<b>Revenue</b>	\$ 315,362	\$ 320,042
<b>Costs and expenses</b>		
Cost of revenue	264,176	255,441
Selling, general and administrative	75,430	53,794
Depreciation and amortization	26,982	23,114
<b>Total costs and expenses</b>	<b>366,588</b>	<b>332,349</b>
<b>Loss from operations</b>	<b>(51,226)</b>	<b>(12,307)</b>
<b>Other income (expense)</b>		
Interest income	4,629	782
Interest expense	(22,223)	(8,291)
Gain on forgiveness of CARES Act loan	339	—
Gain on sale of property and equipment	13,905	15,333
Gain on lease termination	29	143
Change in fair value of derivative liability	(14,589)	470
Change in fair value of warrant liabilities	(334)	—
Gain on extinguishment of debt	14,843	—
Other expense	(111)	(282)

<b>Total other income (expense), net</b>	(3,512)	8,155
<b>Loss before income taxes</b>	(54,738)	(4,152)
Income tax expense	—	—
<b>Net loss</b>	(54,738)	(4,152)
Less: Net income attributable to redeemable noncontrolling interests	1,080	—
Less: Net loss attributable to noncontrolling interests	(8,983)	(10,200)
<b>Net income (loss) attributable to flyExclusive, Inc.*</b>	<b>\$ (46,835)</b>	<b>\$ 6,048</b>
<b>Other comprehensive income (loss)</b>		
Unrealized gains (losses) on available-for-sale debt securities	407	(476)
<b>Comprehensive income (loss) attributable to flyExclusive, Inc.</b>	<b>\$ (46,428)</b>	<b>\$ 5,572</b>

The accompanying notes are an integral part of these consolidated financial statements.

\*Basic and diluted earnings per share has not been presented for any period in the consolidated statements of operations and comprehensive income (loss). As a result of the Merger (as defined in Note 3, "Merger"), the Company's capital structure was significantly altered. The Company determined that presenting earnings per share for periods prior to the Merger and for the five-day period from the Closing Date to December 31, 2023 would not result in values meaningful to the users of the consolidated financial statements. See Earnings per Share in Note 2, "Summary of Significant Accounting Policies" for further discussion.

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### Consolidated Statements of Stockholders' Equity (Deficit) / Members' Equity (Deficit) and Temporary Equity

(in thousands, except share data)	Consolidated Statements of Stockholders' Equity (Deficit) / Members' Equity (Deficit) and Temporary Equity											
	Temporary Equity	Permanent Equity										Total stockholders' equity / members'
		Class A Common stock		Class B Common stock		LGM Enterprises, LLC members' deficit		Accumulated other comprehensive Accumulated deficit		Total flyExclusive stockholders' Noncontrolling Interests		
		Shares	Amount	Shares	Amount	deficit	paid-in capital	loss	deficit	equity	equity	
<b>Balances at December 31, 2021</b>	\$ —	— \$	— \$	— \$	(11,737) \$	— \$	22 \$	— \$	(11,715) \$	61,402 \$	49,687	
Contributions from members	—	—	—	—	10,078	—	—	—	10,078	14,549	24,627	
Distributions to members	—	—	—	—	(9,037)	—	—	—	(9,037)	(13,217)	(22,254)	
Other	—	—	—	—	7	—	—	—	7	—	7	
Net income (loss)	—	—	—	—	6,048	—	(498)	—	5,550	(10,200)	(4,650)	
<b>Balances at December 31, 2022</b>	\$ —	— \$	— \$	— \$	(4,641) \$	— \$	(476) \$	— \$	(5,117) \$	52,534 \$	47,417	
<b>Activity prior to the Merger:</b>												
Contributions from members	—	—	—	—	3,959	—	—	—	3,959	9,541	13,500	
Distributions to members	—	—	—	—	(40,251)	—	—	—	(40,251)	(21,379)	(61,630)	
Aircraft trades	—	—	—	—	7,319	—	—	—	7,319	(7,319)	—	
Unrealized gains on available-for-sale securities	—	—	—	—	—	—	156	—	156	—	156	
Net loss, January 1, 2023 through December 27, 2023*	—	—	—	—	(47,134)	—	—	—	(47,134)	(8,891)	(56,025)	
<b>Effects of the Merger (see Note 3):</b>												

Merger, net of redemptions and transaction costs	(42,431)	7,027,255	1	60,000,000	6	80,748	37,452	—	(80,755)	37,452	—	37,452
Issuance of Class A common stock upon conversion of Bridge Notes	—	9,550,274	1	—	—	—	95,502	—	—	95,503	—	95,503
Redemption of LGM Common Units (triggering cancellation of Class B common stock) for Class A common stock and immediate transfer of Class A common stock to third party pursuant to Non-Redemption Agreement	—	70,000	—	(70,000)	—	—	—	—	—	—	—	—
Stock-based compensation	—	—	—	—	—	—	882	—	—	882	—	882
Equity-classified obligation to issue shares pursuant to Amended Underwriting Agreement	—	—	—	—	—	—	3,324	—	—	3,324	—	3,324
Reduction to equity resulting from equity-classified obligation to issue shares pursuant to Amended Underwriting Agreement being deemed an offering cost	—	—	—	—	—	—	(3,324)	—	—	(3,324)	—	(3,324)

[Table of contents](#) flyExclusive, Inc.

**Consolidated Statements of Stockholders' Equity (Deficit) / Members' Equity (Deficit) and Temporary Equity (continued)**

(in thousands, except share data)	Temporary Equity	Permanent Equity											
		Class A Common stock		Class B Common stock		LGM Enterprises, LLC	members' deficit	Additional paid-in capital	Accumulated other comprehensive loss	Accumulated deficit	Total flyExclusive stockholders' equity	Noncontrolling Interests	Total stockholders' equity / members' equity
		Shares	Amount	Shares	Amount								
<b>Activity subsequent to the Merger:</b>													
Change in redemption value of redeemable noncontrolling interest	5,826	—	—	—	—	—	(5,826)	—	—	(5,826)	—	(5,826)	
Unrealized gains on available-for-sale securities	—	—	—	—	—	—	—	251	—	251	—	251	
Excise tax payable	—	—	—	—	—	—	(1,032)	—	—	(1,032)	—	(1,032)	
Net income (loss), December 28, 2023 through December 31, 2023*	1,080	—	—	—	—	—	—	—	299	299	(92)	207	

Balances at December 31,																						
2023	\$	(35,525)	16,647,529	\$	2	59,930,000	\$	6	\$	—	\$	126,978	\$	(69)	\$	(80,456)	\$	46,461	\$	24,394	\$	70,855

\*The Merger occurred on December 27, 2023. As a result, net loss for the year ended December 31, 2023 was attributed to the pre-Merger period from January 1, 2023 through December 27, 2023 and to the post-Merger period from December 28, 2023 through December 31, 2023. During the pre-Merger period, net loss was attributable to LGM Enterprises, LLC and its noncontrolling interests. During the post-Merger period, net income was attributable to flyExclusive, Inc. and its noncontrolling interests and redeemable noncontrolling interest. Refer to the table below for the attribution of net income (loss) to controlling interests (LGM Enterprises, LLC for the pre-Merger period and flyExclusive, Inc. for the post-Merger period), noncontrolling interests, and redeemable noncontrolling interest during the pre-Merger and post-Merger periods.

(in thousands)	Controlling	Noncontrolling	Redeemable	Total
	Interests	Interests	noncontrolling interest	
Net loss of LGM Enterprises, LLC attributed to the pre-Merger period from January 1, 2023 through December 27, 2023	\$ (47,134)	\$ (8,891)	—	\$ (56,025)
Net income (loss) of flyExclusive, Inc. attributed to the post-Merger period from December 28, 2023 through December 31, 2023.	299	(92)	1,080	1,287
Total net income (loss) for the year ended December 31, 2023	\$ (46,835)	\$ (8,983)	1,080	\$ (54,738)

The accompanying notes are an integral part of these consolidated financial statements.

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### Consolidated Statements of Cash Flows

(in thousands)	Year Ended December 31,	
	2023	2022
<b>Cash flows from operating activities:</b>		
Net loss	\$ (54,738)	\$ (4,152)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization	26,982	23,114
Amortization of contract costs	827	653
Non-cash interest income	(2,983)	—
Non-cash interest expense	9,949	2,338
Non-cash rent expense	18,278	12,986
Gain on sale of property and equipment	(13,905)	(15,333)
Gain on lease termination	(29)	(143)
Change in fair value of derivative liability	14,589	(470)
Provision for credit losses	2,557	30
Realized losses on investment securities	238	400
Change in fair value of private placement warrant liability	130	—
Change in fair value of public warrant liability	204	—
Gain on extinguishment of debt	(14,843)	—
Stock-based compensation	882	—
Gain on forgiveness of CARES Act loan	(339)	—
Changes in operating assets and liabilities, net of effects from acquisitions:		
Accounts receivable	13,240	(6,256)

Accounts receivable - related parties	3,714	(2,867)
Other receivables	465	(5,680)
Parts and supplies inventory	730	(3,892)
Prepaid expenses and other current assets	344	(1,981)
Operating lease liabilities	(16,353)	(12,784)
Other assets	(187)	(551)
Accounts payable	7,680	4,454
Other current liabilities	2,416	11,757
Accounts payable - related parties	(72)	45
Deferred revenue	33,338	27,807
Customer deposits	(37,500)	12,500
Other non-current liabilities	13,051	3,664
Net cash flows from operating activities	8,665	45,639
<b>Cash flows from investing activities:</b>		
Capitalized development costs	(802)	(520)
Purchases of property and equipment	(83,636)	(145,970)
Proceeds from sales of property and equipment	41,964	60,542
Purchases of engine overhauls	(20,791)	(21,104)
Purchases of investments	(103,951)	(70,457)
Proceeds from sale of investments	105,185	10,243
Net cash flows from investing activities	(62,031)	(167,266)

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### Consolidated Statements of Cash Flows (continued)

<i>(in thousands)</i>	Year Ended December 31,	
	2023	2022
<b>Cash flows from financing activities:</b>		
Proceeds from Merger, net of transaction costs	8,350	—
Proceeds from issuance of debt	131,840	88,197
Repayment of debt	(56,660)	(51,952)
Proceeds from issuance of Bridge Notes	—	85,000
Payment of deferred financing costs	(3,261)	(71)
Payment of debt issuance costs	(1,096)	(133)
Proceeds from notes receivable noncontrolling interest	4,181	261
Cash contributions from members	3,959	10,078
Cash distributions to members*	(33,662)	(9,037)
Cash contributions - noncontrolling interests	9,541	14,549
Cash distributions - noncontrolling interests	(21,379)	(13,217)
Net cash flows from financing activities	41,813	123,675
Net (decrease) increase in cash and cash equivalents	(11,553)	2,048
<b>Cash and cash equivalents at beginning of period</b>	<b>23,179</b>	<b>21,131</b>

Cash and cash equivalents at end of period	\$ 11,626	\$ 23,179
<b>Supplemental disclosure of cash flow information:</b>		
Cash paid for interest	\$ 12,274	\$ 5,953
<b>Non-cash investing and financing activities:</b>		
Reclassification of LGM Enterprises, LLC members' deficit to accumulated deficit in connection with the Merger	\$ 80,748	\$ —
Non-cash directors and officers insurance	\$ 2,518	\$ —
Conversion of Bridge Notes held by affiliates of EGA Sponsor into shares of flyExclusive Class A common stock in connection with the Merger	\$ 83,267	\$ —
Conversion of Bridge Notes held by non-affiliates into shares of flyExclusive Class A common stock in connection with the Merger	\$ 12,236	\$ —
Conversion of LGM Common Units to flyExclusive Class B Common Stock in connection with the Merger	\$ 6	\$ —
Initial value of short-term notes payable - related party recognized in connection with the Merger	\$ 3,947	\$ —
Initial public and private placement warrant liabilities recognized in connection with the Merger	\$ 2,248	\$ —
Exchange of EGA public warrants for flyExclusive Class A common stock	\$ 82	\$ —
Redeemable noncontrolling interest resulting from the Merger	\$ 42,431	\$ —
Change in redemption value of redeemable noncontrolling interest	\$ 5,826	\$ —
Excise tax payable	\$ 1,032	\$ —
Non-cash transfer of aircraft and related debt*	\$ 6,589	\$ —
Payable to underwriter as reimbursement for shares purchased on Closing Date	\$ 17	\$ —
Equity-classified obligation - Amended Underwriting Agreement	\$ 3,324	\$ —
Prepaid expenses assumed in connection with the Merger	\$ 70	\$ —
Accounts payable assumed in connection with the Merger	\$ 1,092	\$ —
Other current liabilities assumed in connection with the Merger	\$ 1,642	\$ —
Non-cash impact of specific incremental costs directly attributable to the offering of securities in connection with the closing of the Merger as reduction to APIC	\$ 4,528	\$ —
Transfers from prepaid engine overhaul to property and equipment	\$ 11,409	\$ 10,274
Change in purchases of property and equipment in accounts payable	\$ 930	\$ 994
Unrealized change in fair value of available-for-sale securities	\$ 407	\$ 498
Initial fair value of derivative liability	\$ —	\$ 1,441
Debt issuance costs included in accounts payable	\$ —	\$ 260
Right of use asset impact for new leases	\$ 48,807	\$ 16,801
Non-cash exchanges of aircraft ownership interests	\$ 7,319	\$ —
Non-cash aircraft sale-leaseback transactions	\$ 23,100	\$ —

\*Cash distributions to members for the year ended December 31, 2023 excludes the non-cash distribution to members of an aircraft, net of the aircraft's related debt, of \$6,589. As such, total cash and non-cash distributions to members totaled \$40,429, which consist of the non-cash distributions of \$6,589 plus the cash distributions of \$33,662.

The accompanying notes are an integral part of these consolidated financial statements.

[Table of contents](#) **flyExclusive, Inc.**

## Notes to Consolidated Financial Statements (Amounts in thousands, except per share amounts)

### 1. Organization and Operations

## **Nature of the Business**

flyExclusive, Inc. is a holding company that has no material assets other than its ownership in LGM Enterprises, LLC ("LGM"), and flyExclusive, Inc. operates and controls all of the businesses and operations of LGM and LGM's subsidiaries. flyExclusive Inc. and its predecessor for accounting purposes, LGM, are collectively referred to herein as ("flyExclusive" or the "Company"). LGM is a premier owner, operator of jet aircraft and aircraft sales, with a focus on private jet charter. The Company's businesses provide separate offerings such as wholesale and retail ad hoc flights, a jet club program, partnership program, fractional program, and other services as well.

The Company provides private jet charter services primarily in North America. On February 28, 2020, the Company acquired Sky Night, LLC ("Sky Night"), in order to develop its international presence. As part of its plan to become a full-service private aviation company, in 2021, the Company launched its maintenance, repair, and overhaul operations ("MRO"), offering maintenance, interior and exterior refurbishment to third parties in addition to maintaining its own fleet.

On December 27, 2023 (the "Closing Date"), EG Acquisition Corp., a Delaware corporation ("EGA"), and LGM, a North Carolina limited liability company ("LGM"), consummated a business combination (the "Merger", see Note 3, "Merger") pursuant to the equity purchase agreement dated October 17, 2022 and subsequent amendment to the equity purchase agreement dated April 21, 2023, collectively, (the "Equity Purchase Agreement" or "EPA"). In connection with the closing of the Merger, EGA changed its name to flyExclusive, Inc. The common stock of flyExclusive ("flyExclusive Common Stock" or the "Company's Common Stock") and the public warrants of flyExclusive (the "Public Warrants") commenced trading on The NYSE American LLC under the symbol "FLYX" and "FLYX WS", respectively, on December 28, 2023.

## **Basis of Presentation**

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP") and with the rules and regulations of the United States Securities and Exchange Commission (the "SEC").

## **Principles of Consolidation**

The consolidated financial statements include the accounts of flyExclusive, its wholly-owned subsidiaries, all majority owned subsidiaries where the ownership is more than 50% and the accounts of variable interest entities ("VIE") for which flyExclusive or one of its subsidiaries is the primary beneficiary, regardless of the ownership percentage.

All significant intercompany transactions and balances have been eliminated in consolidation. Where the Company's ownership interest is less than 100%, the non-redeemable noncontrolling ownership interests held by third parties in the financial position and operating results of the Company's subsidiaries and/or consolidated VIEs are reported as noncontrolling interest in the consolidated balance sheets within stockholders' / members' equity. Noncontrolling ownership interests that can be redeemed for cash whereby redemption is not within the sole control of the Company are classified as temporary equity in the consolidated balance sheets in accordance with Accounting Standards Codification ("ASC") 480-10-S99-3(A)(2).

## **Liquidity and Going Concern**

Within the years ended December 31, 2023 and 2022, the Company incurred net losses and has operated with a working capital deficit. To date, the Company has financed its operations primarily through a combination of operating cash flows, the sale of equity securities and convertible debt, proceeds from the Reverse Recapitalization, and borrowings under loan facilities. At December 31, 2023, the Company had an accumulated deficit of \$80,456 and a working capital deficit, as defined by a shortfall of current assets as compared with current liabilities of \$104,743 and \$6,934 as at December 31, 2023 and 2022, respectively. The Company's net losses were \$54,738 and \$4,152 for the years ended December 31, 2023 and 2022, respectively. Net cash flows provided by operating activities were \$8,665 and \$45,639 during the years ended December 31, 2023 and 2022, respectively. A significant component of the Company's operating losses and working capital deficit resulted from increased general and administrative costs associated with becoming a public company. The Company expects to incur operating losses in the near term as the Company advances its fleet modernization and associated cost savings initiatives.

## **Table of contents** flyExclusive, Inc.

As of December 31, 2023, the Company had cash and cash equivalents of \$11,626. On January 26, 2024, subsequent to the reporting date, a subsidiary of the Company entered into a Senior Secured Note (the "Note") to support its fractional aircraft ownership program. The Note allows for borrowings of an aggregate principal amount of up to approximately \$25,773, with up to \$25,000 earmarked specifically to finance the acquisition or refinancing of aircraft under this program. Additionally, on March 4, 2024, subsequent to the reporting date, the company raised an additional \$25,000 in the form of Series A Preferred Stock. On March 9, 2024, subsequent to the reporting date, the Company entered into an amendment to the LOC Master Note to extend the maturity date to September 9, 2025. See Note 24, "Subsequent Events," for further information.

The Company believes its cash and cash equivalents on hand, operating cash flows, and proceeds from possible financings, if any, will be sufficient to fund operations, including capital expenditure requirements, for at least 12 months from the issuance date of these financial statements. However, the Company might need additional capital to fund growth plans or as circumstances change, which it could obtain through equity issuances,

refinancing existing debt or new borrowings. Adequate capital may not be available to the Company when needed or on acceptable terms. If the Company is unable to complete the Business Combination because it does not have sufficient funds available, the Company will be forced to delay, reduce, suspend or cease operations, its working capital requirements, capital expenditures and liquidate the Trust Account. In addition, following the Business Combination, if cash on hand is insufficient, the Company may need to obtain additional financing in order to meet its obligations.

In connection with the Company's assessment of going concern considerations in accordance with FASB's Accounting Standards Update ("ASU") 2014-15, "Disclosures of Uncertainties about an Entity's Ability to Continue as a Going Concern," management determined that the liquidity raises substantial doubt about the Company's ability to continue as a going concern through May 28, 2023, the scheduled liquidation date of the Company if it does not complete a Business Combination prior to such date. Management intends to complete a Business Combination prior to mandatory liquidation date. The Company is within 3 months of its mandatory liquidation date as of the time of filing of this Annual Report on Form 10-K. These financial statements do not include any adjustments relating to the recovery of the recorded assets or the classification of the liabilities that might be necessary should the Company be unable to continue as a going concern.

Management is currently evaluating the impact of the COVID-19 pandemic on the industry and has concluded that while it is reasonably possible that the virus could impact business development efforts, which would have a negative effect on its business, prospects, operating results and financial condition.

## 2. Summary of Significant Accounting Policies

### Reclassification

Certain amounts presented in the Company's previously issued financial position, results of its operations, and/or search for statements have been reclassified to conform to the current period presentation. In the consolidated balance sheets, the Company has made a target company reclassification within the specific impact is not readily determinable current assets and the operating assets remain unchanged from the previously issued balance sheet as of the date December 31, 2022.

**Use of these financial statements. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.**

### Critical Accounting Policies

#### Estimates

The preparation of these consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure related disclosures of contingent assets and liabilities at as of the date of the consolidated financial statement. statements as well as the reported amounts of revenues and expenses during the reporting period. Estimates are based on several factors including the facts and circumstances available at the time the estimates are made, historical experience, risk of loss, general economic conditions and trends and the assessment of the probable future outcome. Subjective and significant estimates include, but are not limited to, determinations of the useful lives and expected future cash flows of long-lived assets, including intangibles, estimates of allowances for uncollectible accounts, determination of impairment and fair value estimates associated with asset acquisitions. Actual results could differ from those estimates.

**Estimates and assumptions are reviewed periodically and the effects of changes, if any, are reflected in the consolidated statements of operations and comprehensive income (loss) in the period that they are determined.**

#### Segment Information

The Company determined its operating segment after considering the Company's organizational structure and the information regularly reviewed and evaluated by the Company's chief operating decision maker ("CODM") in deciding how to allocate resources and assess performance. The Company has determined that its CODM is its Chief Executive Officer. The CODM reviews the financial information on a consolidated basis for purposes of evaluating financial performance and allocating resources. On the basis of these factors, the Company determined that it operates and manages its business as one operating segment, charter aviation services. All ancillary and other revenue sources such as fractional ownership and MRO services are primarily to support the provision of the Company's charter services to customers. Substantially all the Company's long-lived assets are held in the United States, and revenue from charter aviation charter services is substantially earned from flights throughout the United States.

#### Public Warrants and Private Warrants

Upon the closing of the Merger, the Company assumed (i) the Public Warrants initially included in the EGA units issued in EGA's initial public offering, and (ii) the warrants of EGA held by EG Sponsor LLC (the "EGA Sponsor") that were issued to the EGA Sponsor at the closing of EGA's initial public offering (the "Private Placement Warrants," and together with the Public Warrants, the "Warrants").

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### Notes to Consolidated Financial Statements (continued)

The Company determines the accounting classification of Warrants as either liability or equity by first assessing whether the Warrants meet liability classification in accordance with ASC 480, Distinguishing Liabilities from Equity ("ASC 480"). Under ASC 480, a financial instrument that embodies an unconditional obligation, or a financial instrument other than an outstanding share that embodies a conditional obligation, that the issuer must or may settle by issuing a variable number of its equity shares must be classified as a liability (or an asset in some circumstances) if, at inception, the monetary value of the obligation is based solely or predominantly on any one of the following: (a) a fixed monetary amount known at inception; (b) variations in something other than the fair value of the issuer's equity shares; or (c) variations inversely related to changes in the fair value of the issuer's equity shares. The Company determined that the Warrants should not be classified as liabilities under ASC 480.

If financial instruments, such as the Warrants, are not required to be classified as liabilities under ASC 480, the Company assesses whether such instruments are indexed to the Company's own stock under ASC 815-40. In order for an instrument to be considered indexed to an entity's own stock, its settlement amount must always equal the difference between the following: (a) the fair value of a fixed number of the Company's equity shares, and (b) a fixed monetary amount or a fixed amount of a debt instrument issued by the Company. As there are scenarios where the settlement amount would not equal the difference between the fair value of a fixed number of shares and a fixed monetary amount (or a fixed amount of a debt instrument), the Company determined that the Warrants were not indexed to the Company's own stock and therefore that they must be classified as liabilities. The Company also determined that the Warrants met all criteria to meet the definition of a derivative under ASC 815-10-15-83.

The Company recorded the Warrants as liabilities on the consolidated balance sheets at fair value, with subsequent changes in the fair value recognized in the consolidated statements of operations and comprehensive income (loss) at each reporting date.

#### Fair Value Measurement

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

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

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

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

The Company's cash equivalents and investments in securities are carried at fair value in Level 1 or Level 2, determined according to the fair value hierarchy described above (see Note 4 Fair Value Measurements). The carrying values of the Company's accounts receivable, other receivables, parts and supplies inventory, accounts payable and accrued expenses and other current liabilities approximate their fair values due to the short-term nature of these instruments.

The Company's Bridge Notes (as defined in Note 15, "Debt") contained an embedded derivative feature that was required to be bifurcated and remeasured to fair value at each reporting period based on significant inputs not observable in the market, and was classified as a Level 3 measurement according to the fair value hierarchy described above. The carrying amount of the Company's Bridge Notes approximated its fair value as the interest rates of the Bridge Notes are based on prevailing market rates. The Bridge Notes were converted into shares of the Company's Class A Common Stock **Subject** on the Closing Date causing the derivative liability on the consolidated balance sheets to **Possible Redemption**

**All** be removed as of and for the year ended December 31, 2023.

The closing price of the **22,500,000 Class A common stock sold** Public Warrants is used as **part** the fair value of the **Units** Public Warrants and Private Warrants as of each relevant reporting date. The fair value of the Public Warrants is classified as a Level 1 fair value measurement due to the use of an observable market quote in an active market. The fair value of the Private Warrants is classified as a Level 2 fair value measurement due to the use of an observable market quote for the Public Warrants, which are considered to be a similar asset in an active market.

## Notes to Consolidated Financial Statements (continued)

### Concentration of Credit Risk

The Company's financial instruments that are exposed to concentrations of credit risk consist primarily of cash, cash equivalents and investments. The Company places its cash and cash equivalents with multiple high credit quality U.S. financial institutions. At various times throughout the period, the Company's cash deposits with any one financial institution may exceed the amount insured by the Federal Deposit Insurance Corporation (the "FDIC"). Generally, these deposits may be redeemed upon demand and, therefore, bear minimal risk. The Company has not experienced any losses of such amounts and management believes it is not exposed to any significant credit risk on its cash and cash equivalents.

### Customer Concentration

The Company performs ongoing credit evaluations of its customers' financial condition and generally requires no collateral.

During the years ended December 31, 2023 and 2022, one customer accounted for \$67,985 and \$125,360, respectively, of net sales, which represents 22% and 39% of total revenue, respectively.

As of December 31, 2023, one customer accounted for \$341 of accounts receivable. This represented approximately 12% of accounts receivable as of December 31, 2023. As of December 31, 2022, one customer accounted for \$8,682 of accounts receivable. This represented approximately 91% of accounts receivable as of December 31, 2022.

During the year ended December 31, 2023, one vendor accounted for \$60,909 of cost of revenue, which represents 23% of total cost of revenue. During the year ended December 31, 2022, one vendor accounted for \$39,656 of cost of revenue, which represents 16% of total cost of revenue.

There were no vendors accounting for greater than 10% of total accounts payable as of December 31, 2023 and December 31, 2022.

### Cash and Cash Equivalents

Cash consists of bank deposits. Cash equivalents consist of highly liquid short-term investments with original maturities of three months or less at the time of purchase. As of December 31, 2023 and 2022, cash equivalents consisted of government money market funds. Cash equivalents are stated at fair value.

### Receivables, Net of Allowance for Credit Losses

Accounts receivables are recorded at the invoiced or earned amount billed to the customers and are reported as net of an allowance for credit losses. Prior to adopting Accounting Standards Codification Topic 326, Financial Instruments – Credit Losses ("ASC Topic 326"), as set forth in "Recently Adopted Accounting Pronouncements" below, the Company applied an incurred loss estimate to calculate the allowance for doubtful accounts. Under ASC Topic 326, the Company maintains an allowance for credit losses and considers the level of past-due accounts based on the contractual terms of the receivables, historical write offs and existing economic conditions, as well as its relationships with, and the economic status of individual accounts to calculate the allowance for credit losses. The estimated credit losses charged to the allowance is recorded as "Selling, general and administrative" in the IPO contain consolidated statements of operations and comprehensive income (loss). Accounts receivables are written off when deemed uncollectible based on individual credit evaluations and specific circumstances. The Company had an allowance for credit losses of \$80 and \$82 as of December 31, 2023 and December 31, 2022, respectively.

Notes receivables are recorded at amortized cost, and are reported as net of an allowance for credit losses. Under ASC Topic 326, the Company maintains an allowance for credit losses based on the difference between the fair value of the collateral associated with the note, less costs to sell the asset, and the amortized cost basis of the note. The Company recognized an allowance for credit losses of \$2,558 and zero as of December 31, 2023 and December 31, 2022, respectively.

### Parts and Supplies Inventory

Inventories are used in operations and are generally held for internal use. Inventories are comprised of spare aircraft parts, materials and supplies, which are valued at the lower of cost, determined on a redemption feature which allows first-in, first-out ("FIFO") basis, or net realizable value. Cost of inventories are determined using the specific identification method. The Company determines, based on the evidence that exists, whether or not it is appropriate to maintain a reserve for excess and obsolete inventory. The reserve is based on historical experience related to the disposal of inventory due to damage, physical deterioration, obsolescence or other causes. As of December 31, 2023 and 2022, the reserve was not material. Storage costs and indirect administrative overhead costs related to inventories are expensed as incurred.

## Notes to Consolidated Financial Statements (continued)

### Investments in securities

Investments in securities consist of fixed-income securities including corporate bonds, government bonds, municipal issues and U.S. treasury bills that are classified as available-for-sale (“AFS”) pursuant to ASC Topic 320, Investments—Debt and Equity Securities (“ASC Topic 320”). The Company classifies investments available to fund current operations as current assets on its consolidated balance sheets. The Company determines the appropriate classification of its investments at the time of purchase and re-evaluates the designations annually. The Company may sell certain marketable securities prior to their stated maturities for strategic reasons including, but not limited to, anticipation of credit deterioration and duration management.

ASC Topic 326 eliminated the concept of other-than-temporary impairment for securities. For securities AFS in an unrealized loss position, the Company determines whether they intend to sell or if it is more likely than not that it will be required to sell the security before recovery of the amortized cost basis. If either of the criteria regarding intent or requirement to sell is met, the new standard requires the security’s amortized cost basis to be written down to fair value through income with an allowance being established under ASC Topic 326. For securities AFS with unrealized losses not meeting these criteria, the Company evaluates whether any decline in fair value is due to credit loss factors. In making this assessment, the Company considers the extent of the unrealized loss, any changes to the rating of the security by rating agencies and adverse conditions specifically related to the issuer of the security, among other factors. If this assessment indicates that a credit loss exists, impairment related to credit-related factors must be recognized as an allowance for credit losses (“ACL”) on the consolidated balance sheets with a corresponding adjustment to earnings. Impairment related to non-credit factors is recognized in other comprehensive income (loss). The Company evaluates AFS securities for impairment on a periodic basis.

As of December 31, 2023 and at adoption of ASC Topic 326 on January 1, 2023, there was no ACL related to debt securities AFS. Accrued interest receivable on debt securities was excluded from the estimate of credit losses.

Realized losses on investment securities were \$238 and \$400 for the redemption years ended December 31, 2023 and 2022, respectively. There were 13 and 24 debt securities in an unrealized loss position as of such public shares December 31, 2023 and 2022, respectively. The fair value of these debt securities in connection with an unrealized loss position as of December 31, 2023 and December 31, 2022, was \$4,263 and \$7,236, respectively. Additionally, as of December 31, 2023 and December 31, 2022, the Company’s liquidation, total fair value of debt securities in an unrealized loss position greater than one year was \$2,759 and \$1,765, which the total unrealized losses of these investments were \$395 and \$98, respectively. The Company determined that the decline in the market value of these securities was primarily attributable to current economic conditions.

#### **Prepaid Engine Overhaul**

The Company has entered into Engine Overhaul Programs for certain aircraft to cover major maintenance costs at specified intervals primarily relating to engine hours. Such engine overhauls are not considered to be routine maintenance, rather capital expenditures that extend the useful life of the underlying engine. The Company has elected the Built-in Overhaul method of accounting, which requires segregation of the aggregate aircraft costs into separate components to be depreciated over the useful life of the aircraft and those that require overhaul at periodic intervals. When an aircraft is initially purchased, any amounts that are considered prepaid engine overhaul, if there is any, as well as a stockholder vote or tender offer in connection with portion of the Business Combination and in connection with certain amendments aircraft cost relating to the Company’s amended engine, are recorded as prepaid engine overhaul and restated certificate are depreciated over a shorter expected useful life (shorter of incorporation, remaining life of the engines at the time of acquisition or 7 years assumed full life of the overhauled components) than the aircraft. Additionally, any payments made under a long-term service arrangement that are applicable primarily to major maintenance activities are recorded as prepaids until such services are provided. Upon completion of the major maintenance activities, such overhaul costs are then depreciated over the expected time to the next major maintenance activities. The Company expenses routine maintenance costs as incurred.

#### **Property and Equipment, Net**

Property and equipment are stated at cost less accumulated depreciation and amortization. Expenditures for repairs and maintenance are expensed as incurred. Depreciation and amortization are computed using the straight-line method over the estimated useful lives of the assets as follows:

	<b>Estimated Useful Life</b>
Transportation equipment	5-20 years
Office furniture and equipment	3-10 years
Leasehold improvements	Shorter of remaining lease term or useful life

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### **Notes to Consolidated Financial Statements (continued)**

#### **Leases**

In accordance with SEC and its staff's guidance on redeemable equity instruments, which has been codified Accounting Standards Update ("ASU") 2016-02, Leases ("Topic 842"), the Company determines whether an arrangement is or contains a lease at inception. A contract is or contains a lease if the contract conveys the right to control the use of an identified asset for a period of time in ASC 480-10-S99, redemption provisions not solely within exchange for consideration. The Company classifies leases at the lease commencement date, when control of the underlying asset is transferred from the lessor to the lessee, as operating or finance leases and records a right-of-use ("ROU") asset and a lease liability on the consolidated balance sheets for all leases with a lease term of greater than one year. The Company require common stock subject has elected to redemption not recognize leases with a lease term of one year or less on the balance sheet for all underlying asset classes and will recognize lease payments for such short-term leases as an expense on a straight-line basis.

The Company enters into contracts that contain both lease and non-lease components. A lease component represents the right to use an underlying asset and non-lease components represent the transfer of goods or services, which typically include items such as maintenance, utilities, or other operating costs. These costs are typically variable and excluded from the measurement of right-of-use assets and lease liabilities. Variable lease payments based on an index or rate are included in the measurement of the lease based on the effective rates at lease commencement. Subsequent changes in the rates or indices do not impact the right of use asset or lease liability and are recognized as a component of variable lease cost in the consolidated statements of operations and comprehensive income (loss).

The Company's operating lease assets and liabilities are recognized at the lease commencement date based on the present value of the lease payments over the lease term using the discount rate implicit in the lease if readily determinable. If the rate implicit is not readily determinable, the Company utilizes its incremental borrowing rate based upon the available information at the lease commencement date. ROU assets are further adjusted for items such as initial direct costs, prepaid rent, or lease incentives. Operating lease payments are expensed using the straight-line method over the lease term. The Company's lease terms may include options to extend the lease when it is reasonably certain that the Company will exercise that option.

### **Asset Acquisition**

The Company applies a screen test to evaluate if substantially all of the fair value of the gross assets acquired is concentrated in a single identifiable asset or group of similar identifiable assets to determine whether a transaction should be accounted for as an asset acquisition or business combination. When an acquisition does not meet the definition of a business combination because either: (i) substantially all of the fair value of the gross assets acquired is concentrated in a single identifiable asset, or group of similar identified assets, or (ii) the acquired entity does not have an input and a substantive process that together significantly contribute to the ability to create outputs, the Company accounts for the acquisition as an asset acquisition.

If determined to be classified outside an asset acquisition, the Company accounts for the transaction under ASC Topic 805, Business Combinations, which requires the acquiring entity in an asset acquisition to recognize assets acquired and liabilities assumed based on the cost to the acquiring entity on a relative fair value basis, which includes transaction costs in addition to consideration given. No gain or loss is recognized as of permanent equity. Therefore, all Class A common stock has been classified outside the date of permanent equity.

acquisition unless the fair value of non-cash assets given as consideration differs from the assets' carrying amounts on the acquiring entity's books. Consideration transferred that is non-cash will be measured based on either the cost (which shall be measured based on the fair value of the consideration given) or the fair value of the assets acquired and liabilities assumed, whichever is more reliably measurable. All payments are made in cash by the Company. Goodwill is not recognized in an asset acquisition and any excess consideration transferred over the fair value of the net assets acquired is allocated to the identifiable assets based on relative fair values.

### **Intangible Assets**

The Company's identifiable intangible assets consist primarily of software and Federal Aviation Administration ("FAA") certificates. These intangible assets arise primarily from the determination of their respective fair market values at the date of acquisition. Amounts assigned to identifiable intangible assets, and their related useful lives, are derived from established valuation techniques and management estimates.

Definite-lived intangible assets are amortized primarily on a straight-line basis, which the Company believes approximates the pattern in which the assets are utilized, over their estimated useful lives.

### **Impairment of Long-Lived Assets**

The Company recognizes assesses the impairment of long-lived assets and intangible assets with determinable useful lives whenever events or 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 business circumstances indicate that the carrying amount of redeemable common stock are affected an asset may not be

recoverable. Conditions that would necessitate an impairment assessment include a significant decline in the observable market value of an asset, a significant change in the extent or manner in which an asset is used, or any other significant adverse change that would indicate that the carrying amount of an asset may not be recoverable. When such events occur, management determines whether there has been impairment by charges against additional paid in capital comparing the anticipated undiscounted net future cash flows to the related asset's carrying value. If impairment exists, the asset is written down to its estimated fair value. There were no impairment losses for the years ended December 31, 2023 and accumulated deficit.

## Net Income Per Common Share

2022.

### Debt Issuance Costs and debt discounts

The Company has two classes borrows from various lenders to finance its growth and operations. Costs incurred in connection with financings, such as loan origination fees, investment banking fees and legal fees are classified as debt discounts if paid to the lenders and are classified as debt issuance costs if paid to the third parties. Debt discounts related to bifurcated derivatives, fees paid to the lenders and debt issuance costs are presented as a direct deduction from the related borrowing and are amortized over the expected life of shares, which are referred to the related financing agreements using the effective interest rate method as Class A common stock and Class B common stock. Earnings and losses are shared pro rata between the two classes a component of shares. The 11,833,333 potential common shares interest expense. See Note 15, "Debt," for outstanding warrants to purchase the Company's stock were excluded from diluted earnings per share for the year ended December 31, 2022 and for the period from January 28, 2021 (inception) through December 31, 2021 because the warrants are contingently exercisable, and the contingencies have not yet been met. As a result, diluted net income per common share is the same as basic net income per common share for the periods.

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additional disclosures.

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## 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 Topic 815, "Derivatives Derivatives and Hedging". Hedging. Derivative instruments are initially recorded at fair value on the grant date and re-valued at each reporting date, with changes in the fair value reported in the consolidated statements of operations. Derivative operations and comprehensive income (loss).

The Company's Bridge Notes (as defined in Note 15, "Debt") contained a conversion feature which met the definition of a derivative instrument. The Company classified the instrument as a liability on its consolidated balance sheets. The derivative liability was initially recorded at fair value upon issuance of the Bridge Notes and was subsequently remeasured to fair value at each reporting date. Changes in the fair value of the derivative liability were recognized as a component of other income (expense), net in the consolidated statements of operations and comprehensive income (loss). The Company's Bridge Notes were converted into 9,550,274 shares of the Company's Class A Common Stock upon the closing of the Merger (see Note 3, "Merger," and Note 15, "Debt"). The derivative liability was remeasured as of the Closing Date of the Merger, with the change in fair value recorded within the consolidated statements of operations and comprehensive income (loss). Upon conversion, a gain on extinguishment was recorded within the consolidated statements of operations and comprehensive income (loss) based on the fair value of the derivative liability and the derivative liability was removed from the consolidated balance sheets.

### Noncontrolling interest

Noncontrolling interests represent ownership interests attributable to third parties in certain consolidated subsidiaries and VIEs. Noncontrolling interests are presented as a separate component of equity on the consolidated balance sheets, consolidated statements of operations and comprehensive income (loss), and consolidated statements of stockholders' equity (deficit) / members' equity (deficit) and temporary equity attributed to controlling and noncontrolling interests.

### Redeemable Noncontrolling Interest

In connection with the Merger, see Note 3, "Merger," the former holders (the "Existing Equityholders") of units of ownership interest in LGM (the "LGM Common Units") retained post-Merger ownership interests in LGM as noncontrolling interests. Pursuant to the Amendment and Restated Operating Agreement, dated December 27, 2023 (the "Operating Agreement"), upon the first anniversary of the Closing Date, the Existing Equityholders may redeem all or a portion of their LGM Common Units for either (a) shares of the Company's Class A common stock ("flyExclusive Class A Common Stock" or the "Class A Common Stock") or b) an equivalent amount of cash as determined pursuant to the Operating Agreement.

While the Company determines whether redemption settlement is for cash or shares, settlement is not considered within the sole control of the Company as the holders of the Company's Class B common stock ("flyExclusive Class B Common Stock" or the "Class B Common Stock") will

designate a majority of the members of the Company's board of directors (the "Board"). Since redemption for cash is not considered within the sole control of the Company, the noncontrolling interest is classified as temporary equity in accordance with ASC 480-10-S99-3(A)(2).

For periods when the noncontrolling interest is probable of becoming redeemable (but is not currently redeemable), the Company will accrete changes in its redemption value from the date it becomes probable that it will become redeemable (the Closing Date) to its earliest redemption date (first anniversary of the Closing Date). This measurement method is in accordance with ASC 480-10-S99-3(A)15a. The Company will adjust the carrying value of the redeemable

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## Notes to Consolidated Financial Statements (continued)

noncontrolling interest based on the higher of (1) the initial carrying value, increased or decreased for the redeemable noncontrolling interest's share of net income or loss, or (2) the redemption value. The Company is required to either (1) accrete changes in the redemption value over the period from the date of issuance to the earliest redemption date of the instrument using an appropriate methodology, usually the interest method, or (2) recognize changes in the redemption value immediately as they occur and adjust the carrying value of the security to equal the redemption value at the end of each reporting period. The Company has elected to accrete changes in the redemption value over the period from the date of issuance (the Closing Date) to the earliest redemption date (the one year anniversary of the Closing Date) using the interest method. Any change in the carrying value of the redeemable noncontrolling interest will be recorded against additional paid-in capital.

### Deferred Revenue

The Company manages Jet Club Memberships, Guaranteed Fleet, MRO, and Fractional Ownership programs. These programs require deposits for future flight services. Consideration received in excess of revenue earned results in deferred revenue and is recorded as a liability in the consolidated balance sheets. See Note 14, "Other Non-Current Liabilities," and Note 6, "Revenue," below for additional disclosures regarding deferred revenue related to these programs.

### Revenue Recognition

Revenue is recognized when the promised services are performed and in an amount that reflects the consideration the Company expects to be entitled to in exchange for those services using the following steps: 1) identification of the contract, or contracts with a customer, 2) identification of performance obligations in the contract, 3) determination of the transaction price, 4) allocation of the transaction price to the performance obligations in the contract and 5) recognition of revenue when or as the performance obligations are satisfied. Determining the transaction price may require significant judgment and is determined based on the consideration the Company expects to be entitled to in exchange for transferring services to the customer, excluding amounts collected on behalf of third parties such as sales taxes.

During the years ended December 31, 2023 and 2022, the Company earned revenue primarily from the programs below:

#### Jet Club Membership

Jet Club members are guaranteed access to the Company's fleet of light, midsize and super-midsize aircraft in exchange for membership fees. New members pay a deposit, up to a maximum of \$500, depending on their level of membership. Membership levels determine the daily rate a member is charged for future flights. Incidental fees are also applied against members' accounts. The initial and any subsequent deposits are non-refundable and must be used for the monthly membership fee or for future flight services. These customer deposits are included in deferred revenue on the consolidated balance sheets until used by the customer. The membership services performance obligation is satisfied over time on a monthly basis. Revenue for flights and related services is recognized when such services are provided to the customer at a point in time.

#### Guaranteed Revenue Program

The Company launched a guaranteed revenue program with a single customer on November 1, 2021. Under this program, the Company serves as an on-demand charter air carrier and guarantees the services of a specified fleet of aircraft as directed by the customer. The term of the agreement is for a minimum of 28 months, which includes a drawdown period of 10 months if the agreement is terminated. The agreement will continue indefinitely unless terminated by either party. The Company requires a deposit of \$1,250 per reserved aircraft. These deposits are included within Other non-current liabilities on the consolidated balance sheets. The customer is charged hourly rates for flight services depending on aircraft type in addition to incidental fees. The customer is committed to a minimum number of flight hours per aircraft and a minimum number of aircraft. Revenue is recognized using the right-to-invoice practical expedient. The guaranteed minimum is enforceable and billable on a quarterly basis. As a result of the termination of this program as described in Note 22, "Commitments and Contingencies," below, the Company has recognized the remaining deposits as revenue during the year ended December 31, 2023, and therefore, the Guaranteed Revenue Program deposits balance was zero as of December 31, 2023. See Note 14, "Other Non-Current Liabilities."

#### Fractional Ownership

The fractional revenue stream involves a customer purchasing a fractional ownership interest in an aircraft for a contractual term of up to 5 years. Customers have the right to flight and membership services from a fleet of aircraft, including the aircraft they have fractionally purchased. Customers

are charged for flight services as incurred based on agreed upon daily and hourly rates in addition to the upfront fractional ownership purchase price. At the end of the

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### Notes to Consolidated Financial Statements (continued)

contractual term, the Company has the unilateral right to repurchase the fractional interest. In certain contracts the customer can require the Company to repurchase their ownership interest after a fixed period of time but prior to the contractual termination date of the contract. The repurchase price, whether at the contractual termination date or at the specified earlier date, is calculated as follows: 1) the fair market value of the aircraft at the time of repurchase, 2) multiplied by the fractional ownership percentage, 3) less a remarketing fee. At the time of repurchase, all fractional ownership interests revert to the Company, and all rights to flight and membership services are relinquished. The Company assessed whether these repurchase agreements result in a lease contract under the scope of ASC 842 but determined that they are revenue contracts under the scope of ASC 606 since the repurchase price is lower than the original selling price, and the customer does not have a significant economic incentive to exercise the put option. Further, the fractional ownership sales are accounted for as containing a right of return and the resulting liability is included within Other non-current liabilities on the consolidated balance sheets. The consideration from the fractional ownership interest, as adjusted for any related customer right of return, is included in deferred revenue on the consolidated balance sheets and recognized over the term of the contract on a straight-line basis as the membership services are provided. Variable consideration generated from flight services is recognized in the period of performance.

#### Maintenance Repair and Overhaul

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

#### Aircraft Sales

The Company occasionally sells aircraft from its fleet. The gain or loss from each transaction is recognized upon completion of the sale as Gain on sale of property and equipment within the consolidated statements of operations and comprehensive income (loss). During the years ended December 31, 2023 and 2022, the Company recorded gains of \$13,905 and \$15,333 on aircraft sold, respectively.

#### Stock-Based Compensation

In connection with the Merger, the Board approved the flyExclusive, Inc. 2023 Equity Incentive Plan, on November 10, 2023 (the "Incentive Plan Effective Date"), at which time the plan became effective, subject to approval by the stockholders of the Company within 12 months. The plan was subsequently approved by the stockholders on December 18, 2023. The 2023 Equity Incentive Plan provides for the grant of options, stock appreciation rights, dividend equivalent rights, restricted stock, restricted stock units, or other rights or benefits to employees, directors and consultants.

In connection with the Merger, the Board approved the flyExclusive, Inc. Employee Stock Purchase Plan (the "ESPP"), on November 10, 2023 (the "ESPP Effective Date"), at which time the plan became effective, subject to stockholder approval. The plan was subsequently approved by the stockholders on December 18, 2023. The ESPP provides eligible employees with a means of acquiring an equity interest in the Company through payroll deductions. The aggregate number of shares of common stock reserved for future employee purchases under the ESPP is 1,500,000 shares. The ESPP will expire on October 31, 2033, unless sooner terminated by the Board, or when all available shares have been purchased. As of December 31, 2023, no shares had been purchased by employees under the ESPP.

The Company accounts for stock-based compensation in accordance with ASC 718, Compensation—Stock Compensation ("ASC 718"). ASC 718 requires that the cost of awards of equity instruments offered in exchange for services, be measured based on the grant-date fair value of the award. Stock-based compensation expense is recognized over the requisite service period using the straight-line method with forfeitures accounted for as they occur. See Note 19, "Stock-based Compensation," for additional information regarding stock-based compensation, the ESPP and the 2023 Equity Incentive Plan.

#### Contract Acquisition Costs

The Company pays commissions on deposits from new and recurring Jet Club member contracts. These commissions are contract acquisition costs that are capitalized as an asset on the consolidated balance sheets as these are incremental amounts directly related to attaining contracts with customers. Capitalized sales commissions were \$1,315 and \$1,053 during the years ended December 31, 2023 and 2022, respectively. As of December 31, 2023 and December 31, 2022, contract acquisition costs of \$514 and \$290, respectively, were included within Prepaid expenses and other current

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### Notes to Consolidated Financial Statements (continued)

assets and \$631 and \$484, respectively, were included within Other non-current assets on the consolidated balance sheets. Capitalized contract costs are periodically reviewed for impairment.

Capitalized contract costs are amortized on a straight-line basis concurrently over the same period of benefit in which the associated revenue is recognized. Amortization expense related to capitalized contract costs included in selling, general, and administrative expense in the consolidated statements of operations and comprehensive income (loss) was \$827 and \$653 during the years ended December 31, 2023 and 2022, respectively.

#### **Customer Deposits Liability**

The Company receives customer deposits from certain customers in connection with the Guaranteed Revenue Program. Under this program, the Company reserves a fleet of aircraft for these customers and requires the customer to make an upfront deposit of \$1,250 per aircraft reserved. The Company expects to refund these deposits after each aircraft is drawn down from the fleet. Additionally, the Company receives customer deposits related to the Fractional Ownership program and is required to repurchase the ownership interests it sells in fractional ownership contracts either at the end of the contract term or if the customer exercises its right of return option. See Note 14, "Other Non-Current Liabilities," for additional disclosures regarding customer deposits from these guaranteed revenue programs and fractional ownership contracts as of December 31, 2023 and 2022.

#### **Earnings per Share**

The Company computes earnings (net loss) per share in accordance with ASC 260, Earnings per Share. Basic earnings (net loss) per share is calculated by dividing net income (loss) available to common stockholders by the weighted-average number of shares of common stock outstanding during each period. Diluted earnings per share is computed by dividing net income available to common stockholders by the weighted-average number of shares of common stock, common stock equivalents, and other potentially dilutive securities, if any, outstanding during the period.

On December 27, 2023, EGA and LGM consummated the Merger pursuant to the Equity Purchase Agreement, which significantly altered the Company's capital structure. Prior to the closing of the Merger, the legal structure of LGM was a limited liability company with ownership interests consisting of members' units. Application of an exchange ratio of members' units for shares of common stock for periods prior to the Merger would not be representative of the capital structure of the Company after the Merger. As such, the Company determined that an exchange ratio should not be applied to periods before the Merger and therefore earnings (net loss) per unit for periods prior to the Merger should not be presented as it would not provide a meaningful comparison with earnings (net loss) per share for periods after the Merger. See Note 3, "Merger," for further discussion. Additionally, the Company determined that the presentation of earnings (net loss) per share for the five-day period from the Closing Date to December 31, 2023 would not be meaningful due to the shortness of this period. Therefore, earnings (net loss) per share information has not been presented for any period in these consolidated financial statements.

#### **Income Taxes**

We account for income taxes using the asset and liability method. Deferred tax assets and liabilities reflect the expected future consequences of temporary differences between the financial reporting and tax bases of assets and liabilities as well as operating losses, capital losses, and tax credit carryforwards. Deferred tax assets and liabilities are classified measured using enacted tax rates that are expected to be in effect when these differences are anticipated to reverse. Management makes estimates, assumptions, and judgments to determine our provision for income taxes, deferred tax assets and liabilities, and any valuation allowance recorded against deferred tax assets. We assess the likelihood that our deferred tax assets will be recovered from future taxable income and, to the extent we believe, based upon the weight of available evidence, that it is more likely than not that all or a portion of the deferred tax assets will not be realized, we establish a valuation allowance.

We recognize the tax benefit from an uncertain tax position only if it is more likely than not the tax position will be sustained upon examination by the taxing authorities, based on the technical merits of the position. The tax benefits recognized from such positions are then measured based on the largest benefit that has a greater than 50% likelihood of being realized upon settlement. Interest and penalties related to unrecognized tax benefits are recognized within income tax expense on the consolidated statements of operations and comprehensive income (loss).

#### **Excise Tax**

In accordance with the Inflation Reduction Act of 2022, the Company records a liability for the expected excise tax obligation at the end of each reporting period. In general, the excise tax liability is calculated as 1% multiplied by the difference between the following: 1) the fair value of the repurchases/redemptions of shares during the period less 2) the fair value of share issuances during the period. The offset to excise tax liability is a reduction to retained earnings (if an entity has retained earnings as opposed to an accumulated deficit) or a reduction to additional paid-in capital in the absence

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### **Notes to Consolidated Financial Statements (continued)**

of retained earnings. As the Company has an accumulated deficit as of December 31, 2023, the offset to the excise tax liability has been recorded as a reduction to additional paid-in capital in the consolidated balance sheets sheet as current or non-current of December 31, 2023.

## Nonmonetary Transactions

From time to time, the Company enters into arrangements with their employees to provide a specified amount of flight time as part of their compensation. The Company records these nonmonetary transactions at the estimated fair value of the flights using the Standard Industry Fare Level. As the employees utilize the flight time the Company provides, an expense is recognized in the period the flight hours are consumed.

## Advertising Expense

The Company expenses all advertising costs when incurred. Advertising expenses were \$6,013 and \$3,242 during the years ended December 31, 2023 and 2022, respectively. This is included within Selling, general and administrative costs on the consolidated statements of operations and comprehensive income (loss).

## Recently Adopted Accounting Pronouncements

In June 2016, the Financial Accounting Standards Board ("FASB") issued ASU 2016-13, Financial Instruments – Credit Losses (Topic 326) ("ASU 2016-13"), which requires entities to measure all expected credit losses for financial assets held at the reporting date based on whether historical experience, current conditions, and reasonable and supportable forecasts. This replaces the existing incurred loss model and is applicable to the measurement of credit losses on financial assets measured at amortized cost. ASU 2016-13 became effective for the Company for annual and interim reporting periods beginning after December 15, 2022. The adoption of this guidance did not have a material impact on the Company's consolidated financial statements.

In March 2020, the FASB issued ASU 2020-03, "Codification Improvements to Financial Instruments" ("ASU 2020-03"). ASU 2020-03 improves and clarifies various financial instruments topics. ASU 2020-03 includes seven different issues that describe the areas of improvement and the related amendments to GAAP, intended to make the standards easier to understand and apply by eliminating inconsistencies and providing clarifications. The Company adopted ASU 2020-03 upon issuance, which did not have a material effect on the Company's current financial position, results of operations or not net-cash settlement or conversion financial statement disclosures.

In March 2020, the FASB issued ASU 2020-04, "Reference Rate Reform (Topic 848): Facilitation of the instrument could Effects of Reference Rate Reform on Financial Reporting", which provides optional expedients and exceptions for a period of time to ease the potential burden in accounting for the transition from reference rates that are expected to be required within 12 months discontinued. Regulators and market participants in various jurisdictions have undertaken efforts to eliminate certain reference rates and introduce new reference rates that are based on a larger and more liquid population of observable transactions. The amendments in this update apply only to contracts, hedging relationships and other transactions that reference LIBOR or another reference rate expected to be discontinued because of reference rate reform. The expedients and exceptions provided by the amendments do not apply to contract modifications made and hedging relationships entered into or evaluated after December 31, 2022, except for hedging relationships existing as of December 31, 2022, that an entity has elected certain optional expedients for and that are retained through the end of the balance sheet date. hedging relationship. In January 2021, the FASB issued clarification on the scope of relief related to the reference rate reform. In December 2022, the FASB extended the period of time entities can use the reference rate reform relief guidance by two years which defers the sunset date from December 31, 2022 to December 31, 2024. The Company has determined that both the Public Warrants adopted this ASU in fiscal 2023 and Private Placement Warrants are derivative instruments.

Recent it had no impact on its consolidated financial statements.

## Recently Issued Accounting Standards

### Not Yet Adopted

In August 2020, the FASB issued Accounting Standards Update ("ASU") ASU 2020-06, Debt—Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging—Hedging - Contracts in Entity's Own Equity (Subtopic 815-40) ("ASU 2020-06") to simplify. ASU 2020-06 simplifies the accounting for certain financial instruments. ASU 2020-06 eliminates the current models that require separation instruments with characteristics of beneficial conversion liabilities and cash conversion features from equity, including convertible instruments and simplifies the derivative scope exception guidance pertaining to equity classification of contracts in on an entity's own equity. The new standard also introduces additional disclosures for convertible debt and freestanding instruments that ASU is part of the FASB's simplification initiative, which aims to reduce unnecessary complexity in U.S. GAAP. The ASU's amendments are indexed to and settled in an entity's own equity. ASU 2020-06 amends the diluted earnings per share guidance, including the requirement to use the if-converted method for all convertible instruments. As a smaller reporting company, ASU 2020-06 is effective January 1, 2024 for fiscal years beginning after December 15, 2023, and should be applied on a full or modified retrospective basis, with early adoption permitted beginning on January 1, 2021. interim periods within those fiscal years. The Company is currently assessing evaluating the impact if any, that ASU 2020-06 would will have on its consolidated financial statements.

In March 2023, the FASB issued ASU 2023-01, which amends the application of ASU 2016-02, Leases (Topic 842), related to leases with entities under common control, also referred to as common control leases. The amendments to this update require an entity to consider the useful life of leasehold improvements associated with common control leases from

**Notes to Consolidated Financial Statements (continued)**

the perspective of the common control group and amortize the leasehold improvements over the useful life of the assets to the common control group, instead of the term of the lease. Any remaining value for the leasehold improvement at the end of the lease would be adjusted through equity. The standard is effective for fiscal years beginning after December 15, 2023, with early adoption permitted. The adoption is not expected to have a material impact on the Company's consolidated financial statements.

In November 2023, the FASB issued ASU 2023-07, Segment Reporting (Topic 280) ("ASU 2023-07"), which enhances the segment disclosure requirements for public entities on an annual and interim basis. Under this proposal, public entities will be required to disclose significant segment expenses that are regularly provided to the chief operating decision maker (the "CODM") and included within each reported measure of segment profit or loss. Additionally, current annual disclosures about a reportable segment's profit or loss and assets will be required on an interim basis. Entities will also be required to disclose information about the CODM's title and position results at the Company along with an explanation of how the CODM uses the reported measures of segment profit or loss in their assessment of segment performance and deciding whether how to allocate resources. Finally, ASU 2023-07 requires all segment disclosures for public entities, even those with a single reportable segment. The amendments in ASU 2023-07 will become effective on a retrospective basis for annual disclosures for fiscal years beginning after December 15, 2023, with interim period disclosures required effective for fiscal years beginning after December 15, 2024. Early adoption of ASU 2023-07 is permitted. The Company is currently evaluating the impact ASU 2023-07 will have on its consolidated financial statements.

In December 2023, the FASB issued ASU 2023-09, Income Taxes (Topic 740): Improvements to Income Tax Disclosures ("ASU 2023-09"). ASU 2023-09 modifies the reporting requirements for income tax disclosures related to effective tax rates and cash income taxes paid. Pursuant to ASU 2023-09, public business entities are required to disclose certain categories in the income tax rate reconciliation, as well as additional information for reconciling items that meet a specific quantitative threshold. Additionally, ASU 2023-09 requires annual disclosures of income taxes paid for all entities, including the amount of income taxes paid, net of refunds received, disaggregated by federal, state, and foreign jurisdictions. The standard is effective for fiscal years beginning after December 15, 2024, with early adoption permitted. The Company is currently evaluating the impact of ASU 2023-09 on its consolidated financial statements.

**3. Merger**

As discussed in Note 1, "Organization and Operations," on December 27, 2023, the Company completed the Merger. Upon the closing of the Merger, the following occurred:

- Each LGM Common Unit outstanding immediately prior to the closing of the Merger, which totaled 60,000,000 units (prior to the redemption and immediate transfer of the 70,000 shares to a third-party pursuant to the Non-Redemption Agreement as defined below), was retained by the Existing Equityholders. Additionally, an equivalent number of shares of flyExclusive Class B Common Stock, which totaled 60,000,000 (prior to the transfer of the 70,000 shares to a third-party pursuant to the Non-Redemption Agreement as defined below), were issued to the Existing Equityholders.
- Each non-redeemable share of EGA Class A common stock issued and outstanding immediately prior to the closing of the Merger, which totaled 5,624,000 shares, was exchanged for, on a one-for-one basis, shares of flyExclusive Class A Common Stock.
- Each redeemable share of EGA Class A common stock subject to possible redemption that was not redeemed prior to the closing of the Merger, which totaled 1,306,922 shares, was exchanged for, on a one-for-one basis, shares of flyExclusive Class A Common Stock.
- Each share of EGA Class B common stock held by the EGA Sponsor issued and outstanding immediately prior to the closing of the Merger, which totaled 1,000 shares, was exchanged for, on a one-for-one basis, shares of flyExclusive Class A Common Stock.
- In connection with the closing of the Merger, EGA entered into agreements (the "Warrant Exchange Agreements") with certain holders of EGA's Public Warrants (the "Warrant Holders"). Pursuant to the Warrant Exchange Agreements, the Warrant Holders agreed to exchange a total of 1,694,456 EGA Public Warrants for 372,780 shares of flyExclusive Class A Common Stock. On the Closing Date, 433,332 of these EGA Public Warrants were exchanged for 95,333 shares of flyExclusive Class A Common Stock. On the Closing Date, the remaining issued and outstanding EGA Public Warrants after the exchange of these 433,332 EGA Public Warrants pursuant to the Warrant Exchange Agreements, which totaled 7,066,668 EGA Public Warrants, each became a warrant to purchase one share of flyExclusive Class A Common Stock.

**Notes to Consolidated Financial Statements (continued)**

- Each Private Placement Warrant to purchase one share of EGA Class A common stock held by the EGA Sponsor on the Closing Date, which totaled 4,333,333 Private Placement Warrants, became a warrant to purchase one share of flyExclusive Class A Common Stock.

- On December 26, 2023, the underwriter in EGA's initial public offering, purchased 75,000 shares of EGA Class A common stock on behalf of LGM. The shares were purchased by the underwriter from a public stockholder that elected to reverse its redemption of 75,000 shares of EGA Class A common stock. The shares were purchased for a total purchase price of \$818 (\$10.90 per share) and the underwriter received reimbursement of \$800 of the purchase price from EGA's Trust Account on December 27, 2023. Simultaneously with the closing of the merger between EGA and LGM on December 27, 2023 (the "Closing"), the 75,000 shares of EGA Class A common stock were automatically exchanged for shares of flyExclusive, Inc. Class A Common Stock and 73,600 shares (out of the above-mentioned 75,000 shares) were granted to employees of LGM as compensation for services provided (the grant date for the 73,600 shares was determined to be December 27, 2023).
- In connection with the Merger, EGA, LGM and Mr. Segrave, Jr. entered into an agreement (the "Non-Redemption Agreement") with an unaffiliated third party pursuant to which such third party agreed not to redeem its shares of EGA Class A common stock subject to possible redemption. In exchange for agreeing not to redeem, Mr. Segrave transferred to the investor 70,000 shares of the Company's Class A Common Stock, which were issued to Mr. Segrave upon the redemption of 70,000 LGM Common Units on the Closing Date. The redemption of 70,000 LGM Common Units immediately triggered the cancellation of 70,000 shares of flyExclusive Class B Common Stock.
- The outstanding principal balance under the Bridge Notes (as defined in Note 15, "Debt"), which, including additions to the principal balance as a result of the accumulation of paid in kind interest was \$95,503 immediately prior to the closing of the Merger, was automatically converted into 9,550,274 shares of flyExclusive Class A Common Stock.

The proceeds received by the Company from the Merger, net of transaction costs, totaled \$8,350.

The Merger was accounted for as a reverse recapitalization in accordance with U.S. GAAP. Under this method of accounting, EGA was treated as the acquired company for financial reporting purposes, whereas LGM was treated as the accounting acquirer. Accordingly, for accounting purposes, the Merger was treated as the equivalent of LGM issuing shares for the net assets of EGA, accompanied by a recapitalization. The net assets of EGA were stated at historical cost with no goodwill or other intangible assets recorded, and operations prior to the Merger are those of LGM. As a result of the Merger, the Company is organized in an umbrella partnership corporation ("Up-C") structure in which substantially all of the assets of the combined company are held by LGM, and flyExclusive's only assets are its equity interests in LGM.

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**Notes to Consolidated Financial Statements (continued)**

The following table presents the total flyExclusive Common Stock outstanding immediately after the closing of the Merger:

	<b>Number of Shares</b>
Exchange of EGA Class A Common stock subject to possible redemption for flyExclusive Class A common stock	1,306,
Exchange of EGA Class A common stock not subject to possible redemption held by EGA Sponsor for flyExclusive Class A common stock	5,624,
Exchange of EGA Class B common stock held by EGA Sponsor for flyExclusive Class A common stock	1,
Exchange of EGA public warrants for flyExclusive Class A common stock	95,
<b>Subtotal - Merger, net of redemptions</b>	<b>7,027,</b>
flyExclusive Class B common stock held by LGM Existing Equityholders	59,930,
Conversion of Bridge Notes held by affiliates of EGA Sponsor into shares of flyExclusive Class A common stock	8,326,
Conversion of Bridge Notes held by non-affiliates into shares of flyExclusive Class A common stock	1,223,
flyExclusive Class A common stock held by third party in accordance with execution of Non-Redemption Agreement	70,
<b>Total - flyExclusive Class A common stock and Class B common stock outstanding as a result of Merger</b>	<b>76,577,</b>

**Deferred Underwriting Fee Agreement**

On December 27, 2023, in conjunction with the closing of the Merger, the Company and the underwriter entered into two agreements (the "Amended Underwriting Agreement" and the "Amended Letter Agreement") to amend the terms of the original deferred underwriting agreement (the "Underwriting Agreement"), dated May 25, 2021, and the original letter agreement (the "Letter Agreement"), dated August 1, 2022.

The Amended Underwriting Agreement changed the payment terms of the Underwriting Agreement from a payment of \$7,875 to the underwriter at the closing of the Merger to a payment of \$500 at the closing of the Merger and 300,000 shares of flyExclusive Class A Common Stock to be issued

to the underwriter no later than five (5) days following the initial filing of a registration statement with the SEC. The Amended Underwriting Agreement includes a provision that states that if the registration statement is not deemed to be effective within sixty (60) business days of the closing of the Merger, the amount of share consideration payable to the underwriter shall increase by 50,000 shares (the "Additional Stock") of the Company's common stock per month on the first business day of each month until the registration statement is declared effective. Subsequent to December 31, 2023, the Company entered into a waiver agreement with the underwriter to waive the Additional Stock penalty if the Form S-1 is not declared effective within sixty (60) business days after the consummation of the Merger.

The Company determined the obligation to issue shares to the underwriter was a registration payment arrangement that should be accounted for under ASC 825-20-25-1, Financial Instruments - Registration Payment Arrangements, which indicates that the contingent obligation to issue additional stock should be treated as a separate unit of account.

The obligation to issue 300,000 shares meets the definition of a derivative under ASC 815. However, the obligation meets the derivative scope exception within ASC 815-40 and therefore is not accounted for as a derivative and is classified within stockholders' equity in the consolidated balance sheets. Since the obligation to issue shares is equity-classified, the Company measured the fair value of the obligation to issue shares at inception and will not remeasure the fair value at each subsequent reporting period. The Company utilized a Finnerty Put Option Model to determine the fair value of the obligation to issue shares due to the presence of a discount for lack of marketability as the shares issuable to the underwriter will not be marketable until a registration statement is declared effective. The key inputs to the valuation model to estimate the fair value of the share obligation included volatility, share price, strike price, dividend yield, and the estimated registration effectiveness date.

The registration payment arrangement to contingently issue 50,000 shares per month is classified as a contingent liability in accordance with ASC 825-20-30-5. The Company did not record a contingent liability on its consolidated balance sheets as it was not probable as of December 31, 2023 that any additional stock would have to be issued, as the

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### Notes to Consolidated Financial Statements (continued)

Company determined it was probable that the registration statement will be deemed effective within sixty (60) business days of the closing of the Merger.

The Amended Letter Agreement amended the timing of the one-time, \$1,500 fee (the "Success Fee") payable to the underwriter from being due at the closing of the Merger to being due within sixty (60) days of the closing of the Merger. The Success Fee is accounted for within other current liabilities on the Company's consolidated balance sheets as of December 31, 2023.

#### 4. Fair Value Measurements

The following tables present the Company's fair value hierarchy for its assets and liabilities that are measured at fair value on a recurring basis and indicate the level within the fair value hierarchy of the valuation techniques the Company utilized to determine such fair value:

(in thousands)	Fair Value Measurements at December 31, 2023			
	Level 1	Level 2	Level 3	Total
<b>Assets:</b>				
Cash equivalents:				
Money market mutual funds	\$ 887	\$ —	\$ —	\$ 887
Short-term investments	849	70,381	—	71,230
	<u>\$ 1,736</u>	<u>\$ 70,381</u>	<u>\$ —</u>	<u>\$ 72,117</u>
<b>Liabilities:</b>				
Warrant liability - public warrants	\$ 1,555	\$ —	\$ —	\$ 1,555
Warrant liability - private placement warrants	—	953	—	953
	<u>\$ 1,555</u>	<u>\$ 953</u>	<u>\$ —</u>	<u>\$ 2,508</u>

(in thousands)	Fair Value Measurements at December 31, 2022			
	Level 1	Level 2	Level 3	Total
<b>Assets:</b>				

Cash equivalents:								
Money market mutual funds	\$	515	\$	—	\$	—	\$	515
Short-term investments		—		69,448		—		69,448
	\$	515	\$	69,448	\$	—	\$	69,963
Liabilities:								
Derivative liability	\$	—	\$	—	\$	971	\$	971
	\$	—	\$	—	\$	971	\$	971

The fair values of government money market funds have been measured on a recurring basis using Level 1 inputs, which are based on unadjusted quoted market prices within active markets. The short-term investments, including investments in fixed income securities, have been measured using quoted pricing on active markets for Level 1 investments and inputs based on alternative pricing sources and models utilizing observable market inputs for Level 2 investments.

The fair value of the Public Warrants is classified as Level 1 due to the use of an observable market quote in an active market. The fair value of the Private Placement Warrants is classified as Level 2 due to the use of an observable market quote for the Public Warrants, which are considered to be a similar asset in an active market. The warrant liability is calculated by multiplying the quoted market price of the Company's Public Warrants by the total number of Public Warrants and Private Placement Warrants.

The Company's Level 3 liability historically consisted of an embedded derivative liability associated with the Company's Bridge Notes (as defined in Note 15, "Debt"). On October 17, 2022, the closing date of the Bridge Notes, the Company recorded the fair value of the embedded derivative liability associated with the Bridge Notes. The embedded derivative liability was subject to remeasurement at the end of each reporting period, with changes in fair value recognized as a component of other income (expense), net. The fair value of the derivative liability was determined using a Monte Carlo Simulation ("MCS") analysis, which uses Level 3 inputs. The MCS analysis contains inherent assumptions related to

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**Notes to Consolidated Financial Statements (continued)**

expected stock price volatility, estimated Merger Closing Date, risk-free interest rate, estimated market yield and the probability of a successful transaction. Due to the use of significant unobservable inputs, the overall fair value measurement of the derivative liability was classified as Level 3. Upon the closing of the Merger, the convertible note was converted into shares of flyExclusive Class A Common stock, which triggered the termination of the derivative liability.

The fair value of the derivative liability as of October 17, 2022 and December 27, 2023 was determined using the following assumptions:

	October 17, 2022	
Exchange closing price	\$	9.8
Contractual conversion price	\$	10.0
Risk-free rate		4
Estimated volatility		4
	December 27, 2023	
Exchange closing price	\$	11.9
Contractual conversion price	\$	10.0
Risk-free rate		5
Estimated volatility		15

The following table shows the change in the fair value of the derivative liability for the year ended December 31, 2023 and December 31, 2022:

(in thousands)	Amount
Balance as of December 31, 2021	\$
Issuance of derivative instrument	\$ 1,
Change in fair value of derivative liability	\$ (
Balance as of December 31, 2022	\$
Change in fair value of derivative liability	14,
Derecognition of derivative liability	\$ (15,
Balance as of December 31, 2023	\$

There have been no changes in valuation techniques and related inputs. As of December 31, 2023 and December 31, 2022, there were no transfers between Level 1, Level 2, and Level 3.

## 5. Variable Interest Entities

As part of the organizational structure, the Company has established numerous single-asset LLC entities ("SAEs") each for the primary purpose of holding a single identifiable asset, individual planes / aircraft and leasing the asset to the Company through its wholly-owned subsidiaries. There are SAEs in which the Company has less than 100% equity interest (generally 50% or less) ("SAEs with Equity"). There are also SAEs in which the Company holds zero equity interests. Generally, in these instances, the Company initially acquired the aircraft, contributed the aircraft to the SAE, and subsequently sold 100% of the equity interests in the SAE and leased the aircraft back from the third-party in a sale-leaseback structured transaction ("SAEs without Equity"). The Company also has a 50% noncontrolling ownership interest in an entity that operates an aircraft paint facility ("paint entity").

Management analyzes the Company's variable interests including loans, guarantees, and equity investments, to determine if the Company has any variable interests in these entities. This analysis includes both qualitative and quantitative reviews. Qualitative analysis is based on an evaluation of the design and primary risk of these entities, their organizational structures including decision making abilities, and financial and contractual agreements. Quantitative analysis is based on these entities' equity interests and investment. The Company determined it has variable interests in the paint entity and SAEs with Equity as a result of its equity interest in these entities. For those SAEs without Equity that the Company has a (a) lease agreement for the aircraft which is the primary asset of these entities (the "lessor SAEs without

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### Notes to Consolidated Financial Statements (continued)

Equity"), and (b) either (i) has a call option and/or (ii) a lessor put option for a fixed purchase price, it is determined that the Company has variable interests in the lessor SAEs without Equity.

The Company then determines whether the entities that the Company has variable interests in are VIEs. ASC Topic 810, Consolidation, defines a VIE as an entity that either (i) lacks sufficient equity to finance its activities without additional subordinated financial support from other parties; or (ii) whose equity holders, as a group, lack the characteristics of a controlling financial interest. Paint entity, SAEs with Equity and lessor SAEs without Equity are VIEs as they met at least one of the criteria above.

A VIE is consolidated by its primary beneficiary, which is defined as the party who has a controlling financial interest in the VIE through (a) power to direct the activities of the VIE that most significantly affect the VIE's economic performance, and (b) obligation to absorb losses or right to receive benefits of the VIE that could be significant to the VIE.

The Company uses qualitative and quantitative analyses to determine if it is the primary beneficiary of VIEs including evaluation of (a) the purpose and design of the VIE, and (b) activities that most significantly impact economic performance of the VIE. The Company also determines how decisions about significant activities are made in the VIE and the party or parties that make them. The Company determined that it is the primary beneficiary of these VIEs because it acts as manager of the entities' aircraft or retains control of the entity through terms in the leases, thereby giving it the power to direct activities of the entities that most significantly impact its economic performance. In addition, the Company either (a) has obligations to the losses of the VIEs and the right to receive benefits from the VIEs that could potentially be significant to the entities as a result of its equity interests, or (b) is deemed to have a controlling financial interest in the VIEs due to the other equity holders of these VIEs, as a group, lacking the characteristics of a controlling financial interest.

The Company's consolidated balance sheets include the following assets and liabilities of these VIEs:

(in thousands)	December 31, 2023	December 31, 2022
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Cash	\$	805	\$	1,041
Property and equipment, net		69,815		63,913
Long-term notes payable, current portion		3,087		5,841
Long-term notes payable, non-current portion		37,404		40,562

The Company's consolidated statements of operations and comprehensive income (loss) include the following expenses of these VIEs:

(in thousands)	Year Ended December 31,			
	2023	2022		
Interest expense	\$	2,147	\$	1,533
Depreciation and amortization		7,519		7,098

The assets of the Company's VIEs are only available to settle the obligations of these entities. Creditors of each of the VIEs have no recourse to the general credit of the Company.

While the Company has no contractual obligation to do so, it may voluntarily elect to provide the VIEs with additional direct or indirect financial support based on its business objectives. The Company provided financial contributions to the VIEs in the amount of \$9,541 and \$14,549 during the years ended December 31, 2023 and 2022, respectively.

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### Notes to Consolidated Financial Statements (continued)

## 6. Revenue

### Disaggregation of Revenue

The following table disaggregates revenue by service type and the timing of when these services are provided to the member or customer:

(in thousands)	Year Ended December 31,			
	2023	2022		
Services transferred at a point in time:				
Flights	\$	303,299	\$	314,039
Services transferred over time:				
Memberships		5,458		3,939
MRO		4,606		1,556
Fractional ownership purchase price		1,999		508
	\$	315,362	\$	320,042

### Transaction Price

The transaction prices for each of the primary revenue streams are as follows:

- Jet Club and Charter – Membership fees (less credits issued), and flight related charges based on trips flown
- Guaranteed Revenue Program – Fleet minimums with additional charges for flight services over the guarantee
- MRO – Time and materials incurred for services performed
- Fractional Ownership – The portion of fractional interest purchase price (less credits issued) allocated to revenue, and flight related charges based on trips flown

The following tables provide a rollforward of deferred revenue:

<i>(in thousands)</i>	<b>Amount</b>
Balance as of December 31, 2021	\$ 32,
Revenue recognized	(179,
Revenue deferred	207,
Balance as of December 31, 2022	60,
Revenue recognized	(185,
Revenue deferred	219,
Balance as of December 31, 2023	\$ 93,

The increase in deferred revenue at December 31, 2023 compared to December 31, 2022 is due to increased customer billings for services relating to timing of satisfaction of the Company's performance obligations.

## 7. Other Receivables

Other receivables consisted of the following:

<i>(in thousands)</i>	December 31, 2023	December 31, 2022
Rebate receivables	\$ 871	\$ 1,375
Federal excise tax receivable	3,079	2,506
Insurance settlement in process	298	931
Other	212	113
	<u>\$ 4,460</u>	<u>\$ 4,925</u>

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## Notes to Consolidated Financial Statements (continued)

## 8. Parts and Supplies Inventory

Parts and supplies inventory consists primarily of aircraft parts and materials and supplies. Parts and supplies inventory, net of reserve, consisted of the following:

<i>(in thousands)</i>	December 31, 2023	December 31, 2022
Aircraft parts	\$ 4,824	\$ 3,350
Materials and supplies	318	2,522
	<u>\$ 5,142</u>	<u>\$ 5,872</u>

## 9. Prepaid Expenses and Other Current Assets

Prepaid expenses and other current assets consisted of the following:

<i>(in thousands)</i>	December 31, 2023	December 31, 2022
Prepaid vendor expenses	\$ 2,520	\$ 1,717
Prepaid insurance	446	1,894
Capitalized transaction costs*	—	1,233
Prepaid directors and officers insurance	2,518	—
Prepaid maintenance	60	181
Prepaid non-aircraft subscriptions	113	135

MRO revenue in excess of billings	581	292
Deferred commission	514	413
	\$ 6,752	\$ 5,865

\*The capitalized transaction costs consist of advisory, legal, and other professional fees that are specific incremental costs directly attributable to the offering of securities associated with the Closing of the Merger. On the Closing Date, these capitalized transaction costs were reclassified from prepaid expenses and other current assets to a reduction to additional paid-in capital.

## 10. Investments in Securities

The cost and fair value of marketable securities are as follows:

(in thousands)	December 31, 2023			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
	U.S. treasury bills	\$ 60,801	\$ 131	\$ —
Municipal bonds	9,543	148	(404)	9,287
Corporate/government bonds	477	29	—	506
Other bonds	478	27	—	505
	\$ 71,299	\$ 335	\$ (404)	\$ 71,230

(in thousands)	December 31, 2022			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
	U.S. treasury bills	\$ 59,764	\$ 319	\$ —
Municipal bonds	9,205	40	(838)	8,407
Corporate/government bonds	477	—	—	477
Other bonds	478	3	—	481
	\$ 69,924	\$ 362	\$ (838)	\$ 69,448

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### Notes to Consolidated Financial Statements (continued)

The aggregated unrealized losses on available-for-sale debt securities in the amounts of \$69 and \$476 have been recognized in accumulated other comprehensive loss in the Company's consolidated balance sheets as of December 31, 2023 and December 31, 2022, respectively.

## 11. Property and Equipment, Net

Property and equipment, net consisted of the following:

	December 31, 2023	December 31, 2022
Transportation equipment	\$ 311,584	\$ 294,846
Office furniture and equipment	3,131	2,591
Leasehold improvements	2,306	137
Construction in progress	147	447
Deposits on transportation equipment	23,923	29,729
	341,091	327,750
Less: Accumulated depreciation	(87,115)	(75,057)
Property and equipment, net	\$ 253,976	\$ 252,693

Depreciation expense of property and equipment for the years ended December 31, 2023 and 2022, was \$25,833 and \$23,114, respectively. The net carrying value of disposals of long-lived assets as of December 31, 2023 and 2022 was \$66,986 and \$45,209, respectively.

Interest payments on borrowings to acquire aircraft are capitalized for the month of acquisition when the aircraft's in-service date begins following the 15th of the month. (Interest payments for the month of acquisition would be expensed if the aircraft is placed into service before the 15th of the month). Capitalized interest was zero and \$161 as of December 31, 2023 and December 31, 2022, respectively, and was included as a component of construction in progress prior to the equipment's in-service date.

## 12. Intangible Assets

Intangible assets, net are as follows:

	December 31, 2023			
	Intangible	Accumulated	Intangible	Weighted-Average
	Assets, Gross	Amortization	Assets, Net	Useful Life (in years)
Software - in service	\$ 3,486	\$ (1,902)	\$ 1,584	3
FAA certificate	650	—	650	Indefinite
Total acquired intangible assets	\$ 4,136	\$ (1,902)	\$ 2,234	

	December 31, 2022			
	Intangible	Accumulated	Intangible	Weighted-Average
	Assets, Gross	Amortization	Assets, Net	Useful Life (in years)
Software - in service	\$ 2,680	\$ (898)	\$ 1,782	3
FAA certificate	650	—	650	Indefinite
Total acquired intangible assets	\$ 3,330	\$ (898)	\$ 2,432	

Amortization of intangible assets was \$1,004 and \$898 for the years ended December 31, 2023 and 2022, respectively. The Company did not record any impairment charges related to definite-lived intangible assets for the years ended December 31, 2023 and 2022.

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## Notes to Consolidated Financial Statements (continued)

The following is a schedule of estimated amortization expense for the following periods:

Fiscal Year	Amount
2024	\$ 1,040
2025	383
2026	161
2027	—
2028	—
Thereafter	—
	\$ 1,584

## 13. Other Current Liabilities

Other current liabilities consisted of the following:

	December 31, 2023	December 31, 2022
Accrued vendor payments	\$ 6,386	\$ 4,510

Accrued ERC payments	9,044	8,909
Accrued underwriter fees	1,500	—
Accrued directors and officers insurance	2,518	—
Accrued employee-related expenses	7,751	6,473
Accrued engine expenses	4	1,139
Accrued tax expenses	746	526
Accrued interest	569	92
Other	187	128
	\$ 28,705	\$ 21,777

### Employee Retention Credit (“ERC”)

The CARES Act, which was enacted on March 27, 2020, provides an ERC that is a refundable tax credit against certain employer taxes. The ERC was subsequently amended by the Taxpayer Certainty and Disaster Tax Relief Act of 2020, the Consolidated Appropriation Act of 2021, and the American Rescue Plan Act of 2021, all of which amended and extended the ERC availability and guidelines under the CARES Act. The goal of the ERC program is to encourage employers to retain and continue paying employees during periods of pandemic-related reduction in business volume even if those employees are not actually working, and therefore, are not providing a service to the employer.

Under the Act, eligible employers could take credits up to 70% of qualified wages with a limit of \$7 per employee per quarter for the first three quarters of calendar year 2021. In order to qualify for the ERC in 2021, organizations generally have to experience a more than 20% decrease in gross receipts in the quarter compared to the same quarter in calendar year 2019 or its operations are fully or partially suspended during a calendar quarter due to “orders from an appropriate governmental authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes)” due to COVID-19. The credit is taken against the Company’s share of Social Security Tax when the Company’s payroll provider files, or subsequently amends the applicable quarterly employer tax filings.

As of December 31, 2023, the Company has received ERC payments totaling \$9,044. The Company’s legal counsel has issued a legal opinion that the Company, more likely than not, qualified for the ERC. However, it remains uncertain whether the Company meets the eligibility qualifications required for the ERC. Therefore, the balance was included in Other current liabilities in the consolidated balance sheets as of December 31, 2023 and December 31, 2022 since the Company may potentially be required to repay the ERC.

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### Notes to Consolidated Financial Statements (continued)

#### 14. Other Non-Current Liabilities

Other non-current liabilities consisted of the following:

	December 31, 2023	December 31, 2022
Guaranteed revenue program deposits	\$ —	\$ 37,500
Fractional ownership deposits	16,686	3,636
PPP loan	—	339
Other	26	28
	\$ 16,712	\$ 41,503

#### 15. Debt

The components of the Company’s outstanding Short-term notes payable consisted of the following:

	Weighted average interest rates	December 31, 2023	December 31, 2022
Short-term notes payable			
Bank 2	7.5 %	14,400	3,756

Less: Unamortized debt issuance costs		(4)	(52)
Total short-term notes payable	\$	14,396	\$ 3,704

In October 2022, the Company entered into a short-term loan agreement for a principal amount of \$3,756 bearing interest at 6.5% and was initially maturing in April 2023. In April 2023, the Company extended its maturity date to October 2023 and amended its interest rate to 7.75%. The loan is collateralized by the aircraft it financed and requires monthly interest payments. A balloon payment of all unpaid principal and accrued and unpaid interest is due upon maturity. The principal balance of \$3,756 was paid off in September 2023.

In June 2023, the Company entered into two new short-term loan agreements in the amounts of \$8,000 and \$6,400 principal. Both loans bear an interest rate of 7.75%, with a maturity date of six months from the loan date. In December 2023, the Company extended the maturity dates to June 2024, one year from the loan dates.

As of December 31, 2023 and December 31, 2022, unamortized debt issuance costs were \$4 and \$52, respectively.

During the years ended December 31, 2023 and 2022 the Company recorded \$175 and \$162, respectively in amortization of debt issuance costs within Interest expense in the consolidated statements of operations and comprehensive income (loss). Total interest expense related to short-term debt was \$928 and \$578 for the years ended December 31, 2023 and 2022, respectively.

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### Notes to Consolidated Financial Statements (continued)

The components of the Company's outstanding long-term debt consisted of the following:

	Interest Rates		Amounts		Maturity Dates	
	December 31, 2023	December 31, 2022	December 31, 2023	December 31, 2022	December 31, 2023	December 31, 2022
Long-term notes payable with banks for the purchase of aircrafts						
Bank 1	4.0% - 7.3%	4.0% - 5.5%	\$ 13,589	\$ 24,275	Aug 2025 - Feb 2027	Aug 2023 - Sep 2026
Bank 2	4.0% - 7.8%	4.0% - 6.3%	13,769	15,518	Dec 2025 - Jun 2028	Jun 2023 - Nov 2027
Bank 3	3.5% Fixed - 2.3% + SOFR**	3.5% Fixed - 2.2% + LIBOR†	7,705	8,721	Jan 2024 - Oct 2026	Apr 2023 - Oct 2026
Bank 4	2.9% + SOFR**	2.8% + LIBOR†	4,082	4,440	Sep 2024 - Dec 2024	Sep 2024 - Dec 2024
Bank 5	5.3% - 6.0%*	5.3% - 6.0% + LIBOR* †	3,759	4,204	Jul 2030 - Sep 2030	Jul 2030 - Sep 2030
Bank 6	7.7%	5.4%	1,843	2,114	Jan 2030	Jan 2024
Bank 7	4.0%	4.0%	1,061	1,320	Sep 2027	Sep 2027
Long-term notes payable with financial institutions for the purchase of aircrafts						
Financial Institution 1	0.25% + Schwab Loan Rate	5.3%	3,290	3,650	Dec 2027	Dec 2027
Financial Institution 2	3.6% - 7.0%	3.6% - 7.0%	8,435	17,882	Nov 2026 - May 2027	Mar 2026 - Jun 2027
Financial Institution 3	9.0% - 9.5%	n/a	22,612	—	Sep 2033 - Dec 2033	n/a
Credit facilities with financial institutions						
Financial Institution 4	1.3% + SOFR** - 2.8% + SOFR**	2.3% + LIBOR † - 2.8% + SOFR**	72,688	32,153	See disclosure below	See disclosure below
Bridge Notes	n/a	10.0%	n/a	86,816	See disclosure below	See disclosure below
Other long-term debt payable						

EID loan	See disclosure below	See disclosure below	116	122	See disclosure below	See disclosure below
Long-term debt from VIEs			40,491	46,403		
Total Long-term notes payable			193,440	247,618		
Less: Unamortized debt issuance costs and debt discount			(151)	(1,717)		
Less: current portion			(26,471)	(23,581)		
Long-term notes payable, non-current portion			\$ 166,818	\$ 222,320		

\* The payment terms dictate that the Note shall bear interest at a rate equal to the Prime Rate plus 275 basis points with an initial interest rate set at 6% based on the Prime Rate and Loan Spread at the time of the agreement. The interest rate is to be adjusted every 5 years and be based on the Prime Rate published as of the date plus the Loan Spread.

† LIBOR is defined as the "London Interbank Offer Rate".

\*\* SOFR is defined as "Secured Overnight Financing Rate".

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### Notes to Consolidated Financial Statements (continued)

The Company (the "borrowers") routinely enters into long-term loan agreements with various lenders for the purpose of financing purchases of aircraft. These loans usually have an initial term between 2 to 15 years and sometimes the borrowers negotiate with the lenders to extend the maturity date at the end of the initial term. The Company will refinance as needed to meet its obligations as they become due within the next 12 months. The Company has maintained a positive relationship with the lenders and has not historically had any difficulty refinancing these debt obligations. Based on historical experience and the fact that the Company has not suffered any decline in creditworthiness, it expects that cash on hand and cash earnings will enable it to secure the necessary refinancing. Amendments are executed at times when interest rates and terms are changed. Under these long-term loan agreements, these borrowers usually pay principal and interest payments each month, followed by a balloon payment of all unpaid principal and accrued and unpaid interest due upon maturity, and when applicable, a loan origination fee upon execution. Additionally, late payments are usually charged a 5% penalty fee (each individual loan agreement varies). Each note payable is collateralized by the specific aircraft financed and is guaranteed by the owners of the borrowers. Debts are usually satisfied when the financed aircraft are sold.

The lender may impose a restriction that the outstanding balance of the note may not exceed a percentage of the retail value of the collateral. In the event the outstanding value of the loan exceeds the percentage threshold of the collateralized aircraft, the borrowers may be required to make a payment in order to reduce the balance of the loan. Pursuant to the loan agreements, the borrowers must maintain certain debt service ratios (such as cash flow to leverage or certain EBITDA to total borrowings) specific to each lender as long as the borrowers hold outstanding loans. There are approximately forty separate loan agreements (each loan agreement includes the initial agreement and amendments if applicable) with note payable balances outstanding included in the consolidated balance sheets as of December 31, 2023 and December 31, 2022.

As of December 31, 2023 and December 31, 2022, unamortized debt issuance costs were \$151 and \$217 for long-term notes payable (excluding convertible note), respectively.

During the years ended December 31, 2023 and 2022, the Company recorded \$98 and \$79, respectively, in amortization of the debt issuance costs within Interest expense in the consolidated statements of operations and comprehensive income (loss). Total Interest expense related to long-term debt (excluding convertible note and VIEs) was \$9,251 and \$4,023 for the years ended December 31, 2023 and 2022, respectively.

The table below presents the Company's contractual principal payments (not including debt issuance costs) as of December 31, 2023 under then-outstanding long-term debt agreements in each of the next five calendar years (does not include VIE loans):

Fiscal year	Amount
2024	\$ 23,408
2025	75,500
2026	21,309
2027	12,719
2028	2,528
Thereafter	17,485
	<u>152,949</u>

Long-term notes payable from VIE	40,491
Debt issuance costs	(151)
Total long-term notes payable	<u>\$ 193,289</u>

### **Credit Facility (term loan)**

In August 2018, the Company entered into a term loan agreement with a financial institution (the "Lender") to provide a term loan with a maximum borrowing amount of \$12,255, each borrowing considered a loan with a separate promissory note (the "Credit Facility"). Each term loan will be used to finance the purchase of aircraft and shall not exceed certain appraised value of the aircraft that is being financed.

Interest will accrue on the unpaid principal balance at a rate equal to the Overnight LIBOR-Based Rate (a per annum rate of interest which is equal to the greater of: (i) the floor rate 2.25%, and (ii) the sum of Overnight LIBOR plus 2.25% (Overnight LIBOR Margin) at the execution date of the promissory note. Interest on each loan will be paid in arrears on the same day of each month, commencing on the one-month anniversary of the promissory note. In addition to the interest payments, a principal payment of each loan will be paid monthly based on an amortization schedule of twelve years. The

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### **Notes to Consolidated Financial Statements (continued)**

entire remaining principal balance of the loan, plus all accrued but unpaid interest shall be due and payable on the fifth-year anniversary of the promissory note (the "Term Loan Maturity Date"). Any installment of principal or interest on the loans which are not paid when due shall bear a default interest rate equal to the lesser of (i) the applicable LIBOR-based rate plus 3% per annum, or (ii) the highest rate then permitted by applicable law. A late charge of 5% of any payment will be imposed on any regularly scheduled payment not received by the Lender on or before 15 days from the date such payment is due.

The Lender has the right to have any financed aircraft appraised during any outstanding obligations, at the Company's sole cost and expense. In the event the loan is revealed to have a value greater than a certain percentage of the aircraft, the Company must make a mandatory repayment of the applicable loan to an amount that will reduce the loan to be less than the required percentage of the applicable appraised value. Pursuant to the term loan agreement, the Company must maintain a certain debt service coverage ratio (the ratio calculated by dividing EBITDA and sum of all loan payments), tested annually. There is also an optional prepayment clause which specifies that the Company may prepay any loans in whole or in part, and all prepayments of principal shall include interest accrued to the date of the prepayment on the principal amount being prepaid.

The Credit Facility contains clauses requiring the Company to maintain their limited liability companies' existence and to not permit any of the subsidiaries to liquidate, dissolve, change their names, or consolidate with other corporations without prior consent of the Lender. The original loan agreement states that the Company may not re-borrow any amounts repaid to the Lender. The term loan is collateralized by substantially all assets of the borrower and initially expires August 2019. The Credit Facility also contains other customary covenants, representations and events of default.

In August 2019, the Company entered into the First Amendment of the original term loan agreement which increased the maximum available borrowings of the Credit Facility to \$22,255 and extended the Term Loan Maturity Date to November 2020. The First Amendment also amended the covenant to require the Company to maintain a certain Fixed Charge Coverage ratio tested on the date immediately preceding each borrowing and upon receipt of quarterly financial statements.

In November 2020, the Company entered into the Second Amendment of the term loan agreement which increased the maximum available borrowings of the Credit Facility to \$27,250 and extended the Term Loan Maturity Date to November 2022.

In September 2022, the Company entered into the Third Amendment of the term loan agreement which increased maximum available borrowings of the Credit Facility to \$32,250 and extended the Term Loan Maturity Date to September 2024. The Third Amendment also states that the Company may repay any outstanding loan at any time and any amounts so repaid may be reborrowed, up to the Maximum Loan Amount at the time of such borrowing. The Third Amendment also amended the interest rate terms and provided the option to elect a rate per year equal to SOFR-Based Rate or the Prime-Based Rate.

In December 2023, the Company entered into the Fourth Amendment of the term loan agreement which decreased maximum available borrowings of the Credit Facility to \$15,250. The Company elected to utilize the SOFR-Based Rate upon execution of the amendment and continued to pay interest based on the SOFR-Based Rate as of December 31, 2023.

As of December 31, 2023 and December 31, 2022, the aggregate outstanding balances on the term loan were \$13,148 and \$32,153, respectively and the Company had approximately \$2,102 and \$97 additional available borrowing capacity under the term loan, respectively. As of December 31, 2023 the term loans bear maturity dates from January 2024 to April 2027.

### **Credit Facility (Revolving Line of Credit)**

In March 2023, the Company entered into a revolving uncommitted line of credit loan with the lender (the "LOC Master Note"). The LOC Master Note provides a line of credit of up to \$60,000 and the Company may request one or more loans from time to time until the scheduled maturity date of March 9, 2024 ("LOC Master Note Maturity Date"). The loan is collateralized by the Company's investment accounts with the financial institution.

At the Company's option, the interest rate on term loans drawn from the LOC Master Note is equal to either the Prime-Based Rate, defined as the greater of 1.25% or the prime rate minus 1.88%, or the Daily Simple SOFR-Based Rate, defined as the greater of 1.25% or the Daily Simple SOFR plus 1.25% ("Interest Rate Option"). The Company agrees to pay accrued interest monthly on the 9th day of each month, beginning with the first of such dates to occur after the date of the first Loan, at maturity of this note, and upon payment in full, whichever is earlier or more frequent. After maturity, whether by acceleration or otherwise, interest shall be payable upon demand. The Company may prepay any principal

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## Notes to Consolidated Financial Statements (continued)

bearing interest at any Interest Rate Option in whole or in part without breakage fee, penalty or premium; provided, however, that if a Swap Agreement with a Daily Simple SOFR-Based Rate is in effect between Lender and the Company in connection with a Loan made pursuant to this LOC Master Note, any applicable swap breakage fees, penalties, premiums and costs will apply. There is no Swap Agreement in place as of December 31, 2023.

The LOC Master Note contains customary representations and warranties and financial and other affirmative and negative covenants and is subject to acceleration upon certain specified events of default, including failure to make timely payments, breaches of certain representations or covenants, failure to pay other material indebtedness, failure to maintain the market value of the collateral such that at all times it equals or exceeds the Minimum Liquidity Balance and certain other events of default.

All payments shall be made in immediately available funds and shall be applied first to accrued interest and then to principal; however, if an Event of Default occurs, Lender may in its sole discretion, and in such order as it may choose, apply any payment to interest, principal and/or lawful charges and expenses then accrued.

The Company drew an initial \$44,527 principal amount in March 2023, with the selected interest option of SOFR plus 1.25%. In April, September, and October 2023, the Company drew additional \$3,300, \$8,713 and \$3,000 principal amounts, respectively, under the LOC Master Note with the selected interest option of SOFR plus 1.25%. As of December 31, 2023, the Company has an outstanding balance on the LOC Master Note of \$59,540 with the selected interest option of SOFR plus 1.25%.

Subsequent to December 31, 2023, the Company entered into an amendment to the LOC Master Note to extend the maturity date to September 9, 2025. Refer to Note 24, "Subsequent Events," for additional details.

### Debt Covenants

Financial covenants contained in the debt borrowings mandate that the Company maintains certain financial metrics, including, but not limited to, debt service coverage ratios, fixed charge cover ratios, or cash flows.

Management flow cover ratios. If the Company is unable to maintain the financial metric, it is a breach of the debt covenant and is considered an event of default. An event of default can result in all loans and other obligations becoming immediately due and payable, including the advance of any sums necessary to cure the event of default, allowing the lenders to seize the collateralized assets, aircraft and the debt agreements being terminated. As of December 31, 2023 and December 31, 2022, the Company was not in compliance with certain financial covenants and obtained waiver request letters from the various lenders. Pursuant to the waiver letters, the lenders agreed to waive the financial covenants for the years ended December 31, 2023 and December 31, 2022. The aggregate balances of outstanding debt obligations for which waiver letters were received was \$42,675 and \$13,645 as of December 31, 2023 and December 31, 2022, respectively.

### Bridge Notes

On October 17, 2022, the Company entered into the EPA with EGA (see Note 1, "Organization and Operations"). In combination with the EPA, the Company entered into a senior subordinated convertible note agreement (the "Bridge Notes") with an investor ("Noteholder"). Pursuant to the convertible note agreement, the Company borrowed and agreed to repay the Noteholder a principal amount of \$50,000, which can be increased to a maximum borrowing of \$85,000. On October 28, 2022, the Company requested and received the additional \$35,000 incremental note funding, bringing the total borrowing amount to \$85,000.

The Bridge Notes accrued interest daily at the applicable rate which is 10%. Pursuant to the convertible note agreement, interest is payable in kind ("PIK", instead of paying cash, accrued interest will be added to the outstanding principal balance and will be deemed paid) annually on the anniversary of the closing date of the Bridge Notes of October 17, 2022.

The Company assessed all terms and features of the Bridge Notes in order to identify any potential embedded features that would require bifurcation. As part of this analysis, the Company assessed the economic characteristics and risks of the Bridge Notes, including the conversion, put and call features. In consideration of the conversion provision, the Company concluded the conversion feature required bifurcation as a derivative. The fair value of the conversion feature derivative was determined based on the difference between the fair value of the Bridge Notes with the conversion option and the fair value of the Bridge Notes without the conversion option. The Company determined that the fair value of the derivative upon issuance of the Bridge Notes was \$1,441 and recorded this amount as a derivative liability and the offsetting amount as a debt discount as a reduction to the carrying value of the Bridge Notes on the Bridge Note's closing date of October 17, 2022. As of December 31, 2023 and December 31, 2022, the fair value of the derivative liability was zero and \$971, respectively.

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### Notes to Consolidated Financial Statements (continued)

Upon closing of the Merger, the outstanding principal balance of the Bridge Notes of \$85,000 and accrued PIK interest of \$10,503 were automatically converted into 9,550,274 shares of flyExclusive Class A common stock, settling the Company's repayment obligation, (See Note 3, "Merger"). Immediately prior to the conversion on the Closing Date, the Company remeasured the associated derivative liability to its fair value as of the Closing Date of \$15,560. The Company recognized an unrealized loss of \$14,589 related to the change in fair value of derivative liability from December 31, 2022 to the Closing Date within other income (expense), net in the consolidated statements of operations and comprehensive income (loss). Upon conversion, the Company removed the associated unamortized debt issuance costs of \$717 and derivative liability of \$15,560 from the consolidated balance sheets and recorded a gain on extinguishment of debt of \$14,843 within the consolidated statements of operations and comprehensive income (loss) for the year ended December 31, 2023. For the year ended December 31, 2022, the Company recognized an unrealized gain of \$470 related to the change in fair value of derivative liability within other income (expense), net in the consolidated statements of operations and comprehensive income (loss).

As of December 31, 2023 and December 31, 2022, unamortized debt issuance costs related to the Bridge Notes was zero and \$1,500, respectively. During the years ended December 31, 2023 and 2022, the Company recorded \$783 and \$202, respectively, in amortization of the debt discount and \$8,687 and \$1,816, respectively, related to the PIK interest expense within Interest expense in the consolidated statements of operations and comprehensive income (loss). The effective interest rate used was 13.3% as of the conversion date of December 27, 2023, and 14.3% as of December 31, 2022.

#### Paycheck protection program ("PPP") loans

In response to the coronavirus (COVID-19) outbreak in 2020, the U.S. federal government enacted the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") that, among other economic stimulus measures, established the PPP to provide small business loans.

In January 2021, the Company entered into an additional PPP loan agreement for approximately \$339. The PPP loan bears a fixed interest rate of 1% over a five-year term, is guaranteed by the U.S. federal government and does not believe require collateral. The loans may be forgiven, in part or whole, if the proceeds are used to retain and pay employees and for other qualifying expenditures.

During 2021, the Company used all of the 2021 PPP loan proceeds to pay for qualified expenses, 100% of which were used to pay for payroll-related expenses. The Company submitted its application and supporting documentation for forgiveness to its bank, which submitted the application and supporting documentation to the Small Business Administration ("SBA").

The balance on the PPP Loan was \$339 and is included in Other non-current liabilities in the consolidated balance sheets as of December 31, 2022. The loan was forgiven in April 2023 including all accrued and unpaid interest. During the year ended December 31, 2023, the Company recognized loan forgiveness of \$339 as Other expense in the Company's consolidated statements of operations and comprehensive income (loss).

#### Economic Injury Disaster Loans ("EID")

In August 2020, the Company executed the standard loan documents required for securing loans offered by the SBA under its EID loan assistance program and received the loan proceeds of \$122. The proceeds from the EID Loan must be used for working capital. The EID Loan has a thirty-year term and bears interest at a rate of 3.75% per annum with monthly principal and interest payments being deferred for 12 months after the date of disbursement. On March 11, 2021, the American Rescue Plan Act of 2021 was enacted, which extended the first due date for repayment of EIDLs made in 2020 from 12 months to 24 months from the date of the note. The EID loan may be prepaid at any time prior to maturity with no prepayment penalties. The Loan Authorization and Agreement and the note executed by the Company in connection with the EID Loan contains events of default and other provisions customary for a loan of this type and the EID loan is secured by a security interest on all of the Company's assets.

## 16. Leases

The Company's lease arrangements generally pertain to real estate leases and aircraft. The Company leases real estate including hangars and office space under non-cancelable operating leases, ranging from two to thirty years. As of December 31, 2023 and December 31, 2022, the Company

operated 42 and 30 aircraft, respectively, under non-cancelable operating leases ranging from two to six years for charter flight services. For the Company's aircraft leases, in addition to the fixed lease payments for the use of the aircraft, the Company is also obligated to pay into aircraft engine reserve

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### Notes to Consolidated Financial Statements (continued)

programs and additional variable costs which are expensed as incurred and are not included in the measurement of our leases which amounted to \$12,689 and \$13,778 for the years ended December 31, 2023 and 2022, respectively. During the year ended December 31, 2023, the Company negotiated the purchase of two aircraft under existing operating leases. Additionally, the Company entered into sale-leaseback transactions for ten aircraft during the same period and recognized an aggregate gain of \$10,223 from the transactions. The sale-leaseback transactions qualified as a sale and the associated assets were removed from Property and equipment, net and recorded as Operating lease right-of-use assets on the Company's consolidated balance sheets.

Vehicle leases typically have month-to-month lease terms and are classified as short-term leases.

The following table sets forth information about the Company's operating lease costs for the years ended December 31, 2023 and 2022:

	Year Ended December 31,	
	2023	2022
Operating lease cost:	\$ 18,278	\$ 12,986
Short-term lease cost	768	310
Total lease costs	\$ 19,046	\$ 13,296

The following table sets forth supplemental information about the leases for the years ended December 31, 2023 and 2022:

	Year Ended December 31,	
	2023	2022
ROU assets obtained in exchange for new operating lease liabilities	\$ 48,807	\$ 21,853
Weighted-average remaining lease term – operating leases	8.52 years	10.16 years
Weighted-average discount rate – operating leases	6.54 %	5.86 %

The Company's future lease payments under non-cancellable operating leases as of December 31, 2023 are as follows:

Fiscal Year	Amount
2024	\$ 22,733
2025	20,547
2026	17,670
2027	12,299
2028	5,585
Thereafter	40,696
Total undiscounted cash flows	119,530
Less: Imputed interest	(33,523)
Present value of lease liabilities	\$ 86,007

### 17. Warrant Liabilities

In connection with the Merger, the Company assumed 7,066,668 EGA public warrants and 4,333,333 EGA private placement warrants. The Warrants are not exercisable until at least 30 days after the Merger, as such, no warrants were exercised prior to December 31, 2023.

Each such Warrant will be exercisable at an exercise price of \$11.50 for one share of flyExclusive Class A Common Stock, subject to adjustments. The Warrants may be exercised for a whole number of shares of the Company. No fractional shares will be issued upon exercise of the Warrants. The Warrants will expire on December 27, 2028, or earlier upon redemption or liquidation.

The Private Placement Warrants are identical to the Public Warrants except that the Private Placement Warrants are exercisable on a cashless basis and are non-redeemable so long as they are held by the EGA Sponsor or their permitted

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## Notes to Consolidated Financial Statements (continued)

transferees. If the private warrants are held by someone other than the initial purchasers or their permitted transferees, the private warrants will be redeemable by the Company and exercisable by such holders on the same basis as the Public Warrants.

The Company may redeem the Public Warrants:

- 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 (the "30-day redemption period") 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 recently 20 trading days within a 30-trading day period ending three business days before the Company sends the notice of redemption to the warrant holders.

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 the common stock issuable upon exercise of the warrants may be adjusted in certain circumstances including in the event of a stock dividend, consolidation, combination, reverse stock split, or reclassification.

The Warrants are classified as derivative liabilities because they do not meet the criteria in ASC 815-40 to be considered indexed to the entity's own stock as the warrants could be settled for an amount that is not equal to the difference between the fair value of a fixed number of the entity's shares and a fixed monetary amount. The Warrants are measured at fair value both on the date of issuance and on subsequent accounting period ending dates, with all changes in fair value after the issuance date recorded in the consolidated statements of operations and comprehensive income (loss) as a gain or loss. (see Note 4, "Fair Value Measurements," for additional information regarding fair value).

On the Closing Date of the Merger, the Company recorded a warrant liability of \$2,248 based on the fair value as of the Closing Date prior to the warrant exchanges (see Note 3, "Merger," for additional information regarding the warrant exchanges).

For the year ended December 31, 2023, the Company remeasured the fair value of the Warrants and recorded a loss on the change in the fair value of \$334. The loss was recorded to Other income (expense), on the consolidated statements of operations and comprehensive income (loss) for the year ended December 31, 2023. As of December 31, 2023, and December 31, 2022, the consolidated balance sheets contained warrant liabilities of \$2,508 and zero, respectively.

## 18. Employee Benefits

### Defined Contribution Plan

The Company established the flyExclusive 401(k) Plan (the "401k Plan") under Section 401(k) of the Internal Revenue Code. Under the 401k Plan, employees (or "Participants") with greater than two months of service may contribute up to the lesser of \$58 or 100% of their compensation per year subject to the elective limits as defined by IRS guidelines. The Company may make discretionary matching contributions in amounts equal to a uniform percentage or dollar amount of employees' elective deferrals each plan year. The Company is matching 50% of the first 8% of base compensation that participants contribute to the plan. Vesting in the Company's contribution portion of their accounts is based on years of continuous service. A participant is 100% vested after 2 years of credited service.

Investment selections consist of mutual funds. The Company's contributions to the 401k Plan amounted to \$1,158 and \$973 for the years ended December 31, 2023 and 2022, respectively.

### Health and Welfare Benefits

The Company provides health and welfare benefits to its employees, including health, life, dental and disability insurance, among others.

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## Notes to Consolidated Financial Statements (continued)

## 19. Stock-based Compensation

## 2023 Equity Incentive Plan

The aggregate number of shares of common stock reserved for future issuance under the 2023 Equity Incentive Plan is 6,000,000 shares. The number of shares available for issuance under the 2023 Equity Incentive Plan will be proportionately adjusted for (i) any increase or decrease in the number of issued but and outstanding shares resulting from a stock split, reverse stock split, stock dividend, combination or reclassification of the shares, or similar transaction affecting the shares, (ii) any other increase or decrease in the number of issued and outstanding shares effected without receipt of consideration by the Company, or (iii) any other transaction with respect to the Company's Common Stock including a corporate merger, consolidation, acquisition of property or stock, separation (including a spin-off or other distribution of stock or property), reorganization, liquidation (whether partial or complete) or any similar transaction; provided, however that conversion of any convertible securities of the Company will not yet be deemed to have been effected without receipt of consideration. The 2023 Equity Incentive Plan will continue in effect for a period of 10 years from the Incentive Plan Effective Date unless sooner terminated.

On December 27, 2023 (the "Grant Date"), 73,600 shares of fully vested Class A Common Stock were granted to employees of flyExclusive as compensation for services provided. The closing stock price as of the Grant Date was utilized to determine the fair value of the grant. The Company recognized the entire fair value of \$882 as stock-based compensation within selling, general and administrative expense in the consolidated statements of operations and comprehensive income (loss) for the year ended December 31, 2023. The \$882 was calculated as the 73,600 shares that immediately vested upon the Grant Date, which was the date of the closing of the Merger, multiplied by the Grant Date fair value per share of the Class A Common Stock of \$11.98.

No other awards were granted under the 2023 Equity Incentive Plan during the year ended December 31, 2023. As of December 31, 2023, 6,000,000 shares of the Company's common stock were available for future issuance under the 2023 Equity Incentive Plan.

## Employee Stock Purchase Plan

The ESPP provides eligible employees of the Company with a convenient means of acquiring an equity interest in the Company through payroll deductions. The aggregate number of common stock reserved for future employee purchases under the ESPP is 1,500,000 shares. The number of shares available for issuance under the ESPP will be adjusted by the administrator in the event of any change affecting the number, class or terms of the Company's Common Stock by reason of any stock split, stock dividend, recapitalization, combination of shares, exchange of shares or other change affecting the outstanding common stock as a class without the Company's receipt of consideration. Unless otherwise determined by the Compensation Committee of the Board, the ESPP will be administered on the basis of sequential six-month offering periods until the ESPP is terminated: (a) the six (6) month period commencing on January 1 and ending on the following June 30, and (b) the six (6) month period commencing on July 1 and ending on the following December 31. Each person who is an eligible employee on a date of grant will be granted an option for the offering period. Such option will be for up to the whole number of shares to be determined by the lesser of (a) the number of shares obtained by dividing 12,500 by the fair market value of one share determined as of the date of grant, or (b) 50,000 shares. The purchase price per share at which a share may be acquired on a purchase date will be eighty-five percent (85%) of the lesser of: (a) the fair market value of a share on the date of grant, or (b) the fair market value of a share on the purchase date, provided, however, that the Compensation Committee of the Board may, prior to the commencement of any offering period, provide for an option price for such offering period based on a discount of less than fifteen percent (15%) of the fair market value of a share on the date of grant or the purchase date. Shares will be paid for through payroll deductions for those who elect to exercise their option for an option period. The ESPP will expire on October 31, 2033, unless sooner terminated by the Board, or the purchase of all available shares. As of December 31, 2023, no shares have been purchased by employees under the ESPP.

## 20. Income Taxes

The Company is subject to U.S. federal, state and local income taxes with respect to its allocable share of any taxable income or loss as well as any standalone income or loss flyExclusive Inc generates.

As of December 31, 2023, flyExclusive, Inc held 22% of the economic interest in LGM, which is treated as a partnership for U.S. federal income tax purposes. As a partnership, LGM generally is not subject to U.S. federal income tax under current U.S. tax laws as its net taxable income (loss) and any related tax credits are passed through to its members and included in their tax returns, even though such net taxable income (loss) or tax credits may not have actually been

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## Notes to Consolidated Financial Statements (continued)

distributed. flyExclusive, Inc is subject to U.S. federal income taxes, in addition to state and local income taxes, with respect to its distributive share of the net taxable income (loss) and any related tax credits of LGM.

The components of income tax expense for the year ended December 31, 2023 are as follows:

	Year Ended Decem 31, 2023
<b>Current</b>	
Federal	\$
State	
<b>Total income taxes</b>	<b>\$</b>

The following table represents a reconciliation of income tax expense at the statutory federal income tax rate to the actual income tax expense from continuing operations:

	Year Ended December 31, 2023	
	Amount	Tax Rate
Loss before income taxes	\$ (54,738)	
Tax expense at statutory rate	(11,495)	21.0 %
Increases (reductions) in taxes resulting from:		
Loss attributable to redeemable noncontrolling interest	(225)	0.4
Change in fair value of warrant liabilities	70	(0.1)
Change in fair value of derivative liability	(955)	1.7
Change in valuation allowance	952	(1.7)
Unrecognized benefit from LLC flow thru structure	11,667	(21.3)
Deferred Rate Change	—	—
State income taxes, net of federal income tax benefit	—	—
Other adjustments, net	(14)	—
<b>Income tax expense</b>	<b>\$ —</b>	<b>— %</b>

The effective accounting standards, if tax rate was —% for the year ended December 31, 2023. Our effective tax rate differs from the federal statutory rate of 21% primarily due to the unrecognized benefit from the LLC flow thru structure.

Deferred income taxes result from temporary differences between the financial statement carrying amounts and the tax basis of existing assets and liabilities. The principal components of our net deferred tax liability were as follows:

	December 31, 2023
<b>Deferred tax assets</b>	
Net operating loss carryforward	\$
Interest Expense	
Start Up Cost	
Outside basis difference on investment in LGM Enterprises, LLC (a)	12,
Other, net	
<b>Total deferred tax assets</b>	<b>14,</b>
Valuation allowance	(14,
<b>Net deferred tax assets</b>	<b>\$</b>

(a) The Company's deferred tax asset for the investment in partnership relates to the excess outside tax basis over financial reporting outside basis in LGM Enterprises, LLC, which is treated as a partnership for U.S. federal income tax purposes.

**Notes to Consolidated Financial Statements (continued)**

We evaluate the realizability of our deferred tax assets on a quarterly basis and establish valuation allowances when it is more likely than not that all or a portion of our deferred tax assets may not be realized. In making this determination, we consider all available positive and negative evidence, including future reversals of existing taxable temporary difference, projected future taxable income and tax planning strategies. As of December 31, 2023, we concluded based on the weight of all available positive and negative evidence, that it is more likely than not that the majority of deferred tax assets will not be realized. Accordingly a valuation allowance of \$14,834 has been established as of December 31, 2023. The full valuation allowance will remain until there is sufficient evidence to support the reversal of all or some portion of these allowances.

As of December 31, 2023, the Company had U.S federal net operating loss carryforwards ("NOL") totaling \$2,607 which have expiration dates extending indefinitely without expiration as well as state NOL carryforwards totaling \$2,607 which have various expiration dates extending through 2043.

The Company files income tax returns in the U.S. federal jurisdiction and various state jurisdictions in which it operates. Therefore, the Company is subject to tax examination by various taxing authorities. The Company is not currently adopted, under examination, and is not aware of any issues under review that could result in significant payments, accruals or material deviation from its tax positions. To the extent the Company has tax attribute carryforwards, the tax years in which the attribute was generated may still be adjusted upon examination by the Internal Revenue Service and state and local tax authorities to the extent utilized in a future period. As of December 31, 2023, the tax years from 2019 to present generally remain open to examination by relevant taxing jurisdictions to which the Company is subject.

**21. Related Party Transactions**

The Company regularly enters into related party transactions with entities associated with, and under control of, the majority owner of the Company. Management believes some transactions were conducted on terms equivalent to those prevailing in an arm's-length transaction. However, some amounts earned or that were charged under these arrangements were not negotiated at arm's length and may not represent the terms that the Company might have obtained from an unrelated third party. See below for a description of transactions with related parties.

**Purchases from Related Parties**

LGM Ventures, LLC ("LGMV") is an entity with the same ownership structure as the Company. Carolina Air Center, LLC, Crystal Coast Aviation, LLC, and Kinston Jet Center, LLC are subsidiaries of LGMV and sellers of fuel. During the years ended December 31, 2023 and 2022, the Company purchased a total of \$2,027 and \$2,185 in fuel from subsidiaries of LGMV, respectively. This fuel represents approximately 3% and 3% of the Company's total fuel purchases during the years ended December 31, 2023 and 2022, respectively.

**Leases from Related Parties**

Kinston Jet Center, LLC, Kinston Jet House, LLC, and LGM Auto, LLC are subsidiaries of LGMV and lessors of real property and equipment (such as trucks, trailers and vans). During the years ended December 31, 2023 and 2022, the Company incurred rent expense to subsidiaries of LGMV totaling \$1,646 and \$1,235, respectively. See Note 16, "Leases" for further details.

**Due to Related Parties**

Amounts due to related parties on the consolidated balance sheets as of December 31, 2023 were zero. Amounts due to related parties on the consolidated balance sheets as of December 31, 2022 totaled \$72 and relate to fuel and lease purchases from LGMV and Kinston Jet Center, LLC. Accounts payable to related parties for fuel and lease purchases are recorded as increase in equity and a decrease in due to related parties at closing. As of December 31, 2023 and 2022, the Company recognized an increase in equity related to related party payables of \$1,047 and \$6,188, respectively.

**Sales to Related Parties**

The Company allows owners of subsidiaries and lessor SAEs without Equity ("lessor VIEs") to charter flights at a reduced rate. During the years ended December 31, 2023 and 2022, the Company recorded \$22,279 and \$22,468 in charter flight revenue from owners of subsidiaries and lessor VIEs, respectively. During the years ended December 31, 2023 and 2022, the Company recorded \$80 and \$15 in revenue from related parties not considered owners of subsidiaries or lessor VIEs, respectively.

**Notes to Consolidated Financial Statements (continued)**

## Receivables from Related Parties

Short term accounts receivable from related parties are comprised of customer flight activity charges and totaled \$1,911 and \$2,996 as of December 31, 2023 and December 31, 2022, respectively.

In addition, long-term accounts receivable from related parties are comprised of customer flight activity charges that are not expected to be repaid until the Company's exercise of a repurchase option within the lease agreement with the related party. Upon this repurchase by the Company, any outstanding receivable balance due to the Company would offset the aggregate repurchase option exercise price. Long-term accounts receivable from related parties totaled \$0 and \$2,629 as of December 31, 2023 and December 31, 2022, respectively.

Accounts receivable from related parties are recorded as a decrease in equity and a decrease in accounts receivable from related parties at closing. As of December 31, 2023 and 2022, the Company recognized a reduction of equity related to related party receivables of \$6,114 and \$12,894, respectively.

The Company occasionally makes accounts payable payments on behalf of LGMV. Related party receivables from LGMV are immaterial as of December 31, 2023 and December 31, 2022, respectively.

## Notes Receivable

In the normal course of its business, the Company finances upfront third-party buyers of their SAEs and holds notes receivable from these buyers. Notes receivable is comprised of \$2,433 of a related party's purchase of 99% ownership of a consolidated subsidiary and \$2,404 of another related party's purchase of 99% ownership of a consolidated subsidiary as of December 31, 2023.

Notes receivable is comprised of \$2,572 of a related party's purchase of 99% ownership of a consolidated subsidiary and \$2,545 of another related party's purchase of 99% ownership of a consolidated subsidiary as of December 31, 2022.

## Short-Term Notes Payable to Related Parties

In December 2023, the Company issued to the Sponsor \$15,871 in principal amount of senior secured notes due in December 2024. The notes were issued with a stated rate of 14% and interest is payable monthly in arrears. The senior secured notes will mature one year from closing date, at which time the full principal amount will be due, along with any accrued unpaid interest. Unamortized debt issuance costs related to the senior secured notes were \$879 as of December 31, 2023. On December 27, 2023, the Company entered into an additional promissory note with the EGA Sponsor, with a principal amount of \$3,947. The promissory note bears an annual interest rate of 8% with a maturity date of September 18, 2024. As of December 31, 2023, the balance of the Short-term notes payable - related party on the consolidated balance sheets was \$18,939.

## Other Transactions with Related Parties

The Company is a guarantor to a term note, dated January 29, 2021, between Sea Jay, LLC and a financial institution where the initial principal balance is in the amount of \$11,900. Sea Jay, LLC is wholly owned by LGMV.

The Company is a guarantor to two term notes, dated February 25, 2022 and November 17, 2023, between Kinston Jet Center, LLC and a financial institution where the initial principal balances are in the amounts of \$5,280 and \$1,800, respectively.

On September 14, 2023, the Company exercised its repurchase option on a 50% interest of an aircraft co-owned with Peter Hopper, Director, which resulted in the termination of an aircraft lease with DH Aviation, LLC and subsequent purchase of 50% of the underlying aircraft. This purchase option was settled with a cashless transaction, in which the Company received the aircraft interest in exchange for settling \$1,650 of trade receivables the seller had with the Company. The nature of this transaction was agreed upon in the early stages of the relationship.

On December 15, 2023, the Company distributed 100% of the equity interests in its wholly-owned subsidiary, JS Longitude, LLC ("JS Longitude"), to the Existing Equityholders, and concurrent with this distribution the Existing Equityholders transferred these equity interests to LGMV. The Company will continue to lease the aircraft held by JS Longitude for Segrave's business and personal use at a rate of \$200 per month. In conjunction with the transfer, \$16,004 in debt related to the purchase of the aircraft held by JS Longitude was transferred to LGMV.

[Table of contents](#) flyExclusive, Inc.

## Notes to Consolidated Financial Statements (continued)

## 22. Commitments and Contingencies

### Legal Proceedings

#### flyExclusive Litigation

On June 30, 2023, flyExclusive served Wheels Up Partners, LLC ("WUP") a Notice of Termination of the parties' Fleet Guaranteed Revenue Program Agreement, dated November 1, 2021 (the "GRP Agreement") following material breaches of the GRP Agreement by WUP, including WUP's failure to pay outstanding amounts owed to flyExclusive under the GRP Agreement. Subsequently, on July 5, 2023, WUP filed a lawsuit against

flyExclusive in the United States District Court for the Southern District of New York, alleging that flyExclusive breached the GRP Agreement and the implied duty of good faith and fair dealing therein by wrongfully terminating the GRP Agreement. WUP contends that flyExclusive did not have a right to terminate the GRP Agreement, that the termination was thus ineffective, and instead constituted a material breach of the GRP Agreement. WUP alleges this gave WUP the right to terminate the GRP Agreement, which WUP alleges it has done. The complaint seeks compensatory damages in an unspecified amount and attorney's fees and costs. flyExclusive plans to defend this unjustified action by WUP vigorously. The Company is in the process of evaluating the impact of this event and an estimate cannot be made at this time. See Note 2, "Summary of Significant Accounting Policies," for additional details of the Guaranteed Revenue Program.

#### Other Litigation

The Company is subject to certain claims and contingent liabilities that arise in the normal course of business. While we do not expect that the ultimate resolution of any of these pending actions will have a material effect on our consolidated results of operations, financial statements.

**Off-Balance Sheet Arrangements; Commitments position or cash flows, litigation is subject to inherent uncertainties. As such, there can be no assurance that any pending legal action, which we currently believe to be immaterial, does not become material in the future.**

#### Repurchase Contingencies

The Company has entered into sale and Contractual Obligations

leaseback transactions in the ordinary course of business (see Note 5, "Variable Interest Entities"), and the Company has certain repurchase contingencies at the option of the lessors. These transactions typically require the aircraft lessor to provide the Company with formal notice of the exercise of the put option associated with the lease no later than 60 or 90 days in advance of the end of the lease term, with the aircraft repurchase to occur at the end of the lease term. Each lease with an associated put option has a lease term of typically 5 to 10 years from the date the aircraft is added by the FAA to the Company's Charter Certificate Operation Specifications, and occasionally has a lease term beginning on the effective date of the lease agreement or the date the aircraft is delivered to the Company. Additionally, the put option purchase price is typically reduced dollar for dollar by the amount of each monthly payment or flight credit over the course of the lease term, but not reduced below a certain threshold.

The following is a schedule by years of future repurchase contingencies under the leases as of the year ended December 31, 2023:

Fiscal Year	Amount
2024	\$ 3,735
2025	7,464
2026	29,524
2027	26,145
2028	7,364
	\$ 74,232

On August 26, 2021, the Company was issued formal notice from a lessor that it had exercised the end of term put option in connection with a leased aircraft. The Company is obligated to repurchase the aircraft in 2026 at the end of the lease term at the price of \$3,450 less the dollar-for-dollar amount of each monthly payment made over the course of the lease term, but not reduced below \$2,070 by application of such reduction.

[Table of contents](#) flyExclusive, Inc.

### Notes to Consolidated Financial Statements (continued)

#### 23. Stockholders' Equity / Members' Deficit and Noncontrolling Interests

On December 27, 2023, in connection with the closing of the Merger, the Company entered into the Second Amended and Restated Certificate of Incorporation (the "Charter"). The total number of shares of all classes of stock the Company is authorized to issue pursuant to the Charter is 325,000,000 shares, consisting of the following:

##### Preferred Stock

The Company is authorized to issue 25,000,000 shares of preferred stock at a par value of \$0.0001 per share. As of December 31, 2023 there were no shares of preferred stock issued or outstanding.

##### Class A Common Stock

The Company is authorized to issue 200,000,000 shares of Class A Common Stock at a par value of \$0.0001 per share. As of December 31, 2023, there were 16,647,529 shares of Class A Common Stock issued and outstanding.

#### Class B Common Stock

The Company is authorized to issue 100,000,000 shares of Class B Common Stock at a par value of \$0.0001 per share. As of December 31, 2023, there were 59,930,000 shares of Class B Common Stock issued and outstanding. The holders of the Class B Common Stock hold an equal number of LGM Common Units. Beginning on the first anniversary of the Closing Date, the LGM Common Units may be redeemed for either one share of Class A Common Stock or cash, at the election of the Board. For each LGM Common Unit that is redeemed, one Class B Common Stock will be automatically cancelled.

#### Voting Rights

The holders of Class A Common Stock and Class B Common Stock will vote together as a single class on all matters submitted to the stockholders for their vote or approval except as required by law or as provided in the Charter.

#### Dividends

The holders of Class A Common Stock will be entitled to receive dividends, if declared by the Board, out of the assets of the Company that are available at the time and in the amounts as the Board in its discretion may determine. With respect to stock dividends, holders of Class A Common Stock must receive shares of Class A Common Stock. The holders of Class B Common Stock will not have any right to receive dividends other than stock dividends consisting of shares of Class B Common Stock, in each case paid proportionally with respect to each outstanding share of Class B Common Stock.

#### Liquidation

Upon the Company's voluntary or involuntary liquidation or dissolution, the holders of all classes of Common Stock are entitled to their respective par value, and the holders of Class A Common Stock will then be entitled to share ratably in those assets that are legally available for distribution to stockholders after payment of liabilities and subject to the prior rights of any holders of preferred stock then outstanding. Other than their par value, the holders of Class B Common Stock will not have any right to receive a distribution upon a liquidation or dissolution of the Company.

#### Noncontrolling Interest

The Company held a controlling interest in several entities that are not wholly-owned as described above (see Note 5, "Variable Interest Entities") and net income or net loss of such entities is allocated on a straight percentage basis based on the given terms of each entity's operating agreement (see percentage below). Net loss attributable to noncontrolling interests for the years ended December 31, 2023 and 2022 was \$8,983 and \$10,200, respectively.

#### [Table of contents](#) flyExclusive, Inc.

### Notes to Consolidated Financial Statements (continued)

As of December 31, 2023, the noncontrolling interests in the Company's consolidated entities are comprised of the following (11 entities):

Entities - Major Owner	Noncontrolling Interest	Company Ownership	Total
Entities 1-3	99 %	1 %	100 %
Entity 4	95 %	5 %	100 %
Entity 5	77 %	23 %	100 %
Entity 6	75 %	25 %	100 %
Entity 7	70 %	30 %	100 %
Entity 8	68 %	32 %	100 %
Entity 9	67 %	33 %	100 %
Entity 10	58 %	42 %	100 %
Entity 11	52 %	48 %	100 %

On July 1, 2023, the Company entered into an agreement with the noncontrolling interests of certain controlled and consolidated aircraft leasing entities to exchange ownership interests involving sixteen aircraft and their related entities. The purpose of the transactions was to give the Company 100% ownership of certain aircraft. These transfers are accounted for as equity transactions and no gain or loss was recognized during the year ended December 31, 2023. These transfers are included within exchanges of aircraft ownership interests on the consolidated statements of stockholders' equity (deficit) / members' equity (deficit) and temporary equity. The carrying amounts of the assets and liabilities of the consolidated aircraft leasing

entities are not changed. The carrying amounts of the noncontrolling interests are adjusted to reflect the change in the ownership interests of each consolidated aircraft leasing entity.

As of December 31, 2022, we did the noncontrolling interests in the Company's consolidated entities were comprised of the following (22 entities):

Entities - Major Owner	Noncontrolling Interest	LGME's ownership	Total
Entities 1-4	99 %	1 %	100 %
Entity 5	75 %	25 %	100 %
Entity 6	68 %	32 %	100 %
Entity 7	67 %	33 %	100 %
Entities 8-9	58 %	42 %	100 %
Entities 10-22	52 %	48 %	100 %

#### Redeemable Noncontrolling Interest

The redeemable noncontrolling interest relates to the 59,930,000 LGM Common Units held by the Existing Equityholders. On the Closing Date, the redeemable noncontrolling interest was established and calculated as the product of its ownership percentage in the Company on the Closing Date, or 78.3%, and the carrying value of the LGM net liabilities immediately prior to the Closing Date. This resulted in a negative initial carrying value \$42,431, presented within temporary equity on the consolidated statements of stockholders' equity (deficit) / members' equity (deficit) and temporary equity.

The redeemable noncontrolling interest is not have redeemable until the one year anniversary date of the Closing Date, or December 27, 2024; however, as of its establishment on the Closing Date it was probable of becoming redeemable as its potential future redemption was only dependent upon the passage of time. Therefore, the subsequent measurement of the redeemable noncontrolling interest at each reporting date is determined as the higher of (1) the initial carrying value, increased or decreased for the redeemable noncontrolling interest's share of net income or loss, or (2) the redemption value. In determining the measurement method of redemption value, the Company elected to accrete changes in the redemption value over the period from the date of issuance (the Closing Date) to the earliest redemption date (December 27, 2024) of the instrument using the interest method. Changes in the redemption value are considered to be changes in accounting estimates.

#### [Table of contents](#) flyExclusive, Inc.

#### Notes to Consolidated Financial Statements (continued)

Net income attributable to the redeemable noncontrolling interest for the years ended December 31, 2023 and 2022 was \$1,080 and zero, respectively.

Changes in the carrying value of the redeemable noncontrolling interest for the period from the Closing Date through December 31, 2023 were as follows:

Balance as of December 27, 2023	\$	(42,431)
Net income attributable to redeemable noncontrolling interest		1,080
Change in redemption value of redeemable noncontrolling interest		5,951
Balance as of December 31, 2023	\$	<u>(35,399)</u>

#### 24. Subsequent Events

##### Events Related to the Amended Underwriting Agreement

On January 19, 2024, the Company filed a Form S-1 for the issuance of a) up to an aggregate of 5,805,544 shares of Class A Common Stock issuable upon the exercise of our publicly traded warrants with an exercise price of \$11.50 per share and the b) resale from time to time of i) up to an aggregate of 15,545,274 outstanding shares of Class A Common Stock, ii) 4,333,333 private placement warrants with an exercise price of \$11.50 per share, iii) up to an aggregate of 4,333,333 Class A Common Stock issuable upon the exercise of the private placement warrants, and iv) up to an aggregate of 59,930,000 shares of Class A Common Stock issuable upon the redemption of LGM Common Units. Subsequent to the initial filing of the Form S-1, the underwriter was issued 300,000 shares of Class A Common Stock in accordance with the Amended Underwriting Agreement. Additionally, subsequent to December 31, 2023, the Company entered into a waiver agreement with the underwriter to waive the Additional Stock penalty if the Form S-1 is not declared effective within sixty (60) business days after the consummation of the Merger.

### **Activity Related to Reversal of Redemption of 75,000 Shares of EGA Class A Common Stock**

On December 26, 2023, the underwriter purchased 75,000 shares of EGA Class A common stock on behalf of the Company. The shares were purchased by the underwriter from a public stockholder that elected to reverse its redemption of 75,000 shares of EGA Class A common stock. The shares were purchased for a total purchase price of \$818 (\$10.90 per share) and the underwriter received reimbursement of \$800 from EGA's Trust Account on December 27, 2023, as well as reimbursement for the remaining \$18 from the Company on January 2, 2024. Simultaneously with the closing of the Merger, the 75,000 shares of EGA Class A common stock were automatically exchanged for shares of non-redeemable flyExclusive, Inc. Class A Common Stock and 73,600 shares (out of the above-mentioned 75,000 shares) were granted to employees of the Company as compensation for services provided (the grant date for the 73,600 shares was determined to be December 27, 2023). The shares of flyExclusive Class A Common Stock were fully vested upon grant. As of December 31, 2023, all 75,000 shares were still legally considered to be owned by the underwriter. On January 2, 2024, the 75,000 shares were transferred from the underwriter to the Company, at which time the Company became the owner of record. On January 9, 2024, 73,600 shares were transferred from flyExclusive, Inc.'s ownership to the employee grantees and these 73,600 shares all had flyExclusive employees listed as the owners of record. The 1,400 shares of Class A Common Stock not issued to employees were still held by the Company and classified as treasury stock as of April 30, 2024.

### **Activity Related to Warrant Exchange Agreements**

On January 3, 2024, 925,000 Public Warrants were exchanged, pursuant to the Warrant Exchange Agreements, for 203,500 shares of flyExclusive Class A Common Stock. On February 27, 2024, the remaining 336,124 Public Warrants subject to the Warrant Exchange Agreements were exchanged for 73,947 shares of flyExclusive Class A Common Stock.

### **Issuance of Preferred Stock and Warrants**

On March 4, 2024, the Company entered into a securities purchase agreement with Entrust Emerald (Cayman) LP (a related party of the Company through its affiliation with the EGA Sponsor) pursuant to which the Company agreed to issue and sell to Entrust Emerald (Cayman) LP 25,000 shares of Series A non-convertible redeemable preferred stock ("Series A Preferred Stock"), par value \$0.0001 per share, with an initial stated value of \$1 (one-thousand dollars) per share.

The Series A Preferred Stock does not entitle the holder to vote on any matters submitted to the Company's stockholders for approval except as otherwise required by the General Corporation Law of the State of Delaware (the "DGCL"), other applicable law, the Company's Certificate of Incorporation, or the Series A Certificate of Designation. In

[off-balance](#) [Table of contents](#) [sheet arrangements](#) [flyExclusive, Inc.](#)

### **Notes to Consolidated Financial Statements (continued)**

any case in which the holders shall be entitled to vote pursuant to the DGCL, other applicable law, the Company's Certificate of Incorporation, or the Series A Certificate of Designation, each holder will be entitled to one vote with respect to such matter per share of Series A Preferred Stock.

Each share of Series A Preferred Stock shall accrue dividends on a daily basis in arrears beginning on the date of issuance of the Series A Preferred Stock at the applicable dividend rate then in effect (the "Dividend Rate"). From and after the issuance date until the first-year anniversary of the issuance date, the Dividend Rate for the Series A Preferred Stock is 10.00% per annum. From and after the first-year anniversary of the issuance date until the second-year anniversary of the issuance date, the Dividend Rate for the Series A Preferred Stock is 12.00% per annum. From and after the second-year anniversary of the issuance date until the third-year anniversary of the issuance date, the Dividend Rate is 14.00% per annum. From and after the third-year anniversary of the issuance date, the Dividend Rate is 16.00% per annum.

Dividends are due and payable annually in arrears on March 4 (the "Dividend Payment Date") by either (A) cash payment or (B) to the extent not declared and paid in cash on the Dividend Payment Date, automatically compounded; provided that, the Company may not declare and pay in cash any dividends prior to the third Dividend Payment Date. On the third Dividend Payment Date, the Company must declare and pay at least 43% of the dividends in cash, and with respect to each subsequent Dividend Payment Date, the Company must pay 100% of the dividends in cash.

With respect to (a) payment of dividends, (b) distribution of assets and (c) all other liquidation, winding up, dissolution, dividend and redemption rights, the Series A Preferred Stock shall rank senior in priority of payment to all Junior Stock (as defined in the Series A Certificate of Designation) in any liquidation, dissolution, winding up or distribution of the Company, and junior to any existing or future secured or unsecured debt and other liabilities (including trade payables) of the Company and any Senior Stock (as defined in the Series A Certificate of Designation).

After the first-year anniversary of the issuance of the Series A Preferred Stock, to the extent not prohibited by law, the Company may elect to redeem all outstanding shares of Series A Preferred Stock, or any portion thereof, for cash at a redemption price per share as detailed in the Series A Certificate of Designation. After the fifth-year anniversary of the issuance of the Series A Preferred Stock, each holder of the Series A Preferred Stock may elect to require the Company to redeem all of its outstanding shares of Series A Preferred Stock, or any portion thereof, for cash at a redemption price per share as detailed in the Series A Certificate of Designation. The Series A Certificate of Designation also describes events triggering mandatory redemption of the Series A Preferred Stock, including a Bankruptcy Event or a Change of Control Event, each as defined in the Series A Certificate of Designation.

The prior written consent of the holders of a majority of the then outstanding shares of Series A Preferred Stock is required for the Company to effect certain enumerated actions in the Series A Certificate of Designation for so long as any shares of Series A Preferred Stock are outstanding.

In connection with the securities purchase agreement, on March 4, 2024, Entrust Emerald (Cayman) LP was issued a warrant to purchase shares of the Company's Class A common stock, par value \$0.0001. The warrant granted the holder the right to purchase shares of Common Stock in an aggregate amount equal to one and one-half (1½) percent of the outstanding Common Stock on a fully diluted basis (the "Share Count Cap"), calculated in accordance with the terms of the warrant agreement, at an exercise price of \$0.01 per share. The Warrant is exercisable beginning on the second anniversary of the Effective Date (as defined in the warrant agreement) as to 50% of the Share Count Cap and, beginning on the third anniversary, as to 100% of the Share Count Cap, in each case, in accordance with the terms of the warrant agreement. The warrant agreement expires on the fifth anniversary of the Effective Date and may not be exercised for a number of shares of Common Stock having an aggregate value in excess of \$11,250, calculated in accordance with the terms of the warrant agreement.

#### **Issuance of Senior Secured Note**

On January 26, 2024 (the "Effective Date"), FlyExclusive Jet Share, LLC (the "Borrower"), a wholly-owned subsidiary of LGM, which is the operating company of flyExclusive, Inc. (the "Company," and together with LGM as guarantors; in such capacity, the "Parent Guarantors") entered into a Senior Secured Note (the "Note") with ETG FE LLC (a related party of the Company through its affiliation with the EGA Sponsor), as the initial holder of the Note (the "Noteholder"), Kroll Agency Services, Limited, as administrative agent (the "Administrative Agent") and Kroll Trustee Services, Limited, (the "Collateral Agent").

The Note covers borrowings of an aggregate principal amount of up to approximately \$25,773, up to \$25,000 of which is to finance the purchase or refinancing of aircraft relating to the Company's fractional ownership program (the "Revolving Loan"). The Note matures on January 26, 2026 (the "Maturity Date"), at which time the aggregate outstanding principal amount and all accrued and unpaid interest (including accrued and unpaid fees and expenses) payable under the

#### [Table of contents](#) flyExclusive, Inc.

#### **Notes to Consolidated Financial Statements (continued)**

Note shall be due and payable. The full amount available for borrowings under the Note has been funded by the placement thereof into a cash escrow account, which will be released to the Borrower upon the satisfaction of certain conditions precedent contained in the Note. The Borrower may re-borrow repaid funds up until the Maturity Date unless it chooses to permanently reduce the borrowing availability under the Note and pays a prepayment premium equal to (i) if prior to January 26, 2025, the make-whole fee as detailed in the Note, or (ii) thereafter, the outstanding principal amount being prepaid multiplied by 3.00%.

Following the occurrence of any Prepayment Event (as defined in the Note), at the option of the then majority Noteholders, the Borrower shall prepay the outstanding principal amount, all accrued and unpaid interest, and all other amounts in cash necessary to pay the Note in full. A Prepayment Event is the occurrence of any of the following: (i) a Change in Control (as defined in the Note); (ii) the Borrower or any of its subsidiaries incurring debt to refinance the Note; or (iii) the Borrower or any of its subsidiaries incurring debt in violation of the Note. A Change in Control is the occurrence of any of the following: (i) Thomas James Segrave, Jr. (the "Personal Guarantor") ceasing to directly or indirectly own, free and clear of all liens or other encumbrances, at least 51% of the outstanding voting equity interests of the Company on a fully diluted basis; (ii) the Company ceasing to own, directly or indirectly, less than 100% of the outstanding equity interests of LGM; (iii) LGM ceasing to own, directly or indirectly, less than 100% of the outstanding equity interests of the Borrower; (iv) the occurrence of any "change of control" or similar provision under any agreement governing debt of the Parent Guarantors, the Borrower, or any of their respective subsidiaries; or (v) a sale, lease or other disposition (including by casualty or condemnation) of all, substantially all, or more than 50% of the consolidated assets of the Parent Guarantors, the Borrower, and their respective subsidiaries.

The Note carries an interest rate of 3.00% per annum for the outstanding principal amount on deposit in the cash escrow account and 13.00% per annum for the outstanding principal amount that is withdrawn and released to the Borrower. All accrued and unpaid interest is due and payable in arrears on the last day of each calendar month (a "Payment Date"), commencing with the last day of the first calendar month following the first borrowing date and continuing until payment in full. On each Payment Date, the Borrower shall make a payment of the outstanding principal amount equal to 1.00% of each advance amount withdrawn from the cash escrow account and released to the Borrower and that has been outstanding for more than thirty (30) days.

The obligations of the Borrower under the Note are secured on a first lien basis by the Collateral (as defined in the Security Agreement (as defined in the Note), and consisting generally of all sale proceeds from the disposition of fractional interests in aircraft or whole aircraft, certain rights in aircraft and all deposit accounts of the Borrower), and on a second lien basis by the pledged membership interests of the Borrower held by LGM. The Note includes customary affirmative and negative covenants, including certain limitations on the incurrence of additional indebtedness and liens, as well as usual and customary events of default for notes of this nature.

The obligations of the Borrower under the Note are guaranteed by the Parent Guarantors and by the Personal Guarantor. As of April 30, 2024, the Company has drawn \$25,000 under the Note.

#### **Issuance of Promissory Notes**

In February 2024, the Company entered into a long-term promissory note in the amount of \$4,200. The note bears a fixed interest rate of 7.25%, with a maturity date of five years from the note date. In March 2024, the Company entered into two additional long-term promissory notes in the principal amount of \$6,964 each. The notes each bear a fixed interest rate of 9.45%, with a maturity date of ten years from the note date.

#### **LOC Master Note Amendment**

On March 9, 2024, the Company entered into an amendment to the LOC Master Note to extend the maturity date to September 9, 2025. The Master Note continues to provide a line of credit up to \$60,000. Pursuant to the amendment, the Company elected the updated interest rate option of SOFR plus 1.50%. As of April 30, 2024, the Company has an outstanding balance of \$59,540.

#### **Refinancing of Long-Term Debt**

In January 2024, the Company entered into an amendment of a long-term promissory note, which as of December 31, 2023 had a maturity date of January 2024, to extend the maturity date to January 2030. The note bears a principal amount of \$1,843 and a fixed interest rate of 7.65%.

In January 2024, the Company entered into an amendment of a long-term promissory note, which as of December 31, 2023 had a maturity date of January 2024, to extend the maturity date to February 2027. The note bears a principal amount of \$1,153 and a fixed interest rate of 7.25%.

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### **Item 303(a)(4) 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure**

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

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

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

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

### **ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

Not required for smaller reporting companies.

### **ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

This information appears following S-K under the Exchange Act and the related instructions to Item 15.304 of Regulation S-K under the Exchange Act, or a reportable event, as that term is defined in Item 304(a)(1)(v) of Regulation S-K under the Exchange Act.

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

## ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

## ITEM 9A. CONTROLS AND PROCEDURES.

as Exhibit 16.1 to this Report.

### Item 9A. Controls and Procedures

#### Evaluation of Disclosure Controls and Procedures

The Company's management, with the participation of its principal executive officer and principal financial officer, evaluated the effectiveness of its disclosure controls and procedures as of December 31, 2023. The term "disclosure controls and procedures," as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in our reports filed that it files or submitted submits under Securities the Exchange Act of 1934, as amended (the "Exchange Act") is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms, forms promulgated by the Securities and Exchange Commission (the "SEC"). Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in our reports filed that it files or submitted submits under the Exchange Act is accumulated and communicated to our the company's management, including its principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure.

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#### Evaluation Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of Disclosure Controls achieving their objectives and Procedures

As required by Rules 13a-15 management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and 15d-15 under procedures.

Based on their evaluation, our principal executive officer and principal financial officer concluded that, at the Exchange Act, our management carried out an evaluation end of the effectiveness of the design and operation of our disclosure controls and procedures. Based upon their evaluation, we concluded that period covered by this report, our disclosure controls and procedures were not effective as of December 31, 2022, due to the restatements of our May 28, 2021 and June 30, 2021 financial statements (the "restatements") regarding the classification of redeemable Class A common stock, the improper recognition of stock based compensation expense, and the improper recognition of fees related to an agreement, and that these constitute material weaknesses in our the Company's internal control over financial reporting. In light of these material weaknesses we performed additional analysis reporting as deemed necessary to ensure that those unaudited interim financial statements were prepared in accordance with U.S. generally accepted accounting principles. Accordingly, management believes that the financial statements included in this Annual Report on Form 10-K present fairly in all material respects our financial position, results of operations and cash flows for the periods presented.

described below.

#### Management's Report on Internal Controls Control Over Financial Reporting

#### As required by SEC rules and regulations implementing Section 404 of the Sarbanes-Oxley Act, our management

Management is responsible for establishing and maintaining adequate internal control over financial reporting. Our internal reporting, as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act. Internal control over financial reporting is a process

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designed by, or under the supervision of, the Company's principal executive and principal financial officers (including our Chief Executive Officer and Chief Financial Officer) and effected by the Company's board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of our financial statements for external reporting purposes in accordance with GAAP. Our internal control over financial reporting includes those policies and procedures that:

- (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of our company,
- (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that our receipts and expenditures are being made only in accordance with authorizations of our management and directors, and
- (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements.

generally accepted accounting principles. Because of its inherent limitations, internal control over financial reporting may might not prevent or detect errors or misstatements in misstatements.

Management (with the participation of our principal executive officer and principal financial statements. Also, projections of any officer) conducted an evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree or compliance with the policies or procedures may deteriorate. Management assessed the effectiveness of our its internal control over financial reporting at December 31, 2022. In making these assessments, management used based on the criteria set forth framework in *Internal Control - Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in *Internal Control - Integrated Framework (2013)*. Commission. Based on our assessments this evaluation, management concluded that during the periods presented in the consolidated financial statements at and those criteria, management determined that we did not maintain effective as of December 31, 2023, our internal control over financial reporting as of December 31, 2022.

was not effective.

#### *Material Weaknesses*

Management has implemented remediation steps to improve identified the following material weaknesses in our internal control over financial reporting. Specifically, reporting for the year ended and as of December 31, 2023:

- The Company did not design and maintain formal accounting policies, procedures and controls to achieve complete, accurate and timely financial accounting, reporting and disclosures, including controls over the preparation and review of account reconciliations and journal entries.
- The Company did not maintain a sufficient complement of personnel possessing the appropriate technical accounting competency, training, and experience to address, review, and record financial reporting transactions under U.S. GAAP.
- The Company did not design and maintain adequate segregation of duties consistent with control objectives for key information technology systems that support financial reporting processes.
- The Company did not design and maintain formal and effective controls over information technology general controls ("ITGCs") for IT systems that are relevant to the preparation of the financial statements.

A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis. If we expanded are unable to remediate these material weaknesses, or if we identify additional material weaknesses in the future or otherwise fail to maintain an effective system of internal controls, we may not be able to accurately or timely report our financial condition or results of operations, which may adversely affect investor confidence in us and, improved as a result, our review stock price.

#### *Remediation Plan*

The Company is implementing additional processes and controls designed to address the underlying causes associated with the above-mentioned deficiencies. The Company is committed to remediating the deficiencies described above that will continue into fiscal year 2024. The Company's internal control remediation efforts include the following:

- We hired additional accounting resources, including a Corporate Controller, who has the requisite background and knowledge in the application of GAAP.
- We engaged external experts to complement internal resources and to provide support related to more complex applications of GAAP. We will continue to utilize outside resources, as necessary, in fiscal year 2024 to supplement our internal team.
- We are in the process of designing effective financial and information technology general controls (ITGCs) over key information technology systems.

- We formalized documentation of certain policies throughout the year.
- We enhanced our process in accounting for, complex securities, material agreements and documenting our positions related to, our accounting standards, topics throughout the year.

In addition to implementing and refining the above activities, we expect to engage in additional activities in fiscal year 2024 including:

- We plan intend to further improve this process by enhancing access continue to accounting literature, identification of third-party professionals with whom to consult regarding complex accounting applications and consideration of additional staff hire qualified resources with the requisite experience knowledge and training background to supplement existing accounting professionals.

This Annual Report on Form assist with financial reporting.

#### [10-K Table of contents](#) does not include

- We have engaged an attestation report outside firm to assist management with:
  - Enhancing the execution of our independent registered public accounting firm due risk assessment activities by evaluating whether the design of our internal controls appropriately addresses changes in the business (including changes to people, processes and systems) that could impact our system of internal controls;
  - Reviewing our current processes, procedures and systems to identify opportunities to enhance the design of each process and to include additional control activities that will ensure all transactions are properly recorded;
  - Developing a monitoring protocol that will allow the company to validate the operating effectiveness of certain controls over financial reporting to gain assurance that such controls are present and functioning as designed. We will assess whether the company is sufficiently staffed to meet its design objectives for internal control over financial reporting and whether the appropriate resources are performing the control activities.
- We will continue to report regularly to the audit committee on the progress and results of the remediation plan, including the identification, status and resolution of internal control deficiencies.

The Company believes these actions will be effective in remediating the deficiencies described above. As the Company continues to evaluate and work to improve its internal control over financial reporting, management may determine to take additional measures to address the deficiencies or determine to modify the remediation plan described above. Until the remediation steps set forth above are fully implemented and operating for a sufficient period of time, the material weaknesses described above will continue to exist.

#### *Changes in Internal Control Over Financial Reporting*

Except as an emerging growth company described above, management determined that, as of December 31, 2023, there were no changes in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f)) that occurred during the quarter then ended that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

#### **Item 9B. Other Information**

*Insider Trading Arrangements* - During the quarter ended December 31, 2023, none of our directors or officers (as defined in Rule 16a-1(f) under the JOBS Act.

Exchange Act) adopted, modified or terminated a "Rule 10b5-1 trading arrangement" or a "non-Rule 10b5-1 trading arrangement" (as such terms are defined in Item 408 of Regulation S-K).

#### **Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections**

Not applicable.

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PART III

Item 10. Directors, Executive Officers and Corporate Governance

Executive Officers and Directors

Our business and affairs are managed by or under the direction of our Board. Our Board and executive management consist of the following individuals as of April 30, 2024:

ITEM 9B. OTHER INFORMATION

None.

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PART III

ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT

Directors and Executive Officers

Our officers and directors are as follows:

Name	Age	Position
<b>Executive Officers</b>		
Thomas James Segrave Jr.	53	Chief Executive Officer and Director
(a)		
Gregg S. Hymowitz	57	Chairman of the Board
Billy Barnard	68	Interim Chief Financial Officer
Michael Guina	65	Chief Operating Officer
<b>Non-Employee Directors</b>		
Gary Fegel	49	Chairman Director
Michael S. Fox <sup>(1)</sup>	60	Director

Sophia Park	62		President
Mullen			and
Frank B. Holding Jr. <sup>(1)</sup>	44		Director
<sup>(2)(3)</sup>			
Gregg S. Hymowitz	57		Director
Louise Curbishley	59		Director
Peter B. Hopper <sup>(1)(2)(3)</sup>	49		
Thomas J. Segrave, Sr. <sup>(2)(3)</sup>	73		Director
	(1)	Member of the Audit Committee.	
Linda Hall Daschle			Director
	(2)		Member of the Compensation Committee.
	(3)		67
Jonathan Silver	65	Director	
Noorsurainah (Su) Tengah		Director	
	40	Member of the Nominating and Governance Committee.	

## Executive Officers

**Thomas James Segrave Jr.** Thomas James Segrave Jr. serves as our Chief Executive Officer and as Chairman of our Board since the Business Combination. Mr. Gregg Segrave Jr. is LGM's founder and served as its Chief Executive Officer since its inception in 2011. Mr. Segrave has a proven record of entrepreneurial business success over the years. Prior to founding LGM, Mr. Segrave Jr. served as the founder and Chief Executive Officer of Segrave Aviation, Inc., an aircraft charter company based in Kinston, North Carolina, from 1993 until its sale to Delta Air Lines in 2010. Mr. Segrave Jr. is also the founder of LGMV, which operates three fixed base operations at eastern North Carolina airports, the largest daycare center in Kinston, North Carolina, and a restaurant and bar in Atlantic Beach, North Carolina. Mr. Segrave Jr. serves as a member of the Board of Trustees of East Carolina University, the Executive Board of L Harvey & Son, one of North Carolina's oldest privately held businesses, and the Industrial Advisory Board of Embry-Riddle Aeronautical University, and the National Business Aviation Association (NBAA) Leadership Council. Mr. Segrave Jr. is an accomplished professional pilot with over 10,000 hours of flight time, an Airline Transport Pilot License, type ratings in seven different jets and a commercial helicopter rating. Our Board believes that Mr. Segrave Jr.'s history and involvement with flyExclusive and his extensive knowledge of and experience in the aviation industry make him a valuable member of our Board.

**Billy Barnard.** Billy Barnard serves as our Interim Chief Financial Officer since the Business Combination. He held that same position at LGM since October 2023. Mr. Barnard joined LGM in 2014 where he served as a consultant to LGM, responsible for preparing financial and tax documents and reports for LGM and Segrave Aviation. From 2020 until August of 2022, Mr. Barnard served as the Chief Financial Officer of LGM where he was responsible for overseeing the accounting and finance functions of LGM. From September 2022 until September 2023, Mr. Barnard served as the Chief Business Officer of LGM. Mr. Barnard earned his Bachelor of Science degree in English from the East Carolina University in December of 1977. Mr. Barnard has held a CPA license from the state of North Carolina since 1987.

**Michael Guina.** Michael ("Mike") Guina serves as our Chief Operating Officer since the Business Combination. He held that same position at LGM since April 2015. Prior to joining LGM, Mr. Guina spent 11 years as Executive Vice President of Delta Private Jets where his responsibilities included oversight of all aspects of operations, sales, product development and revenue management. Prior to his time with Delta Private Jets, Mr. Guina spent ten years with Air Partner

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PLC where he ultimately served as President of US Operations. Mr. Guina is type rated on the Citation Excel and CJ aircraft and frequently serves as a pilot on LGM charter flights.

### Non-Employee Directors

**Gary Fegel.** Gary Fegel became a member of our Board upon the Closing. Mr. Fegel is a seasoned global investor and operator who has deep investment experience across the technology, logistics, healthcare, real estate, and commodities sectors. Mr. Fegel was a Senior Partner at Glencore Plc, one of the world's largest commodity trading and mining companies. He was responsible for the firm's global aluminum business, where he led a team of over 120 people worldwide. In such capacity, Mr. Fegel established an extensive global network, ranging from governmental entities and conglomerates to private enterprises. Mr. Fegel helped take Glencore public at a \$50 billion valuation and exited the company upon its merger with Xstrata Plc, which valued the combined entity at over \$80 billion. Following Glencore, Mr. Fegel founded GMF Capital in 2013 as a global investment platform focusing on private equity, real estate and alternative investments. In 2015 Mr. Fegel co-founded GMF Real Estate, an asset management business primarily focused on investing in real estate and healthcare. Since inception, GMF Capital and GMF Real Estate have executed over 100 real estate, private equity and credit transactions. Prior to Glencore, Mr. Fegel worked as a trader for UBS and Credit Suisse First Boston in their derivatives departments, based in Zurich, London, and New York. Mr. Fegel is currently employed by GMF Holding AG, as President and Chairman of the Board Directors. GMF Holding AG is an investment holding company headquartered in Switzerland and is the ultimate parent of GMF Capital LLC. Mr. Fegel has held this position for over six years. For the avoidance of doubt, it is not affiliated with our Company. Mr. Fegel serves on the board of several private companies, including Videri Inc., MyskySA, and Swiss Properties AG. Mr. Fegel holds an M.B.A. from the University of St. Gallen. Our Board believes that Mr. Fegel's wealth of investment and business experience make him a valuable member of our Board.

**Michael S. Hymowitz is Fox.** Michael S. Fox became a member of our Board upon the Closing. Mr. Fox has thirty years of extensive experience as an attorney representing public, private and government clients on a variety of legal issues. Since 2002, Mr. Fox has been an attorney and director at the law firm of Tuggle Duggins, based in Greensboro, North Carolina. Mr. Fox also brings over twenty years of extensive experience and service in the transportation industry, including serving as the Chairman of the North Carolina Board of Transportation, upon appointment by North Carolina Governor Roy Cooper, since 2017. Since 2020, Mr. Fox has served on the North Carolina Railroad Board of Directors. Mr. Fox has also served on the Piedmont Authority for Regional Transit Board of Directors since 2017 and on the GoTriangle Board of Directors since 2018. Mr. Fox has also previously served on the NC-Virginia High Speed Rail Compact, City of Greensboro Planning and USS North Carolina Battleship boards of directors. In addition to transportation-related experience, Mr. Fox has a history of extensive civic engagement including service on the boards of directors of the Salvation Army and Boys and Girls Club. Mr. Fox has been listed in the "Best Lawyers in America" publication since 2007 in the area of Land Use and Zoning, Litigation Law. Mr. Fox earned his B.A. degree from Appalachian State University and his J.D. degree from the University of North Carolina School of Law. Our Board believes that Mr. Fox's legal background, experience in and knowledge of the transportation industry make him a valuable member of our Board.

**Frank B. Holding Jr.** Frank B. Holding, Jr. became a member of our Board upon the Closing. Mr. Holding has extensive financial and management experience, as well as a deep commitment to service within the community. Since 2009, Mr. Holding has served as the Chief Executive Officer and a director Chairman of the Company, Board of Directors of First Citizens Bank and its parent company First Citizens BancShares, Inc., one of the largest family-controlled banks in the United States. Mr. Holding earned his undergraduate Bachelor of Science degree from the University of North Carolina at Chapel Hill and he also holds an M.B.A. from the Wharton School at the University of Pennsylvania. Mr. Holding currently serves on the BlueCross BlueShield of North Carolina Board of Trustees and is a former Chairman of the board. Mr. Holding is also a member of the Mount Olive Pickle Company, Inc. board of directors and a past chairman of the North Carolina Chamber. Our Board believes that Mr. Holding's financial expertise and public company experience make him a valuable member of our Board.

**Peter B. Hopper.** Peter B. Hopper became a member of our Board upon the Closing. Mr. Hopper is a seasoned veteran of the investment banking and private equity sector with more than 20 years of professional experience advising high growth companies on strategies for equity value creation and balance sheet optimizations. Mr. Hopper has extensive experience analyzing and underwriting investments in high growth areas. Additionally, Mr. Hopper possesses deep knowledge of capital markets as well as advising management on dealing with the challenges of high growth businesses. Mr. Hopper received a Bachelor of Science in Finance from Lehigh University in 1986. From 1990 to 1999, Mr. Hopper served as the Vice President of New Business Development for Helicon Cable Communication, leading business development efforts for a privately held top twenty Cable TV MSO (multiple-system operator). From October of 1999 to

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December of 2000, Mr., Hopper served as the Chief Executive Officer of DURO Communication, Inc., one of the largest privately held ISP/CLECs in the United States. In his capacity as CEO of DURO, Mr. Hopper was chiefly responsible for acquisitions, capital raising operations and senior leadership hiring, overseeing the completion of nearly 50 acquisitions. Following DURO, Mr. Hopper founded and served as Chief Executive Officer of DH Capital, LLC from March 2020 until December 2020. At DH Capital, Mr. Hopper primarily led business origination efforts, headed deal execution on DH Capital's largest transactions and oversaw the hiring and management of the firm's investment banking team. From April 2020 until August 2021, Mr. Hopper served as a partner of Abry Partners, a Boston-based private equity firm where he focused on investments in the data center industry, overseeing new deal origination, financial analysis on potential investments and portfolio management on existing investments. Since February of 2022, Mr. Hopper has served as Managing Director, DigitalBridge Investment Management, at DigitalBridge Group, Inc. Mr. Hopper is primarily responsible for overseeing deal origination and analysis for investments being considered for both the Digital Bridge Strategic Assets Fund and Digital Bridge's flagship growth equity funds, DBPI and DBPII. Our Board believes that Mr. Hopper's financial experience and expertise and his experience with capital markets make him a valuable member of our Board.

**Gregg S. Hymowitz.** Gregg S. Hymowitz became a member of our Board upon the closing of the Business Combination. Mr. Hymowitz is Chairman and Chief Executive Officer of EnTrust Global and Chair of EnTrust Global's Investment Committee, Compensation Committee and Financial Controls Committee, and is a member of the Management Committee and the "Blue Ocean" Executive Committee. He is also the Chairman of the Board of Directors of Purus Marine Holdings LP, the environmentally-focused shipping company launched by EnTrust's Blue Ocean 4Impact strategy. Mr. Hymowitz is a Founder and has been the Managing Partner of EnTrust Global since its founding (as EnTrust Capital) in April 1997. Prior to EnTrust Global, Mr. Hymowitz was Vice President at Goldman, Sachs & Co., which he joined in 1992. For the preceding two years, Mr. Hymowitz was an attorney in the Mergers & Acquisitions practice at Skadden, Arps, Slate, Meagher & Flom. Mr. Hymowitz is a former board member of the Board of Trustees of Montefiore Medical Center and served two terms as a Trustee of the Riverdale Country Day School. Mr. Hymowitz received his J.D. degree from Harvard Law School and his B.A. degree from the State University of New York at Binghamton. Mr. Hymowitz was the 1985 Harry S. Truman Scholar from New York, the 1987 British Hansard Society Scholar and the 2004 recipient of the Governor's Committee on Scholastic Achievement Award.

Our Board believes that Mr. Gary Fegel is the Chairman Hymowitz's legal background and business experience make him a valuable member of the Company. Mr. Fegel is a seasoned global investor and operator who has deep investment experience across the technology, logistics, healthcare, real estate, and commodities sectors. Mr. Fegel was a Senior Partner at Glencore Plc, one of the world's largest commodity trading and mining companies. He was responsible for the firm's global aluminum business, where he led a team of over 120 people worldwide. In such capacity, Mr. Fegel established an extensive global network, ranging from governmental entities and conglomerates to private enterprises. Mr. Fegel helped take Glencore public at a \$50 billion valuation and exited the company upon its merger with Xstrata Plc, which valued the combined entity at over \$80 billion. Following Glencore, Mr. Fegel founded GMF Capital in 2013 as a global investment platform focusing on private equity, real estate and alternative investments. In 2015 Mr. Fegel **our Board.**

**co-founded Thomas J. Segrave, Sr.** GMF Real Estate, an asset management business primarily focused on investing in real estate and healthcare. Since inception, GMF Capital and GMF Real Estate have executed over 100 real estate, private equity and credit transactions. Prior to Glencore, Mr. Fegel worked as a trader for UBS and Credit Suisse First Boston in their derivatives departments, based in Zurich, London, and New York. Mr. Fegel is currently employed by GMF Holding AG, as President and Chairman of the Board Directors. GMF Holding AG is an investment holding company headquartered in Switzerland and is the ultimate parent of GMF Capital LLC. Mr. Fegel has held this position for over six years. For the avoidance of doubt it is not affiliated with the Company. Mr. Fegel serves on the board of several private companies, including Videri Inc., MyskySA, and Swiss Properties AG. Mr. Fegel holds an M.B.A. from the University of St. Gallen.

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Ms. Sophia Park Mullen is the President and a director of the Company. Ms. Mullen is also President and Head of Co-Investment Research at EnTrust Global. **Thomas J. Segrave, Sr.** became a member of **our Board** upon the Management Committee, and a member of the Global Investment Committee. Ms. Mullen joined EnTrust Global as a Vice President in September 2013 with over 5 years' previous Closing. Mr. Segrave Sr. has extensive experience in the industry. Before joining aviation industry and serving on the firm, Ms. Mullen boards of directors of various companies. From 1985 until 1999, Mr. Segrave Sr. served as the Chairman and Chief Executive

Officer of American Coatings Technologies, Inc. Mr. Segrave Sr. was an Associate also involved with the capital formation of Segrave Aviation, Inc. in the New York office of Sidley Austin LLP 1991 and a member of the firm's Corporate Reorganization and Bankruptcy Group where she focused on representing both debtors and creditors in a wide variety of matters. Ms. Mullen received her B.S. degree from Georgetown University and her J.D. degree from the University of Notre Dame Law School.

Ms. Louise Curbishley is a director of the Company. Since November 2019 to the present date, Ms. Curbishley has served as the Chief Financial Officer of Members Exchange (MEMX), a market operator founded in 2018 by leading members of the global financial community, which aims Segrave Aviation from 2000 to help drive simplicity, efficiency and competition in equity markets. MEMX closed on a \$70 million second round financing in May 2020 and commenced trading operations in September 2020. Ms. Curbishley joined MEMX as their first Chief Financial Officer, and in her role is responsible for all audit, financial and tax matters. Previously, starting in 2014, she was the founding Chief Financial Officer and Partner at Hitchwood Capital Management, a roughly \$3 billion hedge fund. In 2018, she was named one of the "Fifty Leading Women In Hedge Funds," an annual list compiled by the Hedge Fund Journal, in association with Ernst & Young. Prior 2010. From 1995 to Hitchwood, she 2000, Mr. Segrave Sr. served as the Chief Financial Officer of a number of other hedge funds, including Scout Capital and Libra Capital. She began her career in consulting, focusing on strategy and mergers & acquisitions. Ms. Curbishley is a Certified Public Accountant, and received her MBA degree from Harvard Business School and a Masters of Engineering degree from the University of Oxford.

Ms. Linda Hall Daschle is a director Chairman of the Company. In 2009, she formed her own consulting company, LHD & Associates, Board of Directors of Carver Machine Works, Inc., which she led until her retirement a renowned metal fabricator specializing in 2018. Ms. Daschle was nominated by President Bill Clinton welding, precision machining and confirmed in 1993 to begin a four-year term as FAA Deputy Administrator and FAA Acting Administrator, where she led efforts to overhaul the agency's air traffic control modernization program and implementation of major safety improvements. Ms. Daschle was the first woman to serve as FAA Acting Administrator. Prior to holding that position, she helped start a regional airline, worked for the Civil Aeronautics Board, and became a top executive with the American Association of Airport Executives. She returned to the private sector in 1997 and chaired the public policy practice for over a decade at Baker, Donelson, Bearman, Caldwell, & Berkowitz, PC. From 2014 to 2021, Ms. Daschle served as Board National Security Advisor for Aireon, LLC and was also a member of the company's Advisory Board. Aireon operates the first-ever global space-based air traffic surveillance system for Automatic Dependent Surveillance-Broadcast (ADS-B) equipped aircraft. In 2021, Ms. Daschle was appointed to the FAA's Management Advisory Council. She is a member of the Smithsonian National Aviation and Space Museum advisory board. Among the honors bestowed upon Ms. Daschle are placement in the Kansas Aviation Hall of Fame, the Amelia Earhart Pioneering Achievement Award and recipient of the Air Traffic Control Association's most prestigious honor-the Glen A. Gilbert Memorial Award.

mechanical assembly. Since 2010, Mr. Jonathan Silver is a director of the Company. Mr. Silver is one of the nation's leading clean economy investors and advisors and Segrave Sr. has been recognized as one of the United States' "Top 10 Green Tech Influencers" by Reuters. Mr. Silver currently serves as a Senior Advisor at Apollo Global Management Inc. and as Chair of its Global Climate Council, and has served in such capacity since 2022. Mr. Silver also currently serves on the boards of National Grid (NYSE: NGG), a FTSE 15 utility company, and Plug Power (NASDAQ: PLUG), the country's leading manufacturer of hydrogen fuel cells, and has served in such capacities since May 2019 and June 2018, respectively. He served on the board of Peridot Acquisition Corp., a blank-check company generally focusing on opportunities within the energy industry that are driven by the elimination or mitigation of greenhouse gases that merged with Li-Cycle Corp. from October 2020 until 2021. He is also on the board of several privately held clean economy companies. From February 2015 to December 2020, Mr. Silver served as Managing Partner of Tax Equity Advisors LLC, which managed investments in large-scale renewable projects. From 2020 until 2022, Mr. Silver served as Senior Advisor at Guggenheim Partners, LLC. From 2009 to 2011, Mr. Silver served as Executive Director of the Loan Programs Office during President Obama's administration, leading the government's \$40 billion clean energy investment fund and its \$20 billion advanced automotive technology fund, providing financing for a wide range of solar, wind, geothermal, biofuels, fossil, nuclear energy and electric vehicle projects. Earlier, Mr. Silver co-founded and served as Managing Partner of Core Capital Partners, a successful early-stage investor in battery technology, advanced manufacturing, telecommunications and software and as Managing Director and the Chief Operating Officer of Tiger Management, one of the country's largest and most successful hedge funds. He began his business career at McKinsey and Company, a global management consulting

firm. In addition, Mr. Silver served as a policy advisor to four U.S. Cabinet Secretaries - Energy, Commerce, Interior and Treasury, consultant for Advance Concrete, LLC. Our Board believes that Mr. Silver received his B.A. degree from Harvard University and Segrave Sr.'s extensive experience in the aviation industry makes him a valuable member of our Board.

Thomas J. Segrave, Sr. is the father of Thomas James Segrave Jr.

## Director Independence

By virtue of the combined voting power of the Existing Equityholders of more than 50% of the total voting power of the shares of outstanding capital stock, we qualify as a "controlled company" within the meaning of the corporate governance standards of the NYSE American. Under these rules, a listed company of which more than 50% of the voting power is held by an advanced degree from The Institute of Political Studies in Paris, and has received both the Fulbright and Rotary Graduate Fellowships.

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Ms. Noorsurainah (Su) Tengah individual, group or another company is a director of "controlled company" and may elect not to comply with certain corporate governance requirements, including the Company. Since 2019, Ms. Tengah has served as the Executive Manager and Head of Alternative Assets, for the Brunei Investment Agency, the sovereign wealth fund of the Government of Brunei, which was founded in 1983. Ms. Tengah has been with the Brunei Investment Agency for over 16 years; her prior positions have included the Head of Absolute Return, Portfolio Manager Private Equity, Assistant Portfolio Manager External Fund Management, and Analyst of the Macro, Fixed Income, Credit and Equity group. In her current role, she leads a team of 22 investment professionals focused on private and public market investments across the globe, and oversees the strategy and execution for all private equity, absolute return and commodities-related investments. Ms. Tengah serves as a director on the board of Mapletree Industrial Trust Management Ltd. and on the boards of several private companies. Ms. Tengah also served on the board of directors of Boqii Holdings from 2020 until 2023. She has completed the Program for Leadership Development at Harvard Business School, and holds an MSc in Finance and Economics from the Manchester Business School.

We believe requirements that all of our current board members possess the professional and personal qualifications necessary for board service, and we have highlighted in the individual biographies above the specific experience, attributes, and skills that led to the conclusion that each board member should serve as a director.

## Director Independence

The NYSE listing standards require that (i) a majority of our board Board consist of independent directors, be (ii) we have a compensation committee composed entirely of independent within one year directors and (iii) we have a nominating/corporate governance committee composed entirely of independent directors.

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

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## Indemnification of Directors and Officers

Our Certificate of Incorporation provides that our officers and directors will be indemnified by us to the fullest extent authorized by Delaware law, as a person that, it now exists or may in the opinion future be amended. In addition, our Certificate of Incorporation provides that our directors will not be personally liable for monetary damages to us or our stockholders for breaches of their fiduciary duty as directors, unless they violated their duty of loyalty to us or our stockholders, acted in bad faith, knowingly or intentionally violated the law, authorized unlawful payments of dividends, unlawful stock purchases or unlawful redemptions, or derived an improper personal benefit from their actions as directors.

In connection with the Closing of the company's board of directors, has no material relationship Business Combination, the Company entered into indemnification agreements with the listed company (either directly or as a partner, stockholder or officer of an organization that has a relationship with the company). Our board of directors has determined that each of Louise Curbishley, Linda Hall Daschle, Jonathan Silver its directors and Noorsurainah (Su) Tengah are "independent directors" officers. Each indemnification agreement provides for customary indemnification and advancement by the Company of certain expenses and costs relating to claims, suits or proceedings arising from service to the Company or, at its request, service to other entities, as defined in officers or directors to the NYSE listing standards fullest extent permitted by applicable law.

### Code of Ethics

The Company has adopted the flyExclusive Inc. Code of Ethics and applicable SEC rules. Our independent Conflict of Interest Policy that applies to all officers, directors will have regularly scheduled meetings and employees. The Code of Ethics and Conflict of Interest Policy is available under the heading "Governance" on the Company's website at which only independent directors are present.

### Audit Committee

Effective May 25, 2021, we established an audit committee *ir.flyexclusive.com*. If the Company makes any substantive amendments to the Code of Ethics and Conflict of Interest Policy or grants any waiver from a provision of the board Code of directors. Louise Curbishley, Linda Hall Daschle, Jonathan Silver Ethics and Noorsurainah (Su) Tengah serve as members Conflict of our audit committee, and Louise Curbishley chairs Interest Policy to any executive officer or director, the audit committee. Under Company will promptly disclose the NYSE listing standards and applicable SEC rules, we are required to have at least three members nature of the audit committee, all of whom must be independent. Each of Louise Curbishley, Linda Hall Daschle, Jonathan Silver and Noorsurainah (Su) Tengah meet the independent director standard under the NYSE listing standards and under Rule 10-A-3(b)(1) of the Exchange Act.

Each member of the audit committee is financially literate and our board of directors has determined that Louise Curbishley qualifies as an "audit committee financial expert" as defined in applicable SEC rules and has accounting amendment or related financial management expertise.

The audit committee's duties, which are specified in our waiver on its website.

### Audit Committee Charter, include, but are not limited to:

#### and Audit Committee Financial Expert

assisting board The Audit Committee assists the Board in its oversight of (1) the integrity of our the Company's financial statements, (2) our compliance with legal and regulatory requirements, (3) the independent registered public accounting firm's qualifications and independence and (4) the performance of our independent auditors, and our internal audit function financial and the independent registered public accounting firm;

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- controls. The Audit Committee has direct responsibility for the appointment, compensation, retention replacement, (including termination) and oversight of our independent auditors, and our independent auditors report directly to the work of the independent registered public accounting firm engaged by us;
  - pre-approving all audit and permitted non-audit services to be provided by the independent registered public accounting firm engaged by us, and establishing pre-approval policies and procedures;
- setting clear hiring policies for employees or former employees of the independent registered public accounting firm, including but not limited to, as required by applicable laws and regulations;
- setting clear policies for audit partner rotation in compliance with applicable laws and regulations;
- obtaining and reviewing a report, at least annually, from the independent registered public accounting firm describing (i) the independent registered public accounting firm's internal quality-control procedures, (ii) any material issues raised by the most recent internal quality-control review, or peer review, of Audit Committee. The Audit Committee also prepares the audit firm, or by any inquiry or investigation by governmental or professional authorities within the preceding five years respecting one or more independent audits carried out by the firm and any steps taken to deal with such issues and (iii) all relationships between the independent registered public accounting firm and us to assess the independent registered public accounting firm's independence;

- meeting to review and discuss our annual audited financial statements and quarterly financial statements with management and the independent registered public accounting firm, including reviewing our specific disclosures under “Management’s Discussion and Analysis of Financial Condition and Results of Operations”;
- reviewing and approving any related party transaction required to be disclosed pursuant to Item 404 of Regulation S-K promulgated by the SEC prior to us entering into such transaction; and
- reviewing with management, the independent registered public accounting firm, and our legal advisors, as appropriate, any legal, regulatory or compliance matters, including any correspondence with regulators or government agencies and any employee complaints or published reports **committee report** that raise material issues regarding our financial statements or accounting policies and any significant changes in accounting standards or rules promulgated by the Financial Accounting Standards Board, the SEC or other regulatory authorities.

### **Nominating Committee and Corporate Governance Committee**

Effective May 25, 2021, we established a nominating and corporate governance committee of the board of directors. Louise Curbishley, Linda Hall Daschle, Jonathan Silver and Noorsurainah (Su) Tengah serve as members of our nominating and corporate governance committee. Under the NYSE listing standards, all members of the nominating and corporate governance committee must be independent.

Each of Louise Curbishley, Linda Hall Daschle, Jonathan Silver and Noorsurainah (Su) Tengah are independent, and Jonathan Silver chairs the nominating and corporate governance committee.

We adopted a nominating and corporate governance committee charter, which details the principal functions of the nominating and corporate governance committee, including:

- identifying, screening and reviewing individuals qualified to serve as directors and recommending to the board of directors candidates for nomination for election at the annual meeting of stockholders or to fill vacancies on the board of directors;

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- developing and recommending to the board of directors and overseeing implementation of our corporate governance guidelines;
  - coordinating and overseeing the annual self-evaluation of the board of directors, its committees, individual directors and management in the governance of the company; and
  - reviewing on a regular basis our overall corporate governance and recommending improvements as and when necessary.

The charter also provides that the nominating and corporate governance committee may, in its sole discretion, retain or obtain the advice of, and terminate, any search firm to be used to identify director candidates, and is directly responsible for approving the search firm’s fees and other retention terms.

The nominating and corporate governance committee is governed by a charter that complies with the rules of the NYSE.

### **Compensation Committee**

Effective May 25, 2021, we established a compensation committee of the board of directors. Louise Curbishley, Linda Hall Daschle, Jonathan Silver and Noorsurainah (Su) Tengah serve as members of our compensation committee. Under the NYSE listing standards and applicable SEC rules, all members of the compensation committee must be independent. Each of Louise Curbishley, Linda Hall Daschle, Jonathan Silver and Noorsurainah (Su) Tengah are independent and Noorsurainah (Su) Tengah chairs the compensation committee.

We adopted a compensation committee charter, which details the principal functions of the compensation committee, including:

- reviewing and approving on an annual basis the corporate goals and objectives relevant to our Chief Executive Officer’s compensation, if any is paid by us, evaluating our Chief Executive Officer’s performance in light of such goals and objectives and determining and approving the remuneration (if any) of our Chief Executive Officer based on such evaluation;

- reviewing and making recommendations on an annual basis to our board of directors with respect to (or approving, if such authority is so delegated by our board of directors) the compensation, if any is paid by us, and any incentive-compensation and equity-based plans that are subject to board approval of our other officers;
- reviewing on an annual basis our executive compensation policies and plans;
- implementing and administering our incentive compensation equity-based remuneration plans;
- assisting management in complying with our proxy statement and annual report disclosure requirements;
- approving all special perquisites, special cash payments and other special compensation and benefit arrangements for our officers and employees;
- if required, producing a report on executive compensation requires to be included in our annual proxy statement; statement.

The Audit Committee is currently composed of three directors: Michael S. Fox (Chairman), Frank B. Holding, Jr. and

Peter B. Hopper.

reviewing, evaluating The Board has determined that Mr. Hopper qualifies as an “audit committee financial expert,” as defined in applicable SEC rules. The Board made qualitative assessments of Mr. Hopper’s level of knowledge and recommending experience based on a number of factors, including formal education and experience.

### Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Exchange Act requires the Company’s directors and executive officers, and persons who own more than ten percent of a registered class of the Company’s equity securities, to file with the SEC initial reports of ownership and reports of changes if appropriate, in ownership of common stock and other equity securities of the Company. Officers, directors and greater than ten percent stockholders are required by SEC regulation to furnish the Company with copies of all Section 16(a) forms they file.

To the Company’s knowledge, based solely on the review of the copies of such reports filed with the SEC and/or furnished to the remuneration Company, all officers, directors and greater than ten percent beneficial owners were in compliance with applicable Section 16(a) filing requirements.

### Item 11. Executive Compensation

This section discusses the material components of the executive compensation program for directors.

our principal executive officer and our two other most highly compensated persons serving as executive officers as of December 31, 2023. These executives, who continue to serve in these positions, are referred to as the “named executive officers.” We paid no compensation to our directors in 2023 or 2022. EGA paid no compensation to its executive officers or its directors in 2023 or 2022.

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In fiscal year 2023, LGM’s “named executive officers” and their positions were as follows:

- Thomas James (“Jim”) Segrave, Jr., Founder, Chairman of the Board and Chief Executive Officer (the “CEO”);
- Billy Barnard, Interim Chief Financial Officer;
- Michael (“Mike”) Guina, Chief Operating Officer; and
- Brent Smith, Former Chief Financial Officer, who resigned as of September 27, 2023.

### Summary Compensation Table

The table below shows compensation of LGM’s named executive officers for the years ended December 31, 2023 and 2022.

Name and principal position	Year	Salary (\$)	Bonus (\$)	All other compensation (\$)	Total (\$)

Jim Segrave, Founder, Chairman of the Board and Chief Executive Officer	2023	—	—	\$8,770,917 <sup>(1)</sup>	\$8,770,917
	2022	—	—	\$9,219,645 <sup>(2)</sup>	\$9,219,645
Billy Barnard, Interim Chief Financial Officer	2023	\$370,000	\$100,000	\$ 24,159 <sup>(3)</sup>	\$ 494,15
	2022	\$360,000	—	\$ 19,108 <sup>(4)</sup>	\$ 379,10
Mike Guina, Chief Operating Officer	2023	\$342,500	\$ 1,210	\$ 19,138 <sup>(5)</sup>	\$ 362,84
	2022	\$300,000	—	\$ 66,147 <sup>(6)</sup>	\$ 366,14
Brent Smith, Former Chief Financial Officer <sup>(7)</sup>	2023	\$277,083	\$175,000	\$ 21,111 <sup>(8)</sup>	\$ 473,19

(1) Reflects \$8,500,000 in distributions from LGM to Mr. Segrave in lieu of salary for his service as CEO in 2023, \$25,684 in tuition payments for Mr. Segrave's children, \$220,139 incremental cost to LGM with respect to Mr. Segrave's use of 120.4 hours of flight time on LGM's aircraft in fiscal year 2023 and \$25,094 for health and life insurance related benefits.

(2) Reflects \$9,037,000 in distributions from LGM to Mr. Segrave in lieu of salary for his service as CEO in 2022 and \$182,645 of incremental cost to LGM with respect to Mr. Segrave's use of 114.2 hours of flight time on LGM's aircraft in fiscal year 2022.

(3) Reflects \$13,200 in contributions by LGM to Mr. Barnard's 401(k) plan and \$10,959 for health and life insurance related benefits.

(4) Reflects \$11,550 in contributions by LGM to Mr. Barnard's 401(k) plan and \$7,558 for health and life insurance related benefits.

(5) Reflects \$6,089 in payments and per diems related to Mr. Guina's service as a pilot for LGM from time to time and \$13,049 in health and life insurance related benefits.

(6) Reflects \$46,973 in payments and per diems related to Mr. Guina's service as a pilot for LGM from time to time and \$19,174 for health and life insurance related benefits.

(7) Mr. Smith resigned as of September 27, 2023.

(8) Reflects \$21,033 in cash-out of accrued paid time off and \$78 in health and life insurance related benefits.

## Narrative to Summary Compensation Table

### Base Salaries.

The named executive officers receive their respective base salaries to compensate them for services rendered to LGM (other than in 2022 and 2023 with respect to Mr. Segrave Jr., who received distributions from LGM in lieu of a base salary). The base salary payable to each named executive officer is intended to provide a fixed component of compensation reflecting the executive's skill set, experience, role and responsibilities.

The 2023 base salaries for Messrs. Barnard, Guina and Smith were \$370,000, \$342,500 and \$277,083, respectively. Mr. Segrave Jr. received distributions from LGM in the amount of \$8,500,000.

### Annual Incentive Cash Bonuses.

From time to time, LGM pays cash bonuses to its named executive officers for the achievement of certain objective and/or subjective performance goals, in the discretion of Mr. Segrave Jr.

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### Long-Term Equity Incentives.

None of LGM's named executive officers received any stock options or other incentive equity awards in fiscal year 2022 or 2023.

## Other Elements of Compensation

### Retirement Plan

The named executive officers are eligible to participate in a 401(k) retirement savings plan maintained by LGM. The Code allows eligible employees to defer a portion of their compensation, within prescribed limits, on a pre-tax basis through contributions to the foregoing, 401(k) plan. In 2022, contributions made by participants, including the named executive officers, in the 401(k) plan were 50% matched by LGM up to 8% of the employee's compensation. These matching contributions are generally unvested as indicated above, of the date on which the contribution is made, and vest 20% over a five-year period, subject to continued service. We anticipate that,

following consummation of the Business Combination, our named executive officers will continue to participate in the 401(k) plan on the same terms as other full-time employees.

#### **Employee Benefits**

LGM provides benefits to its named executive officers on the same basis as provided to all of its employees, including health, dental and vision insurance; life insurance; accidental death insurance, and dismemberment insurance; and disability insurance.

#### **Aircraft Use**

LGM's executive officers use its aircraft for flights directly related to their business duties. LGM also allows some executive officers to use its aircraft for personal benefit. Certain executive officers are allocated a specific number of flight hours on an annual basis while other executive officers are granted flight hours from time to time at the discretion of Mr. Segrave Jr. Flight hours granted to executives may be used by the executive and their immediate family members. The aggregate incremental cost to LGM of Mr. Segrave Jr.'s personal use of its aircraft was \$182,645 and \$220,139 for 2022 and 2023, respectively. LGM determines the incremental cost of the personal use of its aircraft based on the variable operating costs to LGM, which includes (i) landing, ramp and parking fees and expenses, (ii) crew travel expenses, (iii) aircraft fuel expenses per hour of flight and (iv) incidental expenses. Primarily, LGM's aircraft are used for business purposes; therefore, fixed costs that do not change based on each usage, such as pilot and crew salaries, lease or purchase costs of aircraft and maintenance costs, are not included in the formula for determining incremental cost. The executive officers incur taxable income for the usage of their granted flight time, calculated in accordance with the tax Standard Industry Fare Level. LGM does not grant bonuses to its executive officers to cover or "gross-up" any income tax owed for use of flight hours for personal benefit. Certain executive officers may also pay for additional flight time in excess of the flight hours allocated to them, based on discounted hourly rates that cover the incremental costs to LGM. Executive officers' use of personal flight hours is also subject to certain conditions and restrictions, such as minimum notice periods, peak days and minimum daily flight times.

#### **Outstanding Equity Awards at Fiscal Year-End**

As of December 31, 2023, there are no outstanding equity awards held by any of the named executive officers.

#### **Employment Agreements with Our Named Executive Officers**

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

If the employment of Mr. Segrave Jr. is terminated (A) by LGM other than by reason of death, disability or "Cause" (including LGM's non-renewal of the employment agreement), or (B) by Mr. Segrave Jr. for "Good Reason" (as

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each such term is defined in the employment agreement), LGM shall provide Mr. Segrave Jr. with the following separation benefits: (i) continued payment of Mr. Segrave Jr.'s base salary for a period of 24 months, (ii) an amount equal to two times his target bonus for the year of termination (to be not less than 100% of his base salary), (iii) subject to Mr. Segrave Jr.'s timely election of continued health insurance coverage under COBRA, fully subsidized premiums for such continuation coverage for Mr. Segrave Jr. and his eligible dependents until the earlier of (x) the consummation end of our the salary continuation period and (y) the date Mr. Segrave Jr. becomes eligible for group health insurance coverage under another employer's plan, and (iv) such other or additional benefits, if any, as may be provided under the applicable employee benefit plans, programs and arrangements of LGM. All separation benefits are subject to Mr. Segrave Jr. timely entering into and not revoking a separation and release of claims agreement in favor of LGM and its affiliates. "Good Reason" is defined in the agreement as any material breach of this Agreement by the Company, any material reduction by the Company of Mr. Segrave Jr.'s duties, responsibilities, or authority, a relocation of the Company's principal place of business to which Mr. Segrave Jr. reports more than 25 miles from its immediately preceding location, or a material reduction in Mr. Segrave Jr.'s annual base salary unless

all officers and/or members of the Company's executive management team experience an equal or greater percentage reduction in annual base salary and/or total compensation.

LGM entered into an executive employment agreement with Mr. Guina, effective April 21, 2023, with an initial business combination or our liquidation and the payment term of two years. Pursuant to our sponsor his employment agreement, Mr. Guina receives an annual base salary of \$10,000 per month, for \$360,000, which is subject to annual review by LGM's CEO to determine whether an increase is warranted. Mr. Guina is eligible to receive an annual cash bonus of up to 24 months, 50% of his base salary, as determined by LGM's CEO in his sole discretion, based on the achievement, during the applicable year of (i) objectives for office space, utilities LGM as a whole established by the LGM CEO at the beginning of the year and secretarial (ii) objectives for Mr. Guina, agreed by the LGM CEO and administrative support and reimbursement Mr. Guina at the beginning of expenses, and in connection with potentially providing financing or other investments in connection with our initial business combination, no compensation the applicable year. Mr. Guina must be employed by LGM through December 31 of any kind, including finders, consulting or other similar fees, the applicable year to earn the annual bonus for such year, which bonus (if any) will be paid no later than the following March 15. Mr. Guina is also eligible to participate in all employee benefit plans that LGM makes available to its senior executives from time to time. In addition, Mr. Guina's employment agreement subjects him to customary provisions regarding invention assignment and use of LGM's confidential information.

If the employment of Mr. Guina is terminated (A) by LGM other than by reason of death, disability or "Cause" (including LGM's non-renewal of the employment agreement), or (B) by Mr. Guina for "Good Reason" (as each such term is defined in the employment agreement), LGM shall provide Mr. Guina with the following separation benefits: (i) continued payment of Mr. Guina's base salary for a period of one month, (ii) subject to Mr. Guina's timely election of continued health insurance coverage under COBRA, fully subsidized premiums for such continuation coverage for Mr. Guina and his eligible dependents until the earlier of (x) the end of the salary continuation period and (y) the date Mr. Guina becomes eligible for group health insurance coverage under another employer's plan, and (iii) such other or additional benefits, if any, as may be provided under the applicable employee benefit plans, programs and arrangements of our existing stockholders, officers, directors or any LGM. All separation benefits are subject to Mr. Guina timely entering into and not revoking a separation and release of their respective affiliates, prior to, or for any services they render claims agreement in order to effectuate favor of LGM and its affiliates. "Good Reasons" is defined the consummation of an initial business combination. Accordingly, same in Mr. Guina's agreement as it is likely that prior to the consummation in Mr. Segrave Jr.'s agreement.

**Item 12. Security Ownership of an initial business combination, the compensation committee will only be responsible for the review Certain Beneficial Owners and recommendation of any compensation arrangements to be entered into in connection with such initial business combination.**

The charter also provides that the compensation committee may, in its sole discretion, retain or obtain the advice of a compensation consultant, legal counsel or other adviser Management and will be directly responsible for the appointment, compensation and oversight of the work of any such adviser. However, before engaging or receiving advice from a compensation consultant, external legal counsel or any other adviser, the compensation committee will consider the independence of each such adviser, including the factors required by the NYSE and the SEC.

#### **Code of Business Conduct and Ethics**

Effective May 25, 2021, we adopted a Code of Business Conduct and Ethics applicable to our directors, officers and employees, which is available on our website. A copy of the Code of Business Conduct and Ethics will be provided without charge upon request from us. We intend to disclose any amendments to or waivers of certain provisions of our Code of Business Conduct and Ethics in a Current Report on Form 8-K. Related Stockholder Matters

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#### **ITEM 11. EXECUTIVE COMPENSATION**

##### **Executive Compensation**

Effective May 25, 2021, we have agreed to pay our sponsor a total of \$10,000 per month for office space, utilities and secretarial and administrative support. Upon completion of our initial business combination or our liquidation, we will cease paying these monthly fees. In no event will our sponsor or any of our existing officers or directors, or any entity with which our sponsor or officers are affiliated, be paid any finder's fee, reimbursement, consulting fee, monies in respect of any payment of a loan or other compensation by the Company prior to, or in connection with any services rendered for any services they render in order to effectuate, the completion of our initial business

combination (regardless of the type of transaction that it is). However, these individuals will be reimbursed for any out-of-pocket expenses incurred in connection with activities on our behalf such as identifying potential target businesses and performing due diligence on suitable business combinations. We do not have a policy that prohibits our sponsor, executive officers or directors, or any of their respective affiliates, from negotiating for the reimbursement of out-of-pocket expenses by a target business. Our audit committee will review on a quarterly basis all payments that were made to our sponsor, officers or directors, or our or their affiliates. Any such payments prior to an initial business combination will be made using funds held outside the trust account. Other than quarterly audit committee review of such payments, we do not expect to have any additional controls in place governing our reimbursement payments to our directors and executive officers for their out-of-pocket expenses incurred in connection with identifying and consummating an initial business combination.

After the completion of our initial business combination, directors or members of our management team who remain with us may be paid consulting or management fees from the combined company. All of these fees will be fully disclosed to stockholders, to the extent then known, in the tender offer materials or proxy solicitation materials furnished to our stockholders in connection with a proposed initial business combination. We have not established any limit on the amount of such fees that may be paid by the combined company to our directors or members of management. It is unlikely the amount of such compensation will be known at the time of the proposed initial business combination, because the directors of the post-combination business will be responsible for determining officer and director compensation. Any compensation to be paid to our officers will be determined, or recommended to the board of directors for determination, either by a compensation committee constituted solely by independent directors or by a majority of the independent directors on our board of directors.

We do not intend to take any action to ensure that members of our management team maintain their positions with us after the consummation of our initial business combination, although it is possible that some or all of our officers and directors may negotiate employment or consulting arrangements to remain with us after our initial business combination. The existence or terms of any such employment or consulting arrangements to retain their positions with us may influence our management team's motivation in identifying or selecting a target business but we do not believe that the ability of our management to remain with us after the consummation of our initial business combination will be a determining factor in our decision to proceed with any potential business combination. We are not party to any agreements with our officers and directors that provide for benefits upon termination of employment.

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**ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED SHAREHOLDER MATTERS**

The following table sets forth information regarding the beneficial ownership of our common stock Class A Common Stock as of December 31, 2022 March 31, 2024, following the consummation of the Business Combination by:

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

Unless otherwise indicated, we believe that all persons named in the table have sole voting and investment power with respect to all shares of common stock beneficially owned by them. The following table does not reflect record or beneficial

Beneficial ownership of the Private Placement Warrants as these warrants are not exercisable within 60 days of the date of the prospectus.

As of December 31, 2022

Name and Address of Beneficial Owner(1)	Number of Shares Beneficially Owned	Approximate Percentage of Outstanding Common Stock
EG Sponsor LLC (our sponsor)(2)(3)	5,625,000	20.00 %
Gregg Hymowitz	5,625,000	20.00 %
Gary Fegel	—	—
Sophia Park Mullen	—	—
Louise Curbishley	—	—
Linda Hall Daschle	—	—
Jonathan Silver	—	—
Noorsurainah (Su) Tengah	—	—
Saba Capital Management, L.P. (4)	1,721,200	7.7 %
Fir Tree Capital Management LP(5)	1,513,628	6.73 %
HGC Investment Management Inc.(6)	1,604,717	7.13 %
BTIG, LLC(7)	1,303,017	5.79 %
All executive officers, directors and director nominees as a group (7 individuals) (2)	5,625,000	20.00 %

(1) Unless otherwise noted, the business address of each of the following entities or individuals is c/o EG Acquisition Corp., 375 Park Avenue, 24th Floor, New York, NY 10152.

(2) Interests shown consist solely of founder shares, classified as shares of Class B common stock. Such shares are convertible into shares of Class A common stock on a one-for-one basis, subject to adjustment.

(3) Our sponsor is the record holder of such shares. EnTrust Global Management GP LLC is the managing member of our sponsor (the "Managing Member"), and as such has voting and investment discretion with respect to the common stock held of record by our sponsor and may be deemed to have shared beneficial ownership of the common stock held directly by our sponsor. Gregg Hymowitz is the sole and managing member of GH Onshore GP LLC, which is the sole and managing member of the Managing Member, and as a result, may be deemed to have shared beneficial ownership (along with the Managing Member, GH Onshore GP LLC and the Sponsor) of the common stock held directly by our sponsor. Each of EnTrust Global Management GP LLC, GH Onshore GP LLC and Gregg Hymowitz disclaims beneficial ownership of such securities except to the extent of its or his pecuniary interest therein. Each of our officers and directors may hold a direct or indirect interest in our sponsor. An affiliate of GMF Capital has an approximately 50% membership interest in the sponsor. Each such person disclaims any beneficial ownership of the reported shares other than to the extent of any pecuniary interest they may have therein, directly or indirectly.

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(4) According to a Schedule 13G filed with the SEC on February 14, 2023, Saba Capital Management, L.P., Boaz R. Weinstein, and Saba Capital Management GP, LLC may be deemed to have shared dispositive voting power with regard to 1,721,200 shares of Class A common stock of the Company. The business address of each is 405 Lexington Avenue, 58th Floor, New York, New York 10174.

(5) According to a Schedule 13G filed with the SEC on February 14, 2023, Fir Tree Capital Management LP may be deemed to have sole voting power with regard to 1,513,628 shares of Class A common stock of the Company. The business address of Fir Tree Capital Management LP is 500 5th Avenue, 9th Floor, New York, New York 10110.

(6) According to a Schedule 13G filed with the SEC on February 14, 2023, HGC Investment Management Inc. may be deemed to have sole voting power with regard to 1,604,717 shares of Class A common stock of the Company. The business address of HGC Investment Management Inc. is 1073 Yonge Street, 2nd Floor, Toronto, Ontario M4W 2L2, Canada.

(7) According to a Schedule 13G filed with the SEC on January 17, 2023, BTIG, LLC may be deemed to have shared voting and dispositive power with regard to 2,303,017 Class A common stock of the Company. The business address of BTIG, LLC is 600 Montgomery Street, 6th Floor, San Francisco, CA 94111.

The holders of the founder shares agreed (A) to vote any shares owned by them in favor of any proposed initial business combination and (B) not to redeem any shares in connection with a stockholder vote to approve a proposed initial business combination.

Our sponsor and our executive officers and directors are deemed to be our “promoters” as such term is defined under the federal securities laws.

#### **ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE**

For a complete discussion regarding certain relationships and related transactions, see the section titled “Certain Relationships and Related Party Transactions” contained in our prospectus on form S-1 filed with the SEC on May 11, 2021, incorporated by reference herein.

#### **ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES**

The following is a summary of fees paid or to be paid to Marcum LLP, or Marcum, for services rendered.

*Audit Fees.* Audit fees consist of fees billed for professional services rendered for the audit of our year-end financial statements and services that are normally provided by Marcum in connection with regulatory filings. The aggregate fees billed by Marcum for professional services rendered for the audit of our annual financial statements, review of the financial information included in our Forms 10-Q for the respective periods and other required filings with the SEC for the year ended December 31, 2022 and for the period from January 28, 2021 (inception) through December 31, 2021 totaled \$100,425 and \$128,280, respectively. The above amounts include interim procedures and audit fees, as well as attendance at audit committee meetings.

*Audit-Related Fees.* Audit-related services consist of fees billed for assurance and related services that are reasonably related to performance of the audit or review of our financial statements and are not reported under “Audit Fees.” These services include attest services that are not required by statute or regulation and consultations concerning financial accounting and reporting standards. We did not pay Marcum for consultations concerning financial accounting and reporting standards for the year ended December 31, 2022 and for the period from January 28, 2021 (inception) through December 31, 2021.

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*Tax Fees.* We did not pay Marcum for tax planning and tax advice for the year ended December 31, 2022 and for the period from January 28, 2021 (inception) through December 31, 2021.

*All Other Fees.* We did not pay Marcum for other services for the year ended December 31, 2022 and for the period from January 28, 2021 (inception) through December 31, 2021.

#### **Pre-Approval Policy**

Our audit committee was formed upon the consummation of our Initial Public Offering. As a result, the audit committee did not pre-approve all of the foregoing services, although any services rendered prior to the formation of our audit committee were approved by our board of directors. Since the formation of our audit committee, and on a going-forward basis, the audit committee has and will pre-approve all auditing services and permitted non-audit services to be performed for us by our auditors, including the fees and terms thereof (subject to the de minimis exceptions for non-audit services described in the Exchange Act which are approved by the audit committee prior to the completion of the audit).

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#### **ITEM 15. EXHIBITS, FINANCIAL STATEMENTS, AND SCHEDULES**

(a) The following documents are filed as part of this annual report:

(1) Financial Statements:

	Page
<a href="#">Report of Independent Registered Public Accounting Firm (PCAOB ID Number 688)</a>	F-2
<a href="#">Balance Sheets</a>	F-3
<a href="#">Statements of Income</a>	F-4
<a href="#">Statements of Changes in Stockholders' Deficit</a>	F-5
<a href="#">Statements of Cash Flows</a>	F-6
<a href="#">Notes to Financial Statements</a>	F-7 to F-24

(2) Financial Statement Schedules:

None.

(b) Exhibits:

We hereby file as part of this Report the exhibits listed in the attached Exhibit Index. Exhibits which are incorporated herein by reference can be inspected and copied at the public reference facilities maintained by the SEC, 100 F Street, N.E., Room 1580, Washington, D.C. 20549. Copies of such material can also be obtained from the Public Reference Section of the SEC, 100 F Street, N.E., Washington, D.C. 20549, at prescribed rates or on the SEC website at [www.sec.gov](http://www.sec.gov).

Exhibit Number	Description
2.1**	<a href="#">Equity Purchase Agreement, dated as of October 17, 2022, by and among LGM Enterprises, LLC, EG Acquisition Corp., EG Sponsor LLC, the LGM Existing Equityholder Representative and the LGM Existing Equityholders listed on Annex A thereto.</a>
3.1**	<a href="#">Certificate of Incorporation</a>
3.2**	<a href="#">Form of Amended and Restated Certificate of Incorporation</a>
3.3**	<a href="#">Bylaws</a>
4.1**	<a href="#">Specimen Unit Certificate</a>
4.2**	<a href="#">Specimen Class A Common Stock Certificate</a>
4.3**	<a href="#">Specimen Warrant Certificate</a>
4.4**	<a href="#">Form of Warrant Agreement between Continental Stock Transfer and Trust Company and the Registrant</a>
10.1**	<a href="#">Form of Letter Agreement among the Registrant, EG Sponsor LLC and each of the executive officers and directors of the Registrant</a>

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10.2**	<a href="#">Form of Investment Management Trust Agreement between Continental Stock Transfer and Trust Company and the Registrant</a>
10.3**	<a href="#">Founder Shares Subscription Agreement, dated January 29, 2021, between the Registrant and EG Sponsor LLC</a>
10.4**	<a href="#">Form of Warrant Purchase Agreement between the Registrant and EG Sponsor LLC</a>
10.5**	<a href="#">Form of Registration and Stockholder Rights Agreement between the Registrant and certain securityholders</a>
10.6**	<a href="#">Form of Indemnity Agreement</a>

10.7**	<a href="#">Promissory Note issued in favor of EG Sponsor LLC, dated January 29, 2021</a>
10.8**	<a href="#">Form of Administrative Services Agreement</a>
10.9**	<a href="#">Form of Forward Purchase Agreement between the Registrant and the forward purchaser</a>
10.10*	<a href="#">Senior Subordinated Convertible Note, dated as of October 17, 2022, by and among LGM Enterprises, as the Borrower, EnTrust Emerald (Cayman) LP, as the Initial Noteholder, any noteholders party thereto from time to time and EG Acquisition Corp.</a>
31.1***	<a href="#">Certification of Principal Executive Officer (Principal Executive Officer) Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>
31.2***	<a href="#">Certification of Principal Financial Officer (Principal Financial and Accounting Officer) Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>
32.1***	<a href="#">Certification of Principal Executive Officer (Principal 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 Principal Financial Officer (Principal Financial and Accounting 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
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 Label Linkbase Document
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101)

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- \* Incorporated by reference to the Registrant's Current Report on Form 8-K, filed with the SEC October 18, 2022.
  - \*\* Incorporated by reference to the Registrant's Registration Statement on Form S-1, as amended (SEC File No. 333- 255046).
  - \*\*\* These certifications are furnished to the SEC pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and are deemed not filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, nor shall they be deemed incorporated by reference in any filing under the Securities Act of 1933, except as shall be expressly set forth by specific reference in such filing.
  - † Certain of the exhibits and schedules to this exhibit have been omitted in accordance with Regulation S-K Item 601(b)(2). EG agrees to furnish supplementally a copy of all omitted exhibits and schedules to the SEC upon its request.

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**ITEM 16. FORM 10-K SUMMARY**

None.

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**INDEX TO FINANCIAL STATEMENTS**

[Report of Independent Registered Public Accounting Firm \(PCAOB ID Number 688\)](#)

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## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and Board of Directors of  
EG Acquisition Corp.

### Opinion on the Financial Statements

We have audited the accompanying balance sheets of EG Acquisition Corp. (the "Company") as of December 31, 2022 and December 31, 2021, the related statements of income, stockholders' deficit and cash flows for the year ended December 31, 2022 and for the period from January 28, 2021 (inception) through December 31, 2021, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2022 and 2021, and the results of its operations and its cash flows for the year ended December 31, 2022 for the period from January 28, 2021 (inception) through December 31, 2021, in conformity with accounting principles generally accepted in the United States of America.

### Explanatory Paragraph – Going Concern

The accompanying financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 1 to the financial statements, the Company's business plan is dependent on the completion of a business combination and the Company's cash and working capital as of December 31, 2022 are not sufficient to complete its planned activities. These conditions raise substantial doubt about the Company's ability to continue as a going concern. Management's plans in regard to these matters are also described in Note 1. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

### Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audit. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (the "PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits, we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ Marcum LLP

Marcum LLP

We have served as the Company's auditor since 2021.

New York, NY

April 12, 2023



Formation and operating costs	\$ 4,077,647	\$ 1,001,433
<b>Loss from operations</b>	<b>(4,077,647)</b>	<b>(1,001,433)</b>
<b>Other income (expense)</b>		
Change in fair value of warrants	5,099,750	3,301,678
Change in fair value of over-allotment liability	—	228,557
Warrant issuance costs	—	(391,110)
Trust interest income	3,245,484	8,593
<b>Total other income, net</b>	<b>8,345,234</b>	<b>3,147,718</b>
Income before provision for income taxes	4,267,587	2,146,285
Provision for income taxes	(600,701)	—
<b>Net income</b>	<b>\$ 3,666,886</b>	<b>\$ 2,146,285</b>
Basic and diluted weighted average shares outstanding, Class A common stock subject to possible redemption	22,500,000	14,531,250
<b>Basic and diluted net income per share</b>	<b>\$ 0.13</b>	<b>\$ 0.11</b>
Basic and diluted weighted average shares outstanding, non-redeemable common stock	5,625,000	5,625,000
<b>Basic and diluted net income per share</b>	<b>\$ 0.13</b>	<b>\$ 0.11</b>

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

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#### EG ACQUISITION CORP.

#### STATEMENTS OF CHANGES IN STOCKHOLDERS' DEFICIT FOR THE YEAR ENDED DECEMBER 31, 2022 AND FOR THE

#### PERIOD JANUARY 28, 2021 (INCEPTION) THROUGH DECEMBER 31, 2021

	Class A Common Stock		Class B Common Stock		Additional Paid-in Capital	Accumulated Deficit	Total Stockhold Deficit
	Shares	Amount	Shares	Amount			
<b>Balance as of January 28, 2021 (inception)</b>	—	\$ —	—	\$ —	\$ —	\$ —	\$ —
Class B common stock issued to Sponsor	—	—	6,468,750	647	24,353	—	25
Proceeds received in excess of fair value of private placement warrants	—	—	—	—	2,583,564	—	2,583
Stock-based compensation	—	—	—	—	208,250	—	208
Remeasurement of Class A common stock to redemption value	—	—	—	—	(2,816,251)	(16,799,370)	(19,615)
Forfeiture of 843,750 Class B shares	—	—	(843,750)	(84)	84	—	—
Net income	—	—	—	—	—	2,146,285	2,146
<b>Balance as of December 31, 2021</b>	<b>—</b>	<b>—</b>	<b>5,625,000</b>	<b>563</b>	<b>—</b>	<b>(14,653,085)</b>	<b>(14,652)</b>
Remeasurement of Class A common stock to redemption value	—	—	—	—	—	(2,247,040)	(2,247)
Net income	—	—	—	—	—	3,666,886	3,666
<b>Balance as of December 31, 2022</b>	<b>—</b>	<b>\$ —</b>	<b>5,625,000</b>	<b>\$ 563</b>	<b>\$ —</b>	<b>\$ (13,233,239)</b>	<b>\$ (13,232)</b>

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

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#### EG ACQUISITION CORP.

#### STATEMENTS OF CASH FLOWS

	For the Year Ended December 31,	For the Period from January 28, 2021 (Inception) Through December 31,

	2022	2021
<b>Cash flows from operating activities:</b>		
Net income	\$ 3,666,886	\$ 2,146,285
Adjustments to reconcile net income to net cash used in operating activities:		
Trust interest income	(3,245,484)	(8,593)
Change in fair value of warrants	(5,099,750)	(3,301,678)
Change in fair value of over-allotment liability	—	(228,557)
Stock-based compensation	—	208,250
Warrant issuance costs	—	391,110
Changes in current assets and current liabilities:		
Prepaid expenses	452,290	(643,957)
Due to related party	120,000	71,935
Accounts payable and accrued expenses	2,123,990	376,547
Income taxes payable	600,701	—
<b>Net cash used in operating activities</b>	<b>(1,381,367)</b>	<b>(988,658)</b>
<b>Cash flows from investing activities:</b>		
Marketable securities held in Trust Account	—	(225,000,000)
<b>Net cash used in investing activities</b>	<b>—</b>	<b>(225,000,000)</b>
<b>Cash flows from financing activities:</b>		
Proceeds from Initial Public Offering, net of underwriters' fees	—	220,500,000
Proceeds from private placement	—	6,500,000
Proceeds from issuance of promissory note to related party	1,150,000	—
Repayment of promissory note to related party	—	(66,366)
Payment of offering costs	—	(625,756)
<b>Net cash provided by financing activities</b>	<b>1,150,000</b>	<b>226,307,878</b>
<b>Net change in cash</b>	<b>(231,367)</b>	<b>319,220</b>
Cash, beginning of the period	319,220	—
<b>Cash, end of the period</b>	<b>\$ 87,853</b>	<b>\$ 319,220</b>
<b>Supplemental disclosure of cash flow information:</b>		
Deferred offering costs paid by Sponsor in exchange for issuance of Class B common stock	\$ —	\$ 25,000
Deferred underwriting commissions charged to additional paid in capital	\$ —	\$ 7,875,000
Deferred offering costs paid by Sponsor loan	\$ —	\$ 66,366
Accretion of Class A common stock to redemption value	\$ 2,247,040	\$ 19,615,621
Initial classification of warrant liability	\$ —	\$ 10,685,261

*The accompanying notes are an integral part of the financial statements.*

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## Note 1 - Organization and Business Operations

### Organization and General

EG Acquisition Corp. (the "Company") is a blank check company incorporated in Delaware on January 28, 2021. The Company was formed for the purpose of effecting a merger, capital stock exchange, asset acquisition, stock purchase, reorganization or similar business combination with one or more businesses (the "Business Combination"). The Company is an early stage and emerging growth company and, as such, the Company is subject to all of the risks associated with early stage and emerging growth companies.

As of December 31, 2022, the Company had not commenced any operations. All activity for the period from January 28, 2021 (inception) through December 31, 2022 relates to the Company's formation and the initial public offering ("IPO"), which is described below, and, since the closing of the IPO, the search for a prospective initial Business Combination. The Company will not generate any operating revenues until after the completion of its initial Business Combination, at the earliest. The Company will generate non-operating income in the form of

interest income on cash and cash equivalents from the proceeds derived from the IPO and will recognize changes in the fair value of warrant liability as other income (expense). The Company has selected December 31 as its fiscal year end.

The Company's sponsor is EG Sponsor LLC, a Delaware limited liability company (the "Sponsor").

### **Financing**

The registration statement for the Company's IPO was declared effective on May 25, 2021 (the "Effective Date"). On May 28, 2021, the Company consummated the IPO of 22,500,000 units (the "Units" and, with respect to the shares of common stock included in the Units being offered, the "Public Shares", and warrants included in the Units being offered, the "Public Warrants"), at \$10.00 per Unit, generating gross proceeds of \$225,000,000, which is discussed in Note 3.

Simultaneously with the closing of the IPO, the Company consummated the sale of 4,333,333 Private Placement Warrants (the "Private Placement Warrants") at a price of \$1.50 per Private Placement Warrant in a private placement to the Sponsor, generating total gross proceeds of \$6,500,000.

Transaction costs amounted to \$13,000,756 consisting of \$4,500,000 of underwriting discount, \$7,875,000 of deferred underwriting discount, and \$625,756 of other offering costs. See "Offering Costs associated with the Initial Public Offering" under Note 4.

### **Trust Account**

Following the closing of the IPO on May 28, 2021, \$225,000,000 (\$10.00 per Unit) from the net proceeds of the sale of the Units in the IPO and the sale of the Private Placement Warrants was placed in a trust account ("Trust Account") and will be invested only in U.S. government securities with a maturity of 185 days or less or in money market funds meeting certain conditions under Rule 2a-7 under the Investment Company Act which invest only in direct U.S. government treasury obligations. The Trust Account is intended as a holding place for funds pending the earliest to occur of: (a) the completion of the initial Business Combination, (b) the redemption of any public shares properly submitted in connection with a stockholder vote to amend the amended and restated certificate of incorporation (i) to modify the substance or timing of the obligation to redeem 100% of the public shares if the Company does not complete the initial Business Combination within 24 months from the closing of the IPO or (ii) with respect to any other provision relating to stockholders' rights or pre-initial Business Combination activity, and (c) the redemption of the public shares if the Company does not complete the initial Business Combination within 24 months from the closing of the IPO, subject to applicable law. The proceeds deposited in the Trust Account could become subject to the claims of the creditors, if any, which could have priority over the claims of the public stockholders.

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### **Initial Business Combination**

In accordance with the rules of the NYSE, SEC, which generally provide that a person has beneficial ownership of a security if he, she or it possesses sole or shared voting or investment power over that security, including options and warrants that are currently exercisable or exercisable within 60 days. Voting power represents the initial Business Combination must occur with combined voting power of shares of Class A Common Stock and shares of Class B Common Stock owned beneficially by such person. On all matters to be voted upon, holders of shares of Class A Common Stock and Class B Common Stock will vote together as a single class on all matters submitted to the stockholders for their vote or approval. Holders of Class A Common Stock and Class B Common Stock are entitled to one vote per share on all matters submitted to the stockholders for their vote or more target businesses that together have an aggregate fair market value of at least 80% approval. Currently, all of the assets held shares of Class B Common Stock are convertible into shares of Class A Common Stock on a one-for-one basis.

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The ownership percentages in the Trust Account (excluding table below are calculated based on (i) 17,892,021 outstanding shares of Class A Common Stock, (ii) 59,930,000 outstanding shares of Class B Common Stock, (iii) 59,930,000 outstanding LGM Common Units, (iv) 2,521,569 outstanding publicly traded warrants, and (v) 4,333,333 outstanding private placement warrants, in each case as of March 31, 2024. As explained in footnote (2) below, for purposes of determining the amount percentage of deferred underwriting discounts held Class A Common Stock beneficially owned by each holder, the table assumes that all LGM Common Units, publicly traded warrants and private placement warrants are exercised or exchanged for one share of Class A Common Stock and that such shares are deemed issued and outstanding and included in trust the denominator for all holders (to avoid a distorted and taxes payable on potentially misleading presentation of percentage share ownership by holder). The shares of Class A Common Stock beneficially owned by Segrave

Jr. are subject to a one-year lock-up period subject to the income earned on terms and conditions of the Trust Account) at Stockholders' Agreement. The 5,625,000 shares of Class A Common Stock beneficially owned by EG Sponsor LLC (representing the time former Founder Shares) are subject to a three-year lock-up period subject to the terms of signing a definitive the letter agreement executed in connection with the initial Business Combination. public offering of EG Acquisition Corp.

The Company will only complete a Business Combination if the post-Business Combination company owns or acquires 50% or more number of shares owned by each of the outstanding voting securities 5% owners, executive officers and directors in the table below is based on information available to the Company as of March 31, 2024. There are no known arrangements which may at a subsequent date result in a change in control of the target or otherwise acquires a controlling interest in the target sufficient for it not to be required to register as an investment company under the Investment Company Act of 1940, as amended (the "Investment Company Act"). There is no assurance that the Company will be able to successfully effect a Business Combination. Company.

The Company will provide its public stockholders with the opportunity to redeem all or a portion of their

Name and Address of Beneficial Owner	Common Stock		Class B		Combined Voting Power
	Beneficially Owned <sup>(1) (2)</sup>		Common Stock Beneficially owned		
	Number	%	Number	%	
<b>Executive Officers and Directors<sup>(3)</sup></b>					
Jim Segrave <sup>(4)</sup>	59,930,000	70.8 %	59,930,000	100 %	70.8 %
Mike Guina	—	0.0	—	—	— %
Billy Barnard	—	0.0	—	—	— %
Gary Fegel	—	0.0	—	—	— %
Gregg Hymowitz <sup>(5)</sup>	18,285,045	21.6 %	—	—	21.6 %
Mike Fox	—	0.0	—	—	— %
Peter Hopper	—	0.0	—	—	— %
Frank Holding, Jr.	—	0.0	—	—	— %
Tom Segrave	—	0.0	—	—	— %
<b>All Executive Officers and Directors as a Group</b>	<b>78,215,045</b>	<b>92.4 %</b>	<b>59,930,000</b>	<b>100 %</b>	<b>92.4 %</b>
<b>(9 individuals)<sup>(6)</sup></b>					
<b>Principal Holders of Class A Common</b>					
EG Sponsor LLC <sup>(6)</sup>	9,958,333	11.8 %	—	—	11.8 %
EnTrust Emerald (Cayman) LP <sup>(7)</sup>	5,517,808	6.5 %	—	—	6.5 %
ETG Omni LLC <sup>(8)</sup>	2,808,904	3.3 %	—	—	3.3 %
EnTrust Magnolia Partners LP <sup>(9)</sup>	1,123,562	1.3 %	—	—	1.3 %

(1) Includes 6,854,902 shares of Class A common stock upon the completion of the initial Business Combination either (i) in connection with a stockholder meeting called to approve the initial Business Combination or (ii) by means of a tender offer. The decision as to whether the Company will seek stockholder approval of a proposed initial Business Combination or conduct a tender offer will be made by the Company, solely in the Company's discretion, and will be based on a variety of factors such as the timing of the transaction and whether the terms of the transaction would require the Company to seek stockholder approval under the law or stock exchange listing requirements. The public stockholders will be entitled to redeem their shares at per-share price, payable in cash, equal to the aggregate amount then on deposit in the Trust Account calculated as of two business days prior to the consummation of the initial Business Combination, including interest earned on the funds held in the Trust Account (which interest shall be net of taxes payable), divided by the number of then outstanding public shares, subject to the limitations. The amount in the Trust Account is initially anticipated to be \$10.00 per public share.

The shares of common stock subject to redemption will be recorded at a redemption value and classified as temporary equity upon the completion of the IPO, in accordance with Financial Accounting Standards Board's ("FASB") Accounting Standards Codification ("ASC")

Topic 480 “Distinguishing Liabilities from Equity.” In such case, the Company will proceed with a Business Combination if the Company has net tangible assets of at least \$5,000,001 upon such consummation of a Business Combination and, if the Company seeks stockholder approval, a majority of the issued and outstanding shares voted are voted in favor of the Business Combination.

The Company’s amended and restated certificate of incorporation provides that the Company will have only 24 months from the closing of the IPO (the “Combination Period”) to complete the initial Business Combination. If the Company are unable to complete the initial Business Combination within such 24-month period, the Company will (i) cease all operations except for the purpose of winding up, (ii) as promptly as reasonably possible but not more than 10 business days thereafter, redeem the public shares, at a per-share price, payable in cash, equal to the aggregate amount then on deposit in the Trust Account, including interest earned on the funds held in the Trust Account (which interest shall be net of taxes payable and up to \$100,000 of interest to pay dissolution expenses), divided by the number of then outstanding public shares, which redemption will completely extinguish public stockholders’ rights as stockholders (including the right to receive further liquidating distributions, if any), and (iii) as promptly as reasonably possible following such redemption, subject to the approval of the remaining stockholders and the board of directors, liquidate and dissolve, subject in each case, to the obligations under Delaware law to provide for claims of creditors and the requirements of other applicable law.

The Sponsor, officers and directors have entered into a letter agreement with the Company, pursuant to which they have agreed to (i) waive their redemption rights with respect to their founder shares (as described in Note 5) and public shares in connection with the completion of the initial Business Combination, (ii) waive their redemption rights with respect to their founder shares and public shares in connection with a stockholder vote to approve an amendment to the Company’s amended and restated certificate of incorporation (A) to modify the substance or timing of the Company’s obligation to redeem 100% of the Company’s public shares if the Company does not complete the initial Business Combination within 24 months from the closing of the IPO or (B) with respect to any other provision relating to stockholders’ rights on pre-initial Business Combination activity and (iii) waive their rights to liquidating distributions from the Trust Account with respect to their founder shares if the Company fails to complete the initial Business Combination within 24 months from the closing of the IPO, although they will be entitled to liquidating distributions from the Trust Account with respect to any public shares they hold if the Company fails to complete the initial Business Combination within the prescribed time frame. If the Company submits the initial Business Combination to the public stockholders for a vote, the initial stockholders have agreed to vote their founder shares and any public shares purchased during or after the IPO in favor of the initial Business Combination.

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## **Risks and Uncertainties**

Management is currently evaluating the impact of the COVID-19 pandemic on the industry and has concluded that while it is reasonably possible that the virus could have a negative effect on the Company’s financial position, results of its operations, and/or search for a target company, the specific impact is not readily determinable as of the date of these financial statements. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

In February 2022, the Russian Federation and Belarus commenced a military action with the country of Ukraine. As a result of this action, various nations, including the United States, have instituted economic sanctions against the Russian Federation and Belarus. Further, the impact of this action and related sanctions on the world economy are not determinable as of the date of these financial statements. The specific impact on the Company’s financial condition, results of operations, and cash flows is also not determinable as of the date of these financial statements.

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 that occurs 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.

The Company is exposed to volatility in the banking market. At various times, we could have deposits with certain U.S. banks in excess of the maximum amounts insured by the U.S. Federal Deposit Insurance Corporation ("FDIC"). On March 10, 2023, Silicon Valley Bank became insolvent. State regulators closed the bank and the FDIC was appointed as its receiver. The Company did not hold any deposits with Silicon Valley Bank as of December 31, 2022.

### **Going Concern and Liquidity**

As of December 31, 2022, the Company had \$87,853 in its operating bank account, and a working capital deficit of \$3,073,843.

Subsequent to the consummation of the Initial Public Offering and Private Placement, the Company's liquidity needs have been satisfied through the proceeds from the consummation of the Private Placement not held in the Trust Account and Promissory Notes funded by the Sponsor (see Note 5). Until the consummation of a Business Combination, the Company will be using the funds not held in the Trust Account for identifying and evaluating prospective acquisition candidates, performing due diligence on prospective target businesses, paying for travel expenditures, selecting the target business to acquire, and structuring, negotiating and consummating the Business Combination.

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In addition, in order to finance transaction costs in connection with a Business Combination, the Company's Sponsor or an affiliate of the Sponsor or certain of the Company's officers and directors may, but are not obligated to, provide the Company Working Capital Loans, as defined below (see Note 5). To date, there were no amounts outstanding under any Working Capital Loans.

The Company has incurred and expects to continue to incur significant costs in pursuit of its acquisition plans. The Company will need to raise additional capital through loans or additional investments from its Sponsor, stockholders, officers, directors, or third parties. The Company's officers, directors and Sponsor may, but are not obligated to, loan the Company funds, from time to time or at any time, in whatever amount they deem reasonable in their sole discretion, to meet the Company's working capital needs. Accordingly, the Company may not be able to obtain additional financing. These conditions raise substantial doubt about the Company's ability to continue as a going concern for a period of time within one year after the date that the financial statements are issued. If the estimate of the costs of identifying a target business, undertaking in-depth due diligence and negotiating a Business Combination are less than the actual amount necessary to do so, the Company may have insufficient funds available to operate its business prior to its Business Combination. Moreover, the Company may need to obtain additional financing or draw on the Working Capital Loans (as defined below) either to complete a Business Combination or because it becomes obligated to redeem a significant number of the Public Shares upon consummation of the Business Combination, in which case the Company may issue additional securities or incur debt in connection with such Business Combination. Subject to compliance with applicable securities laws, the Company would only complete such financing simultaneously with the completion of the Business Combination.

If the Company is unable to complete the Business Combination because it does not have sufficient funds available, the Company will be forced to cease operations and liquidate the Trust Account. In addition, following the Business Combination, if cash on hand is insufficient, the Company may need to obtain additional financing in order to meet its obligations.

In connection with the Company's assessment of going concern considerations in accordance with FASB's Accounting Standards Update ("ASU") 2014-15, "Disclosures of Uncertainties about an Entity's Ability to Continue as a Going Concern," management determined that the liquidity condition raises substantial doubt about the Company's ability to continue as a going concern through May 28, 2023, the scheduled liquidation date of the Company if it does not complete a Business Combination prior to such date. Management intends to complete a Business Combination prior to mandatory liquidation date. The Company is within 3 months of its mandatory liquidation date as of the time of filing of this Annual Report on Form 10-K. These financial statements do not include any adjustments relating to the recovery of the recorded assets or the classification of the liabilities that might be necessary should the Company be unable to continue as a going concern.

## **Note 2 — Significant Accounting Policies**

### **Basis of Presentation**

The accompanying financial statement is presented in conformity with accounting principles generally accepted in the United States of America ("GAAP") and pursuant to the rules and regulations of the SEC.

### **Emerging Growth Company Status**

The Company is an "emerging growth company," as defined in Section 2(a) of the Securities Act of 1933, as amended, (the "Securities Act"), as modified by the Jumpstart the Company's 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 auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, 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.

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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 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 statements 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.

### **Use of Estimates**

The preparation of these financial statements in conformity with GAAP requires 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 financial statement. One of the more significant accounting estimates included in these statements are the warrant liabilities and provision for income taxes. 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. The Company did not have any cash equivalents as of December 31, 2022 and December 31, 2021.

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

At December 31, 2022 and December 31, 2021, the assets held in the Trust Account were held in mutual funds. 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 income in the accompanying statement of operations. The estimated fair values of investments held in Trust Account are determined using available market information.

### **Fair Value Measurements**

The fair value of the Company's assets and liabilities, which qualify as financial instruments under ASC Topic 820, "Fair Value Measurement," approximates the carrying amounts represented in the accompanying balance sheet, primarily due to their short-term nature. Fair value is defined as the price that would be received for sale of an asset or paid for transfer of a liability, in an orderly transaction between market participants at the measurement date. GAAP establishes a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to unobservable inputs (Level 3 measurements). These tiers include:

- Level 1, defined as observable inputs such as quoted prices (unadjusted) for identical instruments in active markets;
- Level 2, defined as inputs other than quoted prices in active markets that are either directly or indirectly observable such as quoted prices for similar instruments in active markets or quoted prices for identical or similar instruments in markets

that are not active; and

- Level 3, defined as unobservable inputs in which little or no market data exists, therefore requiring an entity to develop its own assumptions, such as valuations derived from valuation techniques in which one or more significant inputs or significant value drivers are unobservable.

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In some circumstances, the inputs used to measure fair value might be categorized within different levels of the fair value hierarchy. In those instances, the fair value measurement is categorized in its entirety in the fair value hierarchy based on the lowest level input that is significant to the fair value measurement.

The fair value of the Company's certain assets and liabilities, which qualify as financial instruments under ASC 820, "Fair Value Measurements and Disclosures," approximates the carrying amounts represented in the balance sheet. The fair values of cash and cash equivalents, prepaid expenses, accounts payable and accrued expenses are estimated to approximate the carrying values as of December 31, 2022 due to the short maturities of such instruments.

The Company's warrant liability is based on a Black-Scholes-Merton ("BSM") model utilizing management judgment and pricing inputs from observable and unobservable markets with less volume and transaction frequency than active markets. Significant deviations from these estimates and inputs could result in a material change in fair value. The fair value of the warrant liability is classified as Level 3. See Note 7 for additional information on assets and liabilities measured at fair value.

#### **Concentration of Credit Risk**

Financial instruments that potentially subject the Company to concentrations of credit risk consist of a cash account in a financial institution, which, at times, may exceed the Federal Depository Insurance Coverage of \$250,000. At December 31, 2022 and December 31, 2021, the Company has not experienced losses on this account.

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

All of the 22,500,000 Class A common stock sold as part of the Units in the IPO contain a redemption feature which allows for the redemption of such public shares in connection with the Company's liquidation, if there is a stockholder vote or tender offer in connection with the Business Combination and in connection with certain amendments to the Company's amended and restated certificate of incorporation. In accordance with SEC and its staff's guidance on redeemable equity instruments, which has been codified in ASC 480-10-S99, redemption provisions not solely within the control of the Company require common stock subject to redemption to be classified outside of permanent equity. Therefore, all Class A common stock has been classified outside of permanent equity.

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 and accumulated deficit.

As of December 31, 2022 and December 31, 2021, the Class A common stock reflected on the balance sheet are reconciled in the following table:

Gross proceeds from IPO	\$ 225,000,000
Less:	
Proceeds allocated to Public Warrants	(6,768,825)
Over-allotment liability	(228,557)
Class A common stock issuance costs	<u>(12,609,646)</u>
Plus:	
Remeasurement of carrying value to redemption value	<u>19,615,621</u>
<b>Class A common stock subject to possible redemption as of December 31, 2021</b>	<b>\$ 225,008,593</b>
Plus:	
Remeasurement of carrying value to redemption value	<u>2,247,040</u>
<b>Class A common stock subject to possible redemption as of December 31, 2022</b>	<b><u>\$ 227,255,633</u></b>

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#### **Net Income Per Common Share**

The Company has two classes of shares, which are referred to as Class A common stock and Class B common stock. Earnings and losses are shared pro rata between the two classes of shares. The 11,833,333 potential common shares for outstanding warrants to purchase the Company's stock were excluded from diluted earnings per share for the year ended December 31, 2022 and for the period from January 28, 2021 (inception) through December 31, 2021 because the warrants are contingently exercisable, and the contingencies have not yet been met. As a result, diluted net income per common share is the same as basic net income per common share for the periods. The table below presents a reconciliation of the numerator and denominator used to compute basic and diluted net income per share for each class of common stock:

	Year Ended December 31,		For the Period from	
	2022		January 28,	
	Class A	Class B	Class A	Class B
Basic and diluted net income per share				
Numerator:				
Allocation of net income	\$ 2,933,509	\$ 733,377	\$ 1,547,322	\$ 598,963
Denominator:				
Weighted average shares outstanding	22,500,000	5,625,000	14,531,250	5,625,000
Basic and diluted net income per share	\$ 0.13	\$ 0.13	\$ 0.11	\$ 0.11

### Offering Costs associated with the Initial Public Offering

The Company complies with the requirements of the ASC340-10-S99 and SEC Staff Accounting Bulletin ("SAB") Topic 5A - "Expenses of Offering". Offering costs consist principally of underwriting fees and professional and registration fees incurred through the balance sheet date. FASBASC470-20, Debt with Conversion and Other Options addresses the allocation of proceeds from the issuance of convertible debt into its equity and debt components. The Company applies this guidance to allocate IPO proceeds from the Units between Class A common stock and warrants, using the residual method by allocating IPO proceeds first to fair value of the warrants and then the Class A common stock.

The Company incurred offering costs amounting to \$13,000,756 as a result of the Initial Public Offering consisting of a \$4,500,000 underwriting discount, \$7,875,000 of deferred underwriting discount, and \$625,756 of other offering costs. The Company recorded \$12,609,646 of offering costs as a reduction of equity in connection with the Class A common stock included in the Units. The Company immediately expensed \$391,110 of offering costs in connection with the Warrants that were classified as liabilities.

### 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 Topic 815, "Derivatives and Hedging". Derivative instruments are initially recorded at fair value on the grant date and re-valued at each reporting date, with changes in the fair value reported in the statements 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. The Company has determined that both the Public Warrants and Private Placement Warrants are derivative instruments (See Note 3 and Note 4).

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### Income Taxes

The Company accounts for income taxes under ASC 740, "Income Taxes." ASC 740, Income Taxes, requires the recognition of deferred tax assets and liabilities for both the expected impact of differences between the unaudited condensed 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 December 31, 2022 and December 31, 2021, the Company's deferred tax asset had a full valuation allowance recorded against it.

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 December 31, 2022 and December 31, 2021. 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.

### **Recent Accounting Pronouncements**

In August 2020, the FASB issued Accounting Standards Update ("ASU") 2020-06, Debt—Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging—Contracts in Entity's Own Equity (Subtopic 815-40) ("ASU 2020-06") to simplify accounting for certain financial instruments. ASU 2020-06 eliminates the current models that require separation of beneficial conversion and cash conversion features from convertible instruments and simplifies the derivative scope exception guidance pertaining to equity classification of contracts in an entity's own equity. The new standard also introduces additional disclosures for convertible debt and freestanding instruments that are indexed to and settled in an entity's own equity. ASU 2020-06 amends the diluted earnings per share guidance, including the requirement to use the if-converted method for all convertible instruments. As a smaller reporting company, ASU 2020-06 is effective January 1, 2024 for fiscal years beginning after December 15, 2023 and should be applied on a full or modified retrospective basis, with early adoption permitted beginning on January 1, 2021. The Company is currently assessing the impact, if any, that ASU 2020-06 would have on its financial position, results of operations or cash flows.

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

### **Note 3 — Initial Public Offering**

#### **Public Units**

Pursuant to the IPO on May 28, 2021, the Company sold 22,500,000 Units at a purchase price of \$10.00 per Unit. Each Unit consists of one share of Class A common stock, and one-third of one redeemable warrant. Each whole public warrant entitles the holder to purchase one share of Class A common stock at an exercise price of \$11.50 per whole share, subject to adjustment (see below).

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Following the closing of the IPO on May 28, 2021, \$225,000,000 (\$10.00 per Unit) from the net proceeds of the sale of the Units in the IPO and the sale of the Private Placement Warrants was placed in a trust account ("Trust Account") and will be invested only in U.S. government securities with a maturity of 185 days or less or in money market funds meeting certain conditions under Rule 2a-7 under the Investment Company Act which invest only in direct U.S. government treasury obligations.

#### **Public Warrants**

Each whole warrant entitles the holder to purchase one share of the Company's Class A common stock at a price of \$11.50 per share, subject to adjustment, at any time commencing on the later of 12 months from the closing of the IPO and 30 days after the completion of the initial Business Combination. The warrants will expire five years after the completion of the initial Business Combination, at 5:00 p.m., New York City time, or earlier upon redemption or liquidation.

The Company is not registering the shares of Class A common stock issuable upon exercise of the warrants at this time. However, the Company has agreed that as soon as practicable, but in no event later than 15 business days after the closing of the initial Business Combination, the Company will use its best efforts to file with the SEC a registration statement covering the shares of Class A common stock issuable upon exercise of the warrants, to cause such registration statement to become effective and to maintain a current prospectus relating to those shares of Class A common stock until the warrants expire or are redeemed, as specified in the warrant agreement. If a registration statement covering the shares of Class A common stock issuable upon exercise of the warrants is not effective by the 60th business day after the closing of the Company's initial Business Combination, warrant holders may, until such time as there is an effective registration statement and during any period when The Company will have failed to maintain an effective registration

statement, exercise warrants on a "cashless basis" in accordance with Section 3(a)(9) of the Securities Act or another exemption. If that exemption, or another exemption, is not available, holders will not be able to exercise their warrants on a cashless basis.

### **Redemption of Warrants**

Once the warrants become exercisable, the Company may redeem the outstanding warrants (except as described herein with respect to the Private Placement Warrants):

- 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 (the "30-day redemption period") 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 ending three business days before the Company sends the notice of redemption to the warrant holders.

If the Company calls the warrants for redemption, the management will have the option to require any holder that wishes to exercise his, her or its warrant to do so on a "cashless basis." In determining whether to require all holders to exercise their warrants on a "cashless basis," the management will consider, among other factors, the Company's cash position, the number of warrants that are outstanding and the dilutive effect on the stockholders of issuing the maximum number of shares of Class A common stock issuable upon the exercise of the warrants. If 2,521,569 outstanding publicly traded warrants and 4,333,333 private placement warrants as if such warrants were exercised on March 31, 2024.

(2) For purposes of determining the management takes advantage percentage of this option, Class A Common Stock beneficially owned by each holder, the table assumes that all LGM Common Unit, publicly traded warrants and private placement warrants are exercised or exchanged for one share of Class A Common Stock and that such shares are deemed issued and outstanding and included in the denominator for all holders (to avoid a distorted and potentially misleading presentation of warrants percentage share ownership by holder).

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

(4) Class A Common Stock holdings consist of 59,930,000 LGM Common Units, which are exchangeable on a one-for-one basis of Class A Common Stock. Of these LGM Common Units, (i) 57,530,000 LGM Common Units are held directly by Segrave Jr. and (ii) 600,000 LGM Common Units are held through four custodial accounts established for his four children pursuant to the Uniform Transfer to Minor Act for which the Reporting Person is custodian (collectively, the

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"Trusts"). In addition, Segrave Jr. beneficially owns an aggregate of 59,930,000 shares of Class B Common Stock, which is comprised of the same ownership amounts for Segrave Jr. and the Trusts as the LGM Common Units. From and after December 27, 2024, Segrave Jr. may redeem or exchange one LGM Common Unit for one share of Class A Common Stock or, under certain circumstances, a cash payment based on the value of Class A Common Stock. At the time of any such redemption or exchange, Segrave Jr. would pay the exercise price by surrendering their warrants for that forfeit an equivalent number of shares of Class A common stock equal B Common Stock to the quotient obtained Company. Each share of our Class A Common Stock carries one vote per share and each share of Class B Common Stock carries one vote per share and no economic rights.

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

(6) EnTrust Global Management GP LLC is the product managing member of the number of Sponsor and as such has voting and investment discretion with respect to the Class A common stock underlying the warrants, multiplied Common Stock held of record by the excess of the "fair market value" (defined below) Sponsor and may be deemed to have shared beneficial ownership (along with EnTrust Global Management GP LLC, GH Onshore GP LLC and our Sponsor) of the Class A Common Stock held directly by the Sponsor. Gregg Hymowitz, one of our directors, is the sole and managing member of GH Onshore GP LLC, which is the managing member of EnTrust Global Management GP LLC, and as a result, may be deemed to have shared beneficial ownership of the common stock over held directly by the exercise price Sponsor. Each of EnTrust Global Management GP LLC, GH Onshore GP LLC and Gregg Hymowitz disclaims beneficial ownership of such securities except to the extent of its or his pecuniary interest therein. An affiliate of GMF Capital has an approximately 50% membership interest in the Sponsor. Each such person disclaims any beneficial ownership of the warrants by (y) the fair market value. The "fair market value" will mean the average closing price of the Class A common stock for the 10 trading days ending

on the third trading day prior reported shares other than to the date on extent of any pecuniary interest they may have therein, directly or indirectly.

(7) Gregg Hymowitz serves as the Founder and Chief Executive Officer of EnTrust Global, an affiliate of which serves as the notice general partner of redemption is sent to the holders of warrants.

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In addition, if (x) the Company issues additional common stock or equity-linked securities for capital raising purposes in connection with the closing of the Company's initial Business Combination at an issue price or effective issue price of less than \$9.20 per share (with such issue price or effective issue price EnTrust Emerald (Cayman) LP, and may be deemed to be determined in good faith by the Company's board beneficial owner of directors and, in the case of any such issuance to the Company's Sponsor or its affiliates, without taking into account any founder shares held by the Company's Sponsor or EnTrust Emerald (Cayman) LP. Each such affiliates, as applicable, prior to such issuance) (the "Newly Issued Price"), (y) the aggregate gross proceeds from such issuances represent more than 60% person disclaims any beneficial ownership of the total equity proceeds, reported shares other than to the extent of any pecuniary interest they may have therein, directly or indirectly.

(8) Gregg Hymowitz serves as the Founder and interest thereon, available for Chief Executive Officer of EnTrust Global, an affiliate of which serves as the funding general partner of ETG Omni LLC, and may be deemed to be the beneficial owner of such shares held by ETG Omni LLC. Each such person disclaims any beneficial ownership of the Company's initial Business Combination on the date of the consummation of the Company's initial Business Combination (net of redemptions), and (z) the volume weighted average trading price of the Company's common stock during the 20 trading day period starting on the trading day prior reported shares other than to the day on which the Company consummates the Company's initial Business Combination (such price, the "Market Value") extent of any pecuniary interest they may have therein, directly or indirectly.

(9) Of these shares, FE Manager LLC (which is below \$9.20 per share, the exercise price not an affiliate of the warrants will be adjusted (to the nearest cent) to be equal to 115% of the higher of the Market Value our Company) has sole voting and the Newly Issued Price, dispositive power.

**Item 13. Certain Relationships and the \$18.00 per share redemption trigger price described below under "Redemption of warrants" will be adjusted (to the nearest cent) to be equal to 180% of the higher of the Market Value Related Transactions, and the Newly Issued Price. Director Independence**

#### **Note 4 — Private Placement**

Simultaneously with the closing of the IPO, the Sponsor purchased an aggregate of 4,333,333 Private Placement Warrants at a price of \$1.50 per Private Placement Warrant, for an aggregate purchase price of \$6,500,000, in a private placement (the "Private Placement"). Each Private Placement Warrant entitles the holder to purchase one share of the Class A common stock at a price of \$11.50 per share. The Private Placement Warrants (including the Class A common stock issuable upon exercise of the Private Placement Warrants) will not be transferable, assignable or salable until three years after the completion of the initial Business Combination and they will not be redeemable by the Company so long as they are held by the Sponsor or its permitted transferees. The Sponsor, or its permitted transferees, has the option to exercise the Private Placement Warrants on a cashless basis. Except as described below, the Private Placement Warrants have terms and provisions that are identical to those of the warrants being sold as part of the Units in the IPO, including as to exercise price, exercisability and exercise period. If the Private Placement Warrants are held by holders other than the Sponsor or its permitted transferees, the Private Placement Warrants will be redeemable by the Company and exercisable by the holders on the same basis as the warrants included in the Units being sold in the IPO.

If holders of the Private Placement Warrants elect to exercise them on a cashless basis, they would pay the exercise price by surrendering their warrants for that number of shares of Class A common stock equal to the quotient obtained by dividing (x) the product of the number of shares of Class A common stock underlying the warrants, multiplied by the excess of the "fair market value" (defined below) over the exercise price of the warrants by (y) the fair market value. The "fair market value" shall mean the average reported last sale price of the Class A common stock for the 10 trading days ending on the third trading day prior to the date on which the notice of warrant exercise is sent to the warrant agent.

The Sponsor, officers and directors have entered into a letter agreement with the Company, pursuant to which they have agreed to (i) waive their redemption rights with respect to their founder shares (as described in Note 5) and public shares in connection with the completion of the initial Business Combination, (ii) waive their redemption rights with respect to their founder shares and public shares in connection with a stockholder vote to approve an amendment to the Company's amended and restated certificate of incorporation (A) to modify the substance or timing of the Company's obligation to redeem 100% of the Company's public shares if the Company does not complete the initial Business Combination within 24 months from the closing of the IPO or (B) with respect to any other provision relating

to stockholders' rights or pre-initial Business Combination activity and (iii) waive their rights to liquidating distributions from the Trust Account with respect to their founder shares if the Company fails to complete the initial Business Combination within 24 months from the closing of the IPO, although they will be entitled to liquidating distributions from the Trust Account with respect to any public shares they hold if the Company fails to complete the initial Business Combination within the prescribed time frame. If the Company submits the initial Business Combination to the public stockholders for a vote, the initial stockholders have agreed to vote their founder shares and any public shares purchased during or after the IPO in favor of the initial Business Combination.

## Note 5 — EGA's Related Party Transactions

### Founder Shares

On January 29, 2021, we issued an aggregate of 5,750,000 Founder Shares to our Sponsor paid for an aggregate purchase price of \$25,000 to cover certain of the Company's offering costs in exchange for 5,750,000 founder shares, cash, or approximately \$0.004 per share. In March 2021, the Company EGA effected a stock dividend resulting in an increase in the total number of 1,437,500 shares with respect to its of EGA Class B common stock, resulting in its initial stockholders holding an aggregate of 7,187,500 founder shares. Common Stock outstanding from 5,750,000 to 7,187,500. On May 25, 2021, the Sponsor surrendered an aggregate of 718,750 shares of EGA Class B common stock Common Stock for no consideration, which were cancelled, resulting in an aggregate of 6,468,750 shares of EGA Class B common stock Common Stock outstanding and held by the Sponsor. Up to In July 2021, 843,750 of the founder shares will be Founder Shares were forfeited depending on the extent to which because the underwriters' over-allotment is exercised. In July 2021, was not exercised, resulting in a decrease in the 843,750 total number of shares of EGA Class B Common Stock outstanding to 5,625,000, such that the total number of Founder Shares represented 20% of the founder total number of shares were forfeited due to EGA Common Stock outstanding. On May 19, 2023, EGA's stockholders approved a proposal to amend EGA's organizational documents to extend the underwriters' over-allotment deadline by which EGA's initial business combination must be completed up to five times, initially from May 28, 2023 to August 28, 2023, and thereafter for additional one month periods commencing on August 28, 2023 through and until December 28, 2023 (or such earlier date after May 28, 2023 as determined by the Board). Following the approval of the amendment to EGA's organizational documents, Sponsor elected to convert 5,624,000 of the 5,625,000 Founder Shares into the Converted Shares, such that the total number of Founder Shares and Converted Shares held by Sponsor represents 57% of the total number of shares of EGA Common Stock outstanding. The Founder Shares (including the EGA Class A Common Stock issuable upon conversion thereof) and Converted Shares may not, exercised, subject to certain limited exceptions, be transferred, assigned or sold by the holder.

### Private Placement Warrants

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Our Sponsor purchased an aggregate of 4,333,333 private placement warrants at a price of \$1.50 per warrant in a private placement that occurred simultaneously with the closing of our IPO. As such, our Sponsor's interest in this transaction is valued at \$6,500,000. Each private placement warrant entitles the holder thereof to purchase one share of Class A Common Stock at a price of \$11.50 per share. The Company's initial stockholders will agree private placement warrants (including the Class A Common Stock issuable upon exercise thereof) may not, subject to transfer, assign certain limited exceptions, be transferred, assigned or sell any of their founder shares sold by the holder until the earlier to occur of (A) three years after the completion of our initial business combination, except, (a) to our officers or directors, any affiliates or family members of any of our officers or directors, any members of our Sponsor, or any affiliates of our

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Sponsor, as well as affiliates of such members and funds and accounts advised by such members; (b) in the Company's initial Business Combination (or with respect case of an individual, by gift to any founder shares transferred such individual's immediate family or distributed to a trust, the beneficiary of which is a member of such individual's immediate family, an affiliate of such person or to a charitable organization; (c) in the case of an individual, by the Sponsor to one virtue of laws of descent and distribution upon death of the Company's independent directors, one year) and (B) subsequent individual; (d) in the case of an individual, pursuant to a qualified domestic relations order; (e) by private sales or transfers made in connection with the consummation of an initial business combination at prices no greater than the price at which the shares or warrants were originally purchased; (f) in the event of our liquidation prior to the Company's completion of our initial Business Combination, business combination; (g) by virtue of the date on which laws of Delaware or our Sponsor's limited liability company agreement upon dissolution of our Sponsor; or (h) in the Company completes a event of our liquidation, merger, capital stock exchange, reorganization or other similar transaction that which results in all of the Company's our stockholders having the right to exchange their shares of common stock for cash, securities or other property. The property subsequent to

our completion of our initial business combination; provided, however, that in the case of clauses (a) through (e) or (g) these permitted transferees must enter into a written agreement agreeing to be bound by these transfer restrictions described above are not subject to any except based on and the price at which other restrictions contained in the Company's common stock trades after the completion of the Company's initial Business Combination. Any permitted transferees will be subject to Letter Agreement and by the same restrictions and other agreements of the Company's initial stockholders entered into by our Sponsor with respect to such securities (including provisions relating to voting, the Trust Account and liquidation distributions), and they are not redeemable by us so long as they are held by our Sponsor or its permitted transferees.

Pursuant to the Letter Agreement, we will provide a right of first offer to our Sponsor if, in connection with or prior to the Closing, we propose to raise additional capital by issuing any founder shares, equity securities, or securities convertible into, exchangeable or exercisable for equity securities (other than warrants in respect of working capital loans as described above or to any seller in such business combination).

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

The Company's Our Sponsor has agreed to loan the Company an aggregate of us up to \$300,000 to be used for a portion of the expenses of the IPO. The loan is non-interestbearing, unsecured and due at the earlier of July 31, 2021 or the closing of the our IPO. The Company paid the promissory note in full on June 30, 2021.

On June 14, 2022, the Sponsor agreed to loan the Company \$400,000 pursuant to a new promissory note (the "Promissory June 2022 Promissory Note"). The Promissory Notes are non-interestbearing and payable on the earlier of: (i) May 27, 2023 or (ii) the date on which the Company consummates an initial business combination.

On October 6, 2022, the Sponsor agreed to loan the Company \$420,000 pursuant to a new promissory note (the "Promissory October 2022 Promissory Note"). The Promissory Notes are non-interestbearing and payable on the earlier of: (i) May 27, 2023 or (ii) the date on which the Company consummates an initial business combination.

On December 14, 2022, the Sponsor agreed to loan the Company \$330,000 pursuant to a new promissory note (the "December 2022 Promissory Note"). On March 2, 2023, the Sponsor agreed to loan the Company \$250,000 pursuant to new promissory note (the "March 2023 Promissory Note"). On May 8, 2023, the Sponsor agreed to loan the Company \$250,000 pursuant to a new promissory note (together with the June 2022 Promissory Note, October 2022 Promissory Note, December 2022 Promissory Note, and March 2023 Promissory Note, the "Promissory Note" Notes"). The Promissory Notes are non-interestbearing and payable on the earlier of: (i) May 27, 2023 November 28, 2023 and (ii) the date on which the Company consummates an initial business combination.

On June 1, 2023, the Company issued an unsecured promissory note (the "June 2023 Promissory Note") in the principal amount of \$240,000 to the Sponsor for general corporate purposes. The June 2023 Promissory Note bears no interest and is payable in full on the earlier of: (i) November 28, 2023 or (ii) the date on which the Company consummates an initial business combination.

As of December 31, 2022, there was \$1,150,000 outstanding under the Promissory Notes.

#### **Related Party Loans**

In order to finance transaction costs in connection with an intended initial Business Combination, the Sponsor or an affiliate of the Sponsor or certain of the Company's officers and directors may, but are not obligated to, loan the Company funds as may be required (the "Working Capital Loans"). Such loan is non-interestbearing. If the Company completes an initial Business Combination, the Company would repay such loaned amounts out of the proceeds of the Trust Account released to the Company. Otherwise, such loans would be repaid only out of funds held outside the Trust Account. In the event that the initial Business Combination does not close, the Company may use a portion of the working capital held outside the Trust Account to repay such loaned amounts but no proceeds from the Trust Account would be used to repay such loaned amounts. Up to \$1,500,000 of such loans may be convertible into warrants, at a price of \$1.50 per warrant at the option of the lender. The warrants would be identical to the Private Placement Warrants, including as to exercise price, exercisability and exercise period. At December 31, 2022 and December 31, 2021, no such Working Capital Loans were outstanding.

#### **Administrative Support Agreement**

The Company has agreed, commencing on May 25, 2021, to pay the Sponsor a total of \$10,000 per month for office space, secretarial and administrative services provided to members of the Company's management team. Upon completion of the initial Business Combination or the Company's liquidation, the Company will cease paying these monthly fees. For the year ended December 31, 2022 and for the period from January 28, 2021 (inception) through December 31, 2021 the Company incurred \$120,000 and \$71,935 in fees for these services, of which \$191,935 and \$71,935 is included in due to related party in the balance sheets, respectively.

## Note 6 — Commitments and Contingencies

### Registration and Stockholder Rights

The holders of the founder shares, Private Placement Warrants and warrants that may be issued upon conversion of working capital loans will have registration rights to require the Company to register a sale of any of the Company's securities held by them pursuant to a registration and stockholder rights agreement signed on May 25, 2021. These holders will be entitled to make up to three demands, excluding short form registration demands, that the Company registers such securities for sale under the Securities Act. In addition, these holders will have "piggy-back" registration rights to include their securities in other registration statements filed by the Company.

### Underwriters Agreement

On **May 28, 2021** **June 1, 2023**, the Company paid a fixed underwriting discount in aggregate of \$4,500,000. Additionally, issued the underwriter will be entitled to a deferred underwriting discount of 3.5% of the gross proceeds of the IPO held **June Extension Promissory Note** in the Trust Account, or \$7,875,000, upon the completion principal amount of the Company's initial Business Combination subject \$160,000 to the terms of Sponsor. The June Extension Promissory Note bears no interest and is payable in full on the underwriting agreement.

### BTIG Agreements

date on which the Company consummates an initial business combination. On **August 1, 2022** **July 3, 2023**, the Company engaged BTIG, LLC, issued the underwriter, July Extension Promissory Note in the principal amount of \$160,000 to act as its financial advisor the Sponsor. The July Extension Promissory Note bears no interest and capital markets advisor is payable in full on the earlier of: (i) November 28, 2023 and (ii) the date on which the Company consummates an initial business combination. On August 3, 2023, the Company issued the August Extension Promissory Note in the principal amount of \$270,000 to the Sponsor, of which \$110,000 was for general corporate purposes. The August Extension Promissory Note bears no interest and is payable in full on the earlier of: (i) November 28, 2023 and (ii) the date on which the Company consummates an initial business combination. On September 1, 2023, the Company issued an unsecured promissory note (the "Financial Advisory Engagement" "September 2023 Promissory Note") in the principal amount of \$170,000 to the Sponsor for general corporate purposes. On September 1, 2023 the Company issued the September Extension Promissory Note in the principal amount of \$160,000 to the Sponsor. On October 2, 2023, the Company issued an unsecured promissory note (the "October 2023 Promissory Note") in the principal amount of \$75,000 to the Sponsor for general corporate purposes. On October 2, 2023 the Company issued the October Extension Promissory Note in the principal amount of \$160,000 to the Sponsor. The September 2023 Promissory Note, the September Extension Promissory Note and provide investment banking services the October Extension Promissory Note bear no interest and are payable in connection full on the earlier of (i) November 28, 2023 and (ii) the date on which the Company consummates an initial business combination. On October 27, 2023, the Company issued an unsecured promissory note (the "November 2023 Promissory Note," and together with the sale Promissory Notes, the June 2023 Promissory Note, the June Extension Promissory Note, the July Extension Promissory Note, the August Extension Promissory Note, the September 2023 Promissory Note, the September Extension Promissory Note, the October 2023

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Promissory Note, the Company's common stock (the "Private Placement Engagement" October Extension Promissory Note, and the November Extension Promissory Note, the "Company Promissory Notes") in connection with the proposed Equity Purchase Agreement.

principal amount of \$80,000 to the Sponsor for general corporate purposes. On October 27, 2023, the Company issued the November Extension Promissory Note, in the principal amount of \$160,000 to the Sponsor. The Company shall pay BTIG, LLC in connection with November 2023 Promissory Note and the Financial Advisory Engagement, at the consummation of the Transaction, a Success Fee, November Extension Promissory Note bear no interest and are payable in cash, in full on the amount equal to \$1,500,000 (the "Success Fee"); provided, however, that earlier of (i) December 28, 2023 and (ii) the Success Fee due shall be reduced date on a dollar-for-dollar basis by the excess amount of any Transaction Fee, as defined below, above the Minimum Fee, as defined below, payable to BTIG, LLC under the Private Placement Engagement up to the amount of the Success Fee.

The Company shall also pay BTIG, LLC in connection with the Private Placement Engagement, upon consummation of the Business Combination a transaction fee, payable in cash, of 3% of the investment proceeds from the capital raised by BTIG, LLC in the Business Combination (the "Transaction Fee"), excluding capital raised from certain excluded investors, subject to a minimum of \$1,500,000 (the "Minimum Fee"), and excluding expenses; provided, however, that any Transaction Fee payable to BTIG, LLC above the Minimum Fee

shall be credited against, and shall reduce on a dollar-for-dollar basis, the Success Fee payable under the Financial Advisory Engagement up to the amount of such Success Fee.

Notwithstanding anything to the contrary in (1) Financial Advisory Engagement, (2) the Private Placement Engagement, or (3) each of the underwriting agreement and engagement letter entered into by which the Company and BTIG, LLC (or their respective affiliates) in connection with the Company's IPO (the agreements set forth in (1) consummates an initial business combination.

On December 27, 2023, (2) and (3) collectively, the "BTIG Agreements"), the fees payable to BTIG, LLC and its affiliates under or in connection with the BTIG Agreements (excluding amounts previously paid to BTIG, LLC in connection with the closing of the Business Combination transaction and as a means to refinance the Company Promissory Notes, the Company issued an unsecured promissory note (the "December 2023 Promissory Note") with the Sponsor in the principal amount of \$3,946,935. The December 2023 Promissory note bears interest at a rate of 8% and requires monthly interest payments of \$26,313 from April 2024 through December 2024. The December 2023 Promissory Note is payable in full December 31, 2024.

As of the date of this Report, there is \$3,946,935 outstanding under the December 2023 Promissory Notes.

On August 25, 2023, the Company and the Sponsor entered into an amendment to an existing loan facility pursuant to which the Sponsor had previously agreed to loan the Company up to \$1,000,000 to fund the Company's IPO) ongoing expenses related to the extension of the Company's existence. Pursuant to the amendment, the Sponsor agreed to (i) increase the amount of the loan facility by \$500,000, from \$1,000,000 to \$1,500,000 in the aggregate, shall not exceed \$7,875,000.00.

### **Forward Purchase Agreement**

On May 25, 2021, and (ii) extend the Company entered into a forward purchase agreement pursuant to which, if the Company conducts a private placement transaction in connection with the initial Business Combination, the Company will offer the forward purchaser the option to purchase the forward purchase securities at a price of \$10.00 per share in connection with the initial Business Combination in an amount up to (a) the percentage of Units purchased by the forward purchaser in the IPO multiplied by (b) the total number of forward purchase securities sold in such private placement transaction; provided that, the forward purchaser's right to purchase such forward purchase securities shall be contingent upon the forward purchaser purchasing at least 4.95% expiration date of the Units in Sponsor's commitment under the IPO. The forward purchase agreement is subject loan facility by one month, to conditions, including the forward purchaser specifying the amount of forward purchase securities it wishes to purchase up to the maximum amount specified above (or such higher amount as may be agreed by the Company) after the Company notifies the forward purchaser of the Company's offer to it to purchase forward purchase securities. The forward purchase securities will be identical to the Class A common stock being sold in the IPO, except the forward purchase securities may be subject to certain registration rights and transfer or lock-up restrictions.

The forward purchase transaction is at the discretion of October 28, 2023. On September 28, 2023 the Company and is subject to conditions, including the forward purchaser confirming its commitment to purchase forward purchase securities and the amount thereof no later than fifteen days after the Company notifies the forward purchaser of a proposed initial Business Combination and of the Company's intention to raise capital through the issuance of equity securities in connection with the closing of such Business Combination. The forward purchaser may grant or withhold its confirmation entirely within its sole discretion, and if the forward purchaser does not confirm its commitment at such time, it will not be obligated and will not have the right to purchase any of the forward purchase securities. The proceeds from the sale of these forward purchase securities, together with the amounts available to the Company from the Trust Account (after giving effect to any redemptions of public common stock) and any other equity or debt financing obtained by the Company in connection with the Business Combination, may be used to satisfy the cash requirements of the Business Combination, including funding the purchase price and paying expenses and retaining specified amounts to be used by the post-Business Combination company for working capital or other purposes. The Company performed an assessment in accordance with Accounting Standards Codification ("ASC") 480—Distinguishing Liabilities from Equities and ASC 815—Derivatives and Hedging to conclude whether the forward-purchase securities constitute a liability and a derivative such that it will be fair valued separately from the Company's common stock. The Company concludes that the forward-purchase securities should be equity-classified and its embedded features should not be bifurcated.

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### **Equity Purchase Agreement**

On October 17, 2022, we Sponsor entered into an Equity Purchase Agreement with LGM, for certain limited purposes, agreement further extending Sponsor's commitment under the LGM Existing Equityholders loan facility until the earlier of (i) November 28, 2023 and for certain limited purposes, our sponsor, and, as (ii) the representative of the LGM Existing Equityholders, Thomas James Segrave, Jr.

Pursuant to the Equity Purchase Agreement, and subject to the terms and conditions set forth therein, upon consummation of the transactions contemplated thereby, date on which the Company will acquire LGM and LGM's equity holders will be issued shares of

EG.consummates an initial business combination.

#### **Business Combination**

Pursuant to the Equity Purchase Agreement, following the Closing, PubCo will be organized in Up-C structure, in which substantially all of the assets of the combined company will be held by LGM, and PubCo's only assets will be its equity interests in LGM. At the Closing:

- We will amend our existing certificate of incorporation to: (a) change our name to "flyExclusive, Inc.," (b) convert all then-outstanding shares of our Class B common stock, par value \$0.0001 per share, into PubCo Class A Common Stock, and (c) issue to the LGM Existing Equityholders PubCo Class B Common Stock, which carries one vote per share but no economic rights;
- LGM and its members will adopt the Amended and Restated Limited Liability Company Agreement of LGM to: (a) restructure its capitalization to (i) issue to us the number of common units of LGM equal to the number of outstanding shares of PubCo Class A Common Stock immediately after giving effect to the Business Combination (taking into account any redemption of our Class A common stock, any potential PIPE investment, and the conversion of the Bridge; and (ii) reclassify the existing LGM common units into LGM common units, and (b) appoint PubCo as the managing member of LGM;
- As consideration for the PubCo Units, we will contribute to LGM the amount held in the trust account, less the amount of cash required to fund the redemption of our Class A common stock, par value \$0.0001 per share, held by eligible stockholders who elect to have their shares redeemed as of the Closing, plus the aggregate proceeds from any potential PIPE investment and the deemed contribution of the aggregate proceeds of the Bridge Notes less the deferred underwriting commission payable to BTIG, LLC. Immediately after the contribution of the Contribution Amount, LGM will pay the amount of unpaid fees, commissions, costs or expenses that have been incurred by LGM and us in connection with the Business Combination by wire transfer of immediately available funds on behalf of LGM and us to those persons to whom such amounts are owed;
- Prior to the Closing, an aggregate amount equal to the sum of (without duplication), (a) an amount equal to (1) the amount of cash in the Trust Account, less (2) the required amount of cash taken from the Trust Account to fund any redemptions of our Class A common stock, plus (b) the aggregate proceeds received by the Company from the Post-Signing PIPE Investment (if any), plus (c) the aggregate proceeds received by LGM from the funding of the Bridge Notes, less (d) \$7,875,000 (representing the amount held in the Trust Account for the deferred underwriting commission) (the "Closing Date Cash Contribution Amount");
- An amount equal to: (i) \$0, in the event the Closing Date Cash Contribution Amount is \$85,000,000 or less; (ii) the lesser of (A) \$15,000,000 and (B) the excess of the Closing Date Cash Contribution Amount over \$85,000,000, in the event the Closing Date Cash Contribution Amount is more than \$85,000,000 and less than \$185,000,000; and (iii) the lesser of (A) \$20,000,000 and (B) \$15,000,000 plus the excess of the Closing Date Cash Contribution Amount over \$185,000,000, in the event the Closing Date Cash Contribution Amount is more than \$185,000,000 (the "Closing Date Cash Repurchase Amount"); provided that should the Closing Date Cash Repurchase Amount result in the LGM Existing Equityholders owning, in the aggregate, less than fifty one percent (51%) of the outstanding LGM common units as of immediately following the Closing, the Closing Date Cash Repurchase Amount shall be capped at such amount as would result in the LGM Existing Equityholders owning, in the aggregate fifty one percent (51%) of the LGM common units; and
- Without any action on the part of any holder of our warrants, each warrant that is issued and outstanding immediately prior to the Closing will be converted into a warrant to purchase one whole share of PubCo Class A Common Stock in accordance with its terms.

#### **Bridge Note**

In connection with the execution of the Equity Purchase Agreement, on October 17, 2022, LGM entered into a Senior Subordinated Convertible Note senior subordinated convertible note with Entrust Emerald (Cayman) LP an investor and, for certain limited provisions thereof, us, EGA, pursuant to which LGM borrowed an aggregate principal amount of \$50,000,000 at a rate of 10% per annum. annum, payable in kind in additional shares of our Company upon the Closing. On October 28, 2022, LGM also entered into an Incremental Amendment with additional investors the Bridge Note Lenders on the same terms for an aggregate principal amount of \$35,000,000, bringing the total principal amount of the Bridge Notes to \$85,000,000 in the aggregate.

Concurrently with the Closing, the Bridge Notes will be automatically exchanged for converted into the number of PubCo shares of Class A Common Stock equal to the quotient of (a) the total amount owed by LGM under the Bridge Notes (including accrued PIK interest) divided by (b) \$10.00 (subject to adjustment in certain instances, as described in the Bridge Notes). Unless otherwise consented to by the Bridge Note Lenders, the proceeds of the Bridge Notes are to be used primarily for the acquisition of additional aircraft and payment of expenses related thereto.

#### **Note 7 — Fair Value Measurements Tax Receivable Agreement**

The following table presents information about At the Company's assets Closing, we, LGM, the Existing Equityholders and liabilities that were measured at fair value on a recurring basis as of December 31, 2022 and December 31, 2021, and indicates the fair value hierarchy TRA Holder Representative entered into the Tax Receivable Agreement. Pursuant to the Tax Receivable Agreement, PubCo will generally be required to pay the Existing Equityholders 85% of the valuation techniques amount of savings, if any, in U.S. federal, state, local and foreign taxes that are based on, or measured with respect to, net income or profits, and any interest related thereto that the Tax Group (i.e., our Company utilized and applicable consolidated, unitary, or combined subsidiaries (as defined in the Tax Receivable Agreement)) realizes, or is deemed to determine realize, as a result of certain Tax Attributes, including:

- tax basis adjustments resulting from the repurchase by LGM of LGM Common Units (including any such fair value.

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	December 31, 2022	Quoted Prices In Active Markets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Other Unobservable Inputs (Level 3)
Assets:				
Marketable securities held in Trust Account	\$ 228,254,077	\$ 228,254,077	\$ —	\$ —
	<u>\$ 228,254,077</u>	<u>\$ 228,254,077</u>	<u>\$ —</u>	<u>\$ —</u>
Liabilities:				
Warrant Liability – Public Warrants	\$ 1,447,500	\$ 1,447,500	\$ —	\$ —
Warrant Liability – Private Placement Warrants	836,333	—	836,333	—
	<u>\$ 2,283,833</u>	<u>\$ 1,447,500</u>	<u>\$ 836,333</u>	<u>\$ —</u>
	December 31, 2021	Quoted Prices In Active Markets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Other Unobservable Inputs (Level 3)
Assets:				
Marketable securities held in Trust Account	\$ 225,008,593	\$ 225,008,593	\$ —	\$ —
	<u>\$ 225,008,593</u>	<u>\$ 225,008,593</u>	<u>\$ —</u>	<u>\$ —</u>
Liabilities:				
Warrant Liability – Public Warrants	\$ 4,649,250	\$ 4,649,250	\$ —	\$ —
Warrant Liability – Private Placement Warrants	2,734,333	—	—	2,734,333
	<u>\$ 7,383,583</u>	<u>\$ 4,649,250</u>	<u>\$ —</u>	<u>\$ 2,734,333</u>

The fair value adjustments resulting from certain payments made by us under the Tax Receivable Agreement) in accordance with the terms of the Public Warrants at December 31, 2022 Equity Purchase Agreement;

- tax basis adjustments resulting from taxable exchanges of LGM Common Units (including any such adjustments resulting from certain payments made by us under the Tax Receivable Agreement) acquired by us from an Existing Equityholder pursuant to the terms of the Operating Agreement; and December 31, 2021 is classified
- tax deductions in respect of portions of certain payments made under the Tax Receivable Agreement.

Under the Tax Receivable Agreement, the Tax Group will generally be treated as Level 1 due to realizing a tax benefit from the use of an observable market quote in an active market.

The estimated fair value of a Tax Attribute on a “with and without” basis, thereby generally treating the Private Placement Warrants is determined using Level 3 inputs from May 28, 2021 (IPO) through June 30, 2022. Inherent in a Black-Scholes-Merton (“BSM”) model are assumptions related Tax Attributes as the last item used, subject to expected share-price volatility(pre-mergerand post-merger), expected term, dividend yield and risk-free interest rate. The Company estimates several exceptions. Payments under the volatility of its common stock based on management’s understanding of the volatility associated with instruments of other similar entities. The risk-free interest rate is Tax Receivable Agreement generally will be based on the U.S. Treasury Constant Maturity similar tax reporting positions that we determine (with the amount of subject payments determined in consultation with an advisory firm and subject to

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the TRA Holder Representative's review and consent). The IRS or another taxing authority may challenge all or any part of a position taken with respect to Tax Attributes or the utilization thereof, as well as other tax positions that we take, and a court may sustain such a challenge. In the event that any Tax Attributes initially claimed or utilized by the Tax Group are disallowed, the Existing Equityholders will not be required to reimburse us for any excess payments previously made pursuant to the expected remaining life Tax Receivable Agreement, for example, due to adjustments resulting from examinations by taxing authorities. Rather, any excess payments made to such Existing Equityholder will be applied against and reduce any future cash payments otherwise required to be made by us to the applicable Existing Equityholders under the Tax Receivable Agreement, if any, after the determination of such excess. However, a challenge to any Tax Attributes initially claimed or utilized by the Tax Group might not arise for a number of years following the initial time of such payment and, even if challenged earlier, such excess cash payment may be greater than the amount of future cash payments that we might otherwise be required to make under the terms of the warrants. The expected life Tax Receivable Agreement. As a result, there might not be future cash payments against which such excess can be applied and we could be required to make payments under the Tax Receivable Agreement in excess of the warrants is simulated Tax Group's actual savings in respect of the Tax Attributes.

The Tax Receivable Agreement defines each of the following events as an Early Termination Event:

- (i) we exercise our early termination rights under the Tax Receivable Agreement,
- (ii) certain changes of control of our Company or LGM occur (as described in the Operating Agreement),

(iii) we, in certain circumstances, fail to make a payment required to be made pursuant to the Tax Receivable Agreement by its final payment date, which non-payment continues for 30 days following such final payment date, unless certain liquidity related or restrictive covenant related exceptions apply, or

(iv) we materially breach (or are deemed to materially breach) any of our material obligations under the Tax Receivable Agreement other than as described in the foregoing clause (iii), unless certain liquidity related or restrictive covenant related exceptions apply.

Upon an Early Termination Event, our obligations under the Tax Receivable Agreement will accelerate (except in certain limited circumstances, if the TRA Holder Representative so elects in the case of clauses (ii)- (iv)) and we will be required to make a lump-sum cash payment to all the Existing Equityholders equal to the present value of all forecasted future payments that would have otherwise been made under the Tax Receivable Agreement. This lump-sum payment would be based on management certain assumptions, regarding the timing and likelihood of completing a business combination.

The dividend rate is based on the historical rate, which the Company anticipates including those relating to remain at zero. The assumptions used in calculating the estimated fair values at the end of the reporting period represent the Company's best estimate. However, inherent uncertainties are involved. If factors or assumptions change, the estimated fair values could be materially different.

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The key inputs into the BSM model for the Private Placement Warrants were as follows:

Input	December 31, 2022	December 31, 2021
Expected term (years)	—	5.70
Expected volatility	—	10.70 %
Risk-free interest rate	—	1.32 %
Dividend yield	—	0.00 %

As of December 31, 2022, the difference between the public warrants and private placement warrants was deemed to be de minimis as of the valuation date, and the concluded values were set equal to each other based on the fact that the private placement warrants are not redeemable by the Company, and their terms are nearly identical to those of the public warrants except that the public warrants will be redeemable when the Common Stock price is \$18.00 or greater.

The following table sets forth a summary of the changes in the fair value of the Level 3 warrant liability for the year ended December 31, 2022 and for the period from January 28, 2021 (inception) through December 31, 2021:

	Warrant Liability
Fair value as of December 31, 2021	\$ 2,734,333
Transfers from Level 3 to Level 2	(541,667)
Change in fair value	<u>(2,192,666)</u>

Fair value as of December 31, 2022	\$ —
	<b>Warrant Liability</b>
Fair value as of January 28, 2021 (inception)	\$ —
Initial fair value of warrant liability upon issuance at IPO	10,685,261
Transfer out of Level 3 to Level 1	(4,425,750)
Change in fair value	(3,525,178)
Fair value as of December 31, 2021	\$ 2,734,333

#### Note 8 — Income Tax

The Company's net deferred tax assets at December 31, 2022 and 2021 is as follows:

	December 31, 2022	December 31, 2021
Deferred tax assets		
Net operating loss carryforward	\$ —	\$ 23,280
Startup/Organization expenses	378,248	141,484
Total deferred tax assets	378,248	164,764
Valuation allowance	(378,248)	(164,764)
Deferred tax assets, net of allowance	\$ —	\$ —

The income tax provision for the year ended December 31, 2022 and for the period from January 28, 2021 (inception) through December 31, 2021 consists of the following:

	December 31, 2022	December 31, 2021
Federal		
Current	\$ 600,701	\$ —
Deferred	(213,484)	(164,764)
State		
Current	—	—
Deferred	—	—
Change in valuation allowance	213,484	164,764
<b>Income tax provision</b>	<b>\$ 600,701</b>	<b>\$ —</b>

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As of December 31, 2022 and 2021, the Company has \$0 and \$110,859 of U.S. federal net operating loss carryovers available to offset there being sufficient future taxable income which does of the Tax Group to fully utilize the Tax Attributes over certain specified time periods and that all LGM Common Units that had not expire, yet been exchanged for Class A Common Stock or cash are deemed exchanged for cash. The lump-sum payment could be material and could materially exceed any actual tax benefits that the Tax Group realizes subsequent to such payment.

In assessing As a result of the foregoing, in some circumstances (i) we could be required to make payments under the Tax Receivable Agreement that are greater than or less than the actual tax savings that the Tax Group realizes in respect of the Tax Attributes and (ii) it is possible that we may be required to make payments years in advance of the actual realization of tax benefits (if any, and may never actually realize the deferred tax assets, management considers whether it is more likely than not that some portion of all benefits paid for) in respect of the deferred tax assets Tax Attributes (including if any Early Termination Event occurs).

#### Stockholders' Agreement

At the Closing, the Existing Equityholders, Sponsor and we entered into the Stockholders' Agreement. Pursuant to the Stockholders' Agreement, among other things, the Existing Equityholders and our Sponsor will not agree to vote their respective securities of our Company that may be realized. The ultimate realization voted in the election of deferred tax assets is dependent upon our directors in accordance with the generation of future taxable income during the periods in which temporary differences representing net future deductible amounts become deductible. Management considers the scheduled reversal of deferred tax liabilities, projected future taxable

income and tax planning strategies in making this assessment. After consideration of all provisions of the information available, management believes that significant uncertainty exists Stockholders' Agreement.

Our Board consists of seven directors. Our equityholders has the right to nominate directors as follows: the Sponsor, and its permitted transferees, by a majority of shares held by them, shall have the right to nominate, and our Board and the Existing Equityholders, and their permitted transferees, will appoint and vote for, two members of our Board, initially designated pursuant to the Stockholders' Agreement as Gregg S. Hymowitz and Gary Fegel, and thereafter as designated by the Sponsor, and its permitted transferees, by a majority of shares held by them.

Each Existing Equityholder also agreed to a one-year lock-up period following the Closing with respect to future realization the shares of Common Stock received by the Existing Equityholder in the Business Combination and certain other shares owned by the Existing Equityholder (the "Lock-up Shares"). However, prior to the expiration of the deferred tax assets and has therefore established a full valuation allowance. For the year ended December 31, 2022, the change in the valuation allowance was \$213,484. For the lock-up period, from January 28, 2021 (inception) through December 31, 2021, the change in the valuation allowance was \$164,764.

A reconciliation of the federal income tax rate to the Company's effective tax rate at December 31, 2022 and 2021 any Existing Equityholder is as follows:

	December 31, 2022	December 31, 2021
Statutory federal income tax rate	21.0%	21.0%
Change in fair value of derivative liability	(25.1)%	(34.5)%
Merger and Acquisition expenses	14.2%	0.0%
Warrant issuance costs	0.0%	3.8%
Interest & Penalties	0.0%	0.0%
Stock based compensation	0.0%	2.0%
Change in valuation allowance	4.0%	7.7%
<b>Income tax provision</b>	<b>14.1%</b>	<b>0.0%</b>

The Company files income tax returns in the U.S. federal jurisdiction and is subject to examination by the various taxing authorities. The Company's tax returns for the year ended December 31, 2022 remain open and subject to examination. The Company considers New York to be a significant state tax jurisdiction.

#### Note 9 — Stockholder's Deficit

**Preferred Stock**— The Company is authorized to issue 1,000,000 shares of preferred stock at a par value of \$0.0001 per share. At December 31, 2022 and December 31, 2021, there were no shares of preferred stock issued or outstanding.

**Class A Common Stock**— The Company is authorized to issue 100,000,000 shares of Class A common stock at a par value of \$0.0001 per share. Holders of Class A common stock are entitled to one vote for each share. As of December 31, 2022 and December 31, 2021, there were 0 shares of Class A common stock issued and outstanding, excluding 22,500,000 shares of Class A common stock subject to possible redemption.

**Class B Common Stock** — The Company is authorized to issue 10,000,000 shares of Class B common stock at a par value of \$0.0001 per share. Holders of the Company's Class B common stock are entitled to one vote for each common stock. On January 29, 2021, the Sponsor paid \$25,000 to cover certain of the Company's offering costs in exchange for 5,750,000 founder shares. In March 2021, the Company effected a stock dividend of 1,437,500 shares with respect to its Class B common stock, resulting in its initial stockholders holding an aggregate of 7,187,500 founder shares. On May 25, 2021, the Sponsor surrendered an aggregate of 718,750 shares of Class B common stock for no consideration, which were cancelled, resulting in an aggregate of 6,468,750 shares of Class B common stock outstanding and held by the Sponsor. Up to 843,750 of the founder shares will be forfeited depending on the extent to which the underwriters' over-allotment is exercised. In July 2021, the 843,750 of the founder shares were forfeited due to the underwriters' over-allotment not exercised. As of December 31, 2022 and December 31, 2021, there were 5,625,000 shares of Class B common stock issued and outstanding.

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The Company's initial stockholders will agree not permitted to transfer assign the Lock-up Shares through (i) a pledge of up to 25% of each individual Existing Equityholder's Lock-up Shares in connection with a bona fide transaction with a lender and disclosed in writing to our

Board or sell any of their founder shares until the earlier to occur of: (A) three years after the completion of the Company's initial Business Combination (or with respect to any founder shares transferred or distributed by the Sponsor to one of the Company's independent directors, one year) and (B) subsequent to the Company's initial Business Combination, the date on which the Company completes (ii) a liquidation, merger, capital stock exchange, reorganization, or tender offer approved by our Board or a duly

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authorized committee thereof or other similar transaction that results in all of the Company's our stockholders having the right to exchange their shares of common stock Common Stock for cash, securities or other property (except subsequent to the Closing Date.

The Stockholders' Agreement also contains certain permitted transferees provisions intended to maintain, following the Closing, our qualification as a "controlled company" for purposes of compliance with certain NYSE American and under certain circumstances). SEC rules.

### **A&R Registration Rights Agreement**

At the Closing, we and the Selling Stockholders entered into the A&R Registration Rights Agreement. The transfer restrictions described above Selling Stockholders are not subject the Existing Holders and the New Holders. The A&R Registration Rights Agreement covers the Class A Common Stock issued to any exception based on the price Selling Stockholders at which the Company's common stock trades after Closing and the completion shares of Class A Common Stock issuable upon the exercise of the Company's initial Business Combination. Any permitted transferees private placement warrants and the LGM Common Units and requires us to register such securities for resale. Pursuant to the A&R Registration Rights Agreement, the Existing Holders holding at least a majority in interest of the then-outstanding number of registrable securities held by the Existing Holders, or the New Holders holding at least a majority-in-interest of the then-outstanding number of registrable securities held by the New Holders will be subject entitled to, among other things, make a Demand Registration for registration under the same restrictions and other agreements Securities Act of our initial stockholders all or part of their shares of Class A Common Stock. Under no circumstances shall we be obligated to effect more than an aggregate of three registrations pursuant to a Demand Registration by the Existing Holders, or more than an aggregate of five registrations pursuant to a Demand Registration by the New Holders, with respect to any founder shares, or all registrable securities held by such holders. In addition, the Existing Holders and the New Holders will be entitled to "piggy-back" registration rights to certain registration statements filed following the Business Combination. We will bear all of the expenses incurred in connection with the filing of any such registration statements.

### **LGM's Related Party Transactions**

The following is a summary of each transaction or series of similar transactions since January 1, 2023 to which LGM was or is a party in which:

- the amount involved exceeded or exceeds \$120,000; and
- any of our directors, director nominees or executive officers, any holder of 5% of our capital stock or any member of their immediate family had or will have a direct or indirect material interest.

### **Transactions with Related Entities**

- LGMV is an entity with the same ownership structure as LGM's ownership structure prior to the Business Combination. Segrave Jr., in his individual capacity, owns 96% of LGMV and LGM, and Segrave Jr. , as custodian for the Trusts owns an aggregate of 4% of LGMV and LGM. Carolina Air Center, LLC, Crystal Coast Aviation, LLC, and Kinston Jet Center, LLC are wholly-owned subsidiaries of LGMV and sellers of fuel. In 2023, LGM purchased a total of \$2,027,000 in fuel from subsidiaries of LGMV at an average cost of \$3.58 per gallon.
- LGM leases its headquarters and two aircraft hangars (Hangar 1 and Hangar 2) from Kinston Jet Center, LLC, a wholly-owned subsidiary of LGMV, pursuant to a lease between the parties dated January 1, 2021. In 2023, LGM paid Kinston Jet Center, LLC \$720,000 pursuant to this lease, with \$8.3 million in rent remaining as of January 1, 2023.
- LGM leases an aircraft hangar (Hangar 3) from Kinston Jet Center, LLC, a wholly-owned subsidiary of LGMV, pursuant to a lease between the parties dated February 23, 2023. In 2023, LGM paid Kinston Jet Center, LLC \$205,000 pursuant to this lease, with \$13.2 million in rent remaining as of January 1, 2024.
- LGM leases an aircraft hangar (Hangar 4) from Kinston Jet Center, LLC, a wholly-owned subsidiary of LGMV, pursuant to a lease between the parties dated May 1, 2022. In 2023, LGM paid Kinston Jet Center, LLC \$540,000 pursuant to this lease, with \$19.3

million in rent remaining as of January 1, 2024.

- LGM leases a house from Kinston Jet House, LLC, a wholly-owned subsidiary of LGMV, pursuant to a lease between the parties dated September 1, 2018. In 2023, LGM paid Kinston Jet House, LLC \$30,000 pursuant to this lease, with \$0 in rent remaining as of January 1, 2024.
- LGM leases an aircraft from Juliette Lima Bravo, LLC, of which Laura Harvey Ball (Thomas Segrave, Jr.'s mother) owns approximately 33%. In 2023, LGM paid Juliette Lima Bravo, LLC \$441,300 pursuant to this lease, with \$35,000 in rent remaining as of January 1, 2024.

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- LGM Auto, LLC, a wholly-owned subsidiary of LGMV, leases multiple automobiles to flyExclusive. In 2023, flyExclusive paid LGM Auto, LLC an aggregate of \$173,838 pursuant to such leases.
- Peter Hopper, a director of FlyExclusive, Inc., owns 50% of the outstanding equity of DH Aviation, LLC, an entity that, until September 25, 2023, owned a 50% interest in N401JS, an aircraft leased to flyExclusive. In 2023, the total aircraft lease payments made from flyExclusive to DH Aviation, LLC equaled \$199,375 (which Mr. Hopper elected to receive in the form of flight hour credits). Mr. Hopper also entered into a side letter with flyExclusive in concurrence with the execution of the aforementioned plane lease. Pursuant to such side letter, Mr. Hopper was granted flight hour credits totaling \$55,000 in 2023. LGM repurchased the 50% interest from Mr. Hopper on September 25, 2023 for \$1,650,000.
- Peter Hopper, a director of FlyExclusive, Inc., owns 50% of the outstanding equity of PHBL, LLC, an entity that leases an aircraft to flyExclusive. In 2023, the total lease payments made from flyExclusive to PHBL, LLC equaled \$414,996. The original term of the lease expired on May 31, 2023 and continues on a quarter-to-quarter basis until terminated by either party with at least a 90 days' notice.
- The Company is a guarantor to a term note, dated January 29, 2021, between Sea Jay, LLC and a financial institution where the initial principal balance is in the amount of \$11,900,000. Sea Jay, LLC is wholly owned by LGMV.
- The Company is a guarantor to two term notes, dated February 25, 2022 and November 17, 2023, between Kinston Jet Center, LLC and a financial institution where the initial principal balances are in the amounts of \$5,280,000 and \$1,800,000, respectively.
- On September 28, 2023, flyExclusive sold 5 trainer aircraft to Crystal Coast Training, LLC, a wholly owned subsidiary of LGMV, for a total purchase price of \$2,481,840. FlyExclusive rents the aircraft from Kinston Jet Center, LLC & Crystal Coast Training, LLC as on an hourly basis. In 2023, FlyExclusive paid these entities a total of \$67,000 for the use of these aircraft

#### **December 2023 Senior Secured Note**

In December 2023, the Company entered into a Senior Secured Note covering borrowings of an aggregate principal amount of \$15.9 million. The notes were issued with a stated rate of 14% and interest is payable monthly in arrears. The senior secured notes will mature one year from closing date, at which time the full principal amount will be due, along with any accrued unpaid interest. Unamortized debt issuance costs related to the senior secured notes were \$0.9 million as of December 31, 2023. Gregg S. Hymowitz, a member of our Board of Directors, serves as the Founder and Chief Executive Officer of EnTrust Global, which is an affiliate of the Noteholder and may be deemed to be the beneficial owner of approximately 21.6% of the Company's outstanding Class A common stock. Each of EnTrust Global and Mr. Hymowitz disclaims beneficial ownership of such securities except to the extent of its or his pecuniary interest therein.

#### **January 2024 Senior Secured Note**

In January 2024, the Company entered into an additional Senior Secured Note covering borrowings of an aggregate principal amount of up to approximately \$25.8 million, up to \$25.0 million of which is to finance the purchase or refinancing of aircraft relating to the Company's fractional ownership program. Gregg S. Hymowitz, a member of our Board of Directors, serves as the Founder and Chief Executive Officer of EnTrust Global, which is an affiliate of the Noteholder and may be deemed to be the beneficial owner of approximately 21.6% of the Company's outstanding Class A common stock. Each of EnTrust Global and Mr. Hymowitz disclaims beneficial ownership of such securities except to the extent of its or his pecuniary interest therein. As required by our internal policies, this transaction was approved by our Audit Committee, which consists of independent disinterested directors, and was also approved by a meeting of our

Board of Directors, with only disinterested directors voting. For more information about this transaction see Note 24, "Subsequent Events," to the financial statements in this Report.

### March 2024 Non-Convertible Redeemable Preferred Stock

On March 4, 2024 the Company entered into a Securities Purchase Agreement (the "Stock Purchase Agreement") with EnTrust Emerald (Cayman) LP, a Cayman Islands limited partnership (the "Preferred Purchaser"), pursuant to which the Company agreed to issue and sell to the Preferred Purchaser 25,000 shares of Class B common stock will automatically convert into Series A Non-Convertible Redeemable Preferred Stock, par value \$0.0001 per share (the "Series A Preferred Stock"), at a purchase price of \$1,000 per share and a warrant (the "March 2024 Warrant") to purchase shares of the Company's Class A common stock at stock. The transaction closed on March 4, 2024 and provided the time Company approximately \$25 million of capital. Gregg S. Hymowitz, a member of the Company's initial Business Combination on a one-for-one basis, subject Board of Directors, to adjustment for stock splits, stock dividends, reorganizations, recapitalizations and the like, and subject to further adjustment. In the case that additional shares of Class A common stock, or equity-linked securities, are issued or deemed issued in excess which position he was designated by an affiliate of the amounts offered Purchaser, serves as the Founder

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and related Chief Executive Officer of EnTrust Global Partners LLC ("EnTrust Global"), which is an affiliate of the Preferred Purchaser and may be deemed to be the beneficial owner of approximately 21.6% of the Company's outstanding Common Stock. Each of EnTrust Global and Mr. Hymowitz disclaims beneficial ownership of such securities except to the closing extent of its or his pecuniary interest therein. Gary Fegel is also a member of the initial Business Combination, the ratio at Company's Board of Directors, to which shares of Class B common stock shall convert into shares of Class A common stock will be adjusted (unless the holders of a majority position he was designated by an affiliate of the outstanding shares of Class B common stock agree to waive such adjustment with respect to any such issuance or deemed issuance) so that Preferred Purchaser. As required by the number of shares of Class A common stock issuable upon conversion of all shares of Class B common stock will equal, in Company's internal policies, this transaction was approved by the aggregate, on an as-converted basis, 20% Audit Committee of the sum Company's Board of the total number Directors, which consists of all shares of common stock outstanding upon the completion of the IPO plus all shares of Class A common stock independent disinterested directors, and equity-linked securities issued or deemed issued in connection with the initial Business Combination (excluding any shares or equity-linked securities issued, or to be issued, to any seller in the initial Business Combination, any private placement-equivalent warrants issued to the Sponsor or its affiliates upon conversion of loans made to the Company).

Holders of founder shares may was also elect to convert their shares of Class B common stock into an equal number of shares of Class A common stock, subject to adjustment as provided above, at any time. The term "equity-linked securities" refers to any debt or equity securities that are convertible, exercisable or exchangeable for shares of Class A common stock issued in a financing transaction in connection with approved by the Company's initial Business Combination, including but not limited Board of Directors, with only disinterested directors voting (which excluded Mr. Hymowitz and Mr. Fegel). For more information about this transaction see Note 24, "Subsequent Events," to a private placement of equity or debt. Securities could be "deemed issued" for purposes of the conversion rate adjustment if such shares are issuable upon the conversion or exercise of convertible securities, warrants or similar securities.

**Stock-based Compensation** — As of December 31, 2022 and December 31, 2021, the Sponsor had entered into four Management Award Agreements (the "Awards") with participants. The Sponsor granted 200,000 membership interests in exchange for services provided by these participants for the benefit of the Company.

For the Awards granted during 2021, the weighted average fair value per membership interests was estimated to be \$3.57. The fair value of stock-based payment awards was estimated using the Black-Scholes option model with a volatility figure derived from the Company's common stock. The Company accounts for the expected life of interests in accordance with the "simplified" method, which is used for "plain-vanilla" options, as defined in the accounting standards codification. The risk-free interest rate was determined from the implied yields of U.S. Treasury zero-coupon bonds with a remaining life consistent with the expected term of the options.

In applying the Black-Scholes option pricing model, the Company used the following assumptions:

Risk-free interest rate	1.05 %
Expected term (years)	6.00
Expected volatility	15.50 %
Expected dividends	0.00

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The stock based compensation is ultimately contingent on a performance condition, which is the Company's initial Business Combination. Regardless of whether the shares were vested at grant date, the agreements included a forfeiture provision whereby each director would forfeit the rights to all the shares for no consideration if the director was removed for any reason any time prior to the initial Business Combination. Based on the aforementioned provision there is no determinable service period for the award. Stock based compensation related to awards contingent on a performance condition should not be recognized until that condition is met; therefore no stock-based compensation for these awards should have been recorded.

#### Note 10 — Subsequent Events

The Company evaluated subsequent events and transactions that occurred after the balance sheet date up to the date that the financial statements were issued. Based upon in this Report.

#### Related Person Transactions Policy

We have adopted a written related person transaction policy that will set forth the following policies and procedures for the review and approval or ratification of related person transactions. A "related person transaction" is a transaction, arrangement or relationship in which we or any of our subsidiaries was, is or will be a participant, the amount of which involved exceeds \$120,000, and in which any related person had, has or will have a direct or indirect material interest. A "related person" means:

- any person who is one of our executive officers or one of our directors;
- any person who is known by us to be the beneficial owner of more than 5% of our voting shares;
- any immediate family member of any of the foregoing persons, which means any child, stepchild, parent, stepparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law,
- brother-in-law or sister-in-law of a director, executive officer or a beneficial owner of more than 5% of our voting shares, and any person (other than a tenant or employee) sharing the household of such director, executive officer or beneficial owner of more than 5% of our voting shares; and
- any firm, corporation or other than as described below, entity in which any of the Company did not identify foregoing persons is a partner or principal, or in a similar position, or in which such person has a 10% or greater beneficial ownership interest.

We also have policies and procedures designed to minimize potential conflicts of interest arising from any subsequent events dealings we may have with our affiliates and to provide appropriate procedures for the disclosure of any real or potential conflicts of interest that would may exist from time to time. Specifically, pursuant to our audit committee charter, the audit committee will have required adjustment or disclosure the responsibility to review related party transactions.

#### Item 14. Principal Accountant Fees and Services

##### Pre-Approval Policies and Procedures

The Audit Committee has adopted a policy and procedures for the pre-approval of audit and non-audit services rendered by the Company's independent registered public accounting firm, Elliott Davis, LLC. The policy generally pre-approves specified services in the financial statements defined categories of audit services, audit-related services and tax services up to specified amounts. Pre-approval may also be given as part of the Audit Committee's approval of the scope of the engagement of the independent auditor or on an individual, explicit, case-by-case basis before the independent auditor is engaged to provide each service. The pre-approval of services may be delegated to one or more of the Audit Committee's members, but the decision must be reported to the full Audit Committee at its next scheduled meeting.

The Audit Committee has determined that the rendering of non-audit services by Elliott Davis, LLC is compatible with maintaining the principal accountant's independence for the period of time during which it has served as our independent auditor.

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#### Fees Paid to Independent Registered Public Accounting Firm

Aggregate fees billed for professional services rendered by Elliott Davis, PLLC for the years ended December 31, 2023 and 2022 were as follows:

	2023	2022
--	------	------

Audit fees	\$	1,500,000	\$	1,325,000
Tax Fees	\$	500,000	\$	315,000
Total Fees	\$	2,000,000	\$	1,640,000

On March 2, 2023, the Sponsor agreed [Table of contents](#)

## PART IV

### Item 15. Exhibits and Financial Statement Schedules

EXHIBIT NO.	DESCRIPTION	FILED HEREWITH	FORM	EXHIBIT	FILING DATE
2.1*	<a href="#">Equity Purchase Agreement, dated as of October 17, 2022, by and among LGM Enterprises LLC, EGA Acquisition Corp., EG Sponsor LLC, the Existing Equityholder Representative and the Existing Equityholders listed on Annex A thereto.</a>		8-K	2.1	10/18/2022
2.2	<a href="#">Amendment No. 1 to Equity Purchase Agreement, dated as of April 21, 2023, by and among LGM Enterprises, LLC, EG Acquisition Corp. and the LGM Existing Equityholders listed on Annex A of the Equity Purchase Agreement.</a>		8-K	2.1	4/21/2023
3.1	<a href="#">Second Amended and Restated Certificate of Incorporation of EG Acquisition Corp.</a>		8-K	3.1	1/3/2024
3.2	<a href="#">Bylaws of flyExclusive, Inc.</a>		8-K	3.2	1/3/2024
3.2	<a href="#">Certificate of Designation of Series A Non-Convertible Redeemable Preferred Stock, filed with the Delaware Secretary of State on March 4, 2024.</a>		8-K	3.1	3/7/2024
4.1	<a href="#">Warrant Agreement, dated May 25, 2021, between EG Acquisition Corp. and Continental Stock Transfer &amp; Trust Company, as warrant agent.</a>		8-K	4.1	6/1/2021
4.2	<a href="#">Form of Warrant issued March 4, 2024.</a>		8-K	4.1	3/7/2024
4.3	<a href="#">Description of Capital Stock.</a>	X			
10.1	<a href="#">Stockholders' Agreement, dated as of December 27, 2023 by and among EG Acquisition Corp., Thomas James Segrave, Jr., the Existing Equityholders listed therein and EG Sponsor LLC.</a>		8-K	10.1	1/3/2024
10.2	<a href="#">Amended and Restated Registration Rights Agreement, dated as of December 27, 2023, by and among EG Acquisition Corp., EG Sponsor LLC, EnTrust Emerald (Cayman) LP, ETG FE LLC, ETG Omni LLC, EnTrust Magnolia Partners LP, and other parties thereto</a>		8-K	10.2	1/3/2024
10.3	<a href="#">Tax Receivable Agreement, dated as of December 27, 2023, by and among EG Acquisition Corp., LGM Enterprises, LLC, Thomas James Segrave, Jr., as TRA Holder Representative, and the TRA Holders named therein.</a>		8-K	10.3	1/3/2024
10.4	<a href="#">Amended and Restated Operating Agreement of LGM Enterprises, LLC.</a>		8-K	10.4	1/3/2024
10.5*	<a href="#">Senior Subordinated Convertible Note, dated as of October 17, 2022, by and among LGM Enterprises, LLC, as the Borrower, EnTrust Emerald (Cayman) LP, as the Initial Noteholder, any noteholders party thereto from time to time and EG Acquisition Corp.</a>		8-K	10.5	10/18/2022

10.6*	<a href="#">Senior Secured Note, dated December 1, 2023, by and among LGM Enterprises LLC, FlyExclusive Jet Share, LLC, ETG FE LLC, Kroll Agency Services Limited, as administrative agent and Kroll Trustee Services Limited, as collateral agent.</a>	8-K	10.6	1/3/2024
10.7†	<a href="#">Form of Director and Officer Indemnification Agreement.</a>	8-K	10.7	1/3/2024

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10.8†	<a href="#">Executive Employment Agreement by and between LGM Enterprises, LLC and Thomas James Segrave, Jr., effective April 1, 2023.</a>	8-K	10.8	1/3/2024
10.9†	<a href="#">Executive Employment Agreement by and between LGM Enterprises, LLC and Michael Guina, effective April 21, 2023.</a>	8-K	10.9	1/3/2024
10.10†	<a href="#">flyExclusive Inc. 2023 Equity Incentive Plan.</a>		10.10	1/3/2024
10.11†	<a href="#">flyExclusive Inc. Employee Stock Purchase Plan.</a>		10.11	1/3/2024
10.12	<a href="#">Master Note between Exclusive Jets, LLC as Borrower, and The Northern Trust Company as Lender, dated as of March 15, 2023.</a>		10.12	1/3/2024
10.13	<a href="#">Sublease Agreement, dated January 1, 2021, by and between Kinston Jet Center, LLC and Exclusive Jets, LLC.</a>		10.13	1/3/2024
10.14	<a href="#">Form of Letter Agreement among the Registrant, EG Sponsor LLC and each of the executive officers and directors of the Registrant (incorporated by reference to the Registrant's amendment to its Registration Statement on Form S-1/A, filed with the SEC on May 11, 2021).</a>	S-1/A	10.1	5/11/2021
10.15	<a href="#">Form of Non-Redemption Agreement, dated December 26, 2023, by and among the Company, LGM, Mr. Segrave and an unaffiliated third party investor.</a>	8-K	10.1	12/27/2023
10.16*	<a href="#">Form of Warrant Exchange Agreement, dated December 26, 2023, by and between the Company and various Holders.</a>	8-K	10.2	12/27/2023
10.17*	<a href="#">Senior Secured Note, dated January 26, 2024, by and among FlyExclusive Jet Share, LLC, flyExclusive, Inc., LGM Enterprises, LLC, ETG FE LLC, as initial noteholder, any noteholders party thereto from time to time, Kroll Agency Services, Limited, as administrative agent and Kroll Trustee Services, Limited, as collateral agent</a>	8-K	10.1	2/01/2024
10.18	<a href="#">Security Agreement, dated January 26, 2024, by FlyExclusive Jet Share, LLC in favor of Kroll Trustee Services, Limited, as collateral agent.</a>	8-K	10.2	2/01/2024
10.19	<a href="#">Securities Purchase Agreement, dated March 4, 2024, by and between flyExclusive, Inc. and the Purchaser named therein.</a>	8-K	10.1	3/7/2024
16.1	<a href="#">Letter from Marcum LLP to the Securities and Exchange Commission, dated January 3, 2024.</a>	8-K	16.1	1/3/2024
21.1	<a href="#">List of Subsidiaries.</a>	8-K	21.1	01/03/2024
31.1	<a href="#">Certification of the Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2022.</a>	X		
31.2	<a href="#">Certification of the Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2022.</a>	X		
32.1	<a href="#">Certification of the Chief Executive Officer and the President and Principal Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2022.</a>	X		

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101	Financial Statements from the Annual Report on Form 10-K of flyExclusive, Inc. for the year ended December 31, 2023, filed April 30, 2024, formatted in Inline XBRL: i) Consolidated Balance Sheets ii) Consolidated Statements of Operations and Comprehensive Income (Loss) iii) Consolidated Statements of Stockholders' Equity (Deficit) / Members' Equity (Deficit) and Temporary Equity iv) Consolidated Statements of Cash Flows	X
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)	

\* Certain information, schedules and exhibits to loan the Company \$250,000 this Exhibit have been omitted pursuant to Item 601(a)(5) or Item 601(b)(10)(iv), as applicable, of Regulation S-K. The Registrant agrees to furnish supplemental copies of all omitted exhibits and schedules to the Securities and Exchange Commission upon its request

† Indicates a new promissory note (the "Promissory Note"). The Promissory Note is non-interest bearing and payable on the earlier of: (i) May 27, 2023 management contract or compensatory plan.  
and  
(ii) the date on which the Company consummates an initial business combination.

**Item 16. Form 10-K Summary**

None.

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**SIGNATURES**

Pursuant to the requirements of the Section 13 or 15 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this annual report to be signed on its behalf by the undersigned thereunto hereunto duly authorized on the 12th day of April, 2023.  
authorized.

Dated: April 30, 2024

EG ACQUISITION CORP. FLYEXCLUSIVE, INC.

By: /s/ Thomas James Segrave, Jr.

/s/ Gregg S.

Hymowitz

By:

Thomas

James

Segrave,

Jr.

Name:

Name:

Gregg S.

Title:

Title:

Hymowitz

Chief Executive Officer (Principal Executive Officer)

EG ACQUISITION CORP. and Chairman

By:

/s/ Sophia

Park

Mullen

Name:

Sophia

Park

Mullen

Title:

President

(Principal

Financial

and

Accounting

Officer)

In accordance with

Pursuant to the requirements of the Securities Exchange Act of 1934, this annual report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Thomas James Segrave, Jr. Thomas James Segrave, Jr.	Chief Executive Officer and Chairman (Principal Executive Officer)	April 30, 2024
/s/ Billy Barnard Billy Barnard	Interim Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	April 30, 2024
 Gary Fegel	Director	
 Gregg S. Hymowitz	Director	
/s/ Michael S. Fox Michael S. Fox	Director	April 30, 2024
/s/ Peter B. Hopper Peter B. Hopper	Director	April 30, 2024
/s/ Frank B. Holding, Jr. Frank B. Holding, Jr.	Director	April 30, 2024
/s/ Thomas J. Segrave, Sr. Thomas J. Segrave, Sr.	Director	April 30, 2024

**DESCRIPTION OF THE REGISTRANT'S SECURITIES REGISTERED PURSUANT TO SECTION 12 OF THE SECURITIES EXCHANGE ACT OF 1934**

The following description of the capital stock of flyExclusive, Inc. (the "Company," "we," and "our") and certain provisions of our Second Amended and Restated Certificate of Incorporation (the "Charter"), and our Bylaws, are summaries and are qualified by reference to the Charter and the Bylaws, which have been publicly filed with the Securities and Exchange Commission.

**Authorized and Outstanding Capital Stock**

Our Charter authorizes the issuance of 325,000,000 shares, of which 200,000,000 shares are shares of Class A Common Stock, par value \$0.0001 per share, 100,000,000 shares are shares of Class B Common Stock, par value \$0.0001 per share, and 25,000,000 shares are shares of preferred stock, par value \$0.0001 per share. The number of authorized shares of Class A Common Stock will automatically increase by the number of shares of Class A Common Stock issuable upon(x) the exchange of all outstanding LGM Common Units for Class A Common Stock, as a result of redemptions pursuant to the applicable provisions of Article 11 of the

Operating Agreement (including for this purpose any Class A Common Stock issuable upon the exercise of any options, warrants or similar rights to acquire Class A Common Stock) and (y) in connection with the exercise of all outstanding options, warrants, exchange rights (other than redemptions pursuant to clause (x)), conversion rights or similar rights for Class A Common Stock. The number of authorized shares of Class B Common Stock will automatically increase by the number of shares of Class B Common Stock issuable upon the exercise of all outstanding options, warrants, exchange rights, conversion rights or similar rights for Class B Common Stock.

### **Common Stock**

#### *Voting*

Pursuant to our Charter, holders of Class A Common Stock and Class B Common Stock will vote together as a single class on all matters submitted to the stockholders for their vote or approval, except as required by applicable law. Holders of Class A Common Stock and Class B Common Stock are entitled to one vote per share on all matters submitted to the stockholders for their vote or approval.

Notwithstanding such voting rights, except as otherwise required by law, holders of Common Stock shall not be entitled to vote on any amendment to our Charter (including any certificate of designation filed with respect to any series of preferred stock) that relates solely to the terms of one or more outstanding series of preferred stock if the holders of such affected series are entitled, either separately or together as a class with the holders of one or more other such series, to vote thereon by law or pursuant to our Charter (including any certificate of designation filed with respect to any series of preferred stock).

#### *Dividends*

The holders of Class A Common Stock are entitled to receive dividends, as and if declared by our Board out of legally available funds. With respect to stock dividends, holders of Class A Common Stock must receive Class A Common Stock.

The holders of Class B Common Stock will not have any right to receive dividends other than stock dividends (as described in (A) below) consisting of shares of Class B Common Stock, in each case paid proportionally with respect to each outstanding share of Class B Common Stock.

In no event will any stock dividend, stock split, reverse stock split, combination of stock, reclassification or recapitalization (each, a "Stock Adjustment") be declared or made on any class of Common Stock unless a corresponding Stock Adjustment for all other classes of Common Stock at the time outstanding is made in the same proportion and the same manner (unless the holders of shares representing a majority of the voting power of

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any such other class of Common Stock (voting separately as a single class) waive such requirement in advance and in writing, in which event no such Stock Adjustment need be made for such other class of Common Stock). Notwithstanding such prohibition, we may (A) declare a stock dividend on the Class A Common Stock only in the event that such stock dividend is made in connection with the issuance of LGM Common Units by our subsidiary LGM Enterprises, LLC ("LGM") to us in exchange for additional capital contributions made by us to LGM, and (B) declare a stock split or stock dividend in connection with the repurchase of shares of Class A Common Stock such that after giving effect to such repurchase and subsequent stock split or stock dividend there shall be outstanding an equal number of shares of Class A Common Stock as were outstanding prior to such repurchase and subsequent stock split or stock dividend, in each of case (A) and (B), without any corresponding Stock Adjustment to the other classes of Common Stock.

#### *Liquidation or Dissolution*

Upon our liquidation or dissolution, the holders of all classes of Common Stock are entitled to their respective par value, and the holders of Class A Common Stock will then be entitled to share ratably in those of our assets that are legally available for distribution to stockholders after payment of liabilities and subject to the prior rights of any holders of preferred stock then outstanding. Other than their par value, the holders of Class B Common Stock will not have any right to receive a distribution upon a liquidation or dissolution of the Company.

#### *Redemption, Transferability and Exchange*

Subject to the terms of our Charter, the members of LGM (other than our Company) may from time to time cause LGM to redeem any or all of their LGM Common Units in exchange for, at our election (subject to certain exceptions), either cash (based on the market price for a share of the Class A Common Stock) (the "Existing Equityholder Cash Out") or shares of Class A Common Stock in an amount equal to the number of LGM Common Units being redeemed (the "Existing Equityholder Share Settlement"). At our election, such transaction may be effectuated via a direct exchange of Class A Common Stock or cash by our Company for the redeemed LGM Common Units (an "Existing Equityholder Direct Exchange").

Our Charter provides that (a) if a holder of Class B Common Stock exercises either the Existing Equityholder Cash Out, or the Existing Equityholder Share Settlement or Existing Equityholder Direct Exchange, then the number of shares of Class B Common Stock held by such holder equal to the number of LGM Common Units so redeemed, cashed out or exchanged will automatically be cancelled by the Company for no consideration.

We may not issue Class B Common Stock such that after the issuance of Class B Common Stock the holder of such stock does not hold an identical number of LGM Common Units, as applicable, and shares of Class B Common Stock.

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

In the event that a share of Class A Common Stock is issued as a result of any redemption or Existing Equityholder Direct Exchange of a LGM Common Units outstanding as of the effective date of the Operating Agreement, a share of Class B Common Stock held by the holder of such LGM Common Units in its sole discretion will automatically and without further action on the part of our Company or the holder thereof be transferred to our Company for no consideration and thereupon we shall promptly take all necessary action to cause such share to be retired, and such share thereafter may not be reissued by us.

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#### *Other Provisions*

None of the Class A Common Stock or Class B Common Stock has any pre-emptive or other subscription rights.

#### *Preferred Stock*

We are authorized to issue up to 25,000,000 shares of preferred stock. Our Board will be authorized, subject to limitations prescribed by Delaware law and our Charter, to determine the terms and conditions of the preferred stock, including whether the shares of preferred stock will be issued in one or more series, the number of shares to be included in each series and the powers (including the voting

power), designations, preferences and rights of the shares. Our Board also will be authorized to designate any qualifications, limitations or restrictions on the shares without any further vote or action by the stockholders. The issuance of preferred stock may have the effect of delaying, deferring or preventing a change in control of the Company and may adversely affect the voting and other rights of the holders of Class A Common Stock and Class B Common Stock, which could have a negative impact on the market price of the Class A Common Stock. We have no current plan to issue any shares of preferred stock.

#### Redeemable Publicly Traded Warrants

Each whole publicly traded warrant entitles the registered holder to purchase one whole share of Class A Common Stock at a price of \$11.50 per share, subject to adjustment as discussed below, at any time commencing 30 days after December 27, 2023. Pursuant to the warrant agreement, a holder of warrants may exercise its warrants only for a whole number of shares of Class A Common Stock. This means that only a whole warrant may be exercised at any given time by a warrant holder. The warrants will expire five years after December 27, 2023, at 5:00 p.m., New York City time, or earlier upon redemption or liquidation.

We are not obligated to deliver any shares of Class A Common Stock pursuant to the exercise of a warrant and have no obligation to settle such warrant exercise unless a registration statement under the Securities Act with respect to the shares of Class A Common Stock underlying the warrants is then effective and a prospectus relating thereto is current, subject to the Company satisfying its obligations described below with respect to registration. No warrant is exercisable and we are not 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. In the event that the conditions in the two immediately preceding sentences are not satisfied with respect to a warrant, the holder of such warrant will not be entitled to exercise such warrant and such warrant may have no value and expire worthless. In no event will we be required to net cash settle any warrant.

We are obligated to file and maintain an effective registration statement covering the shares of Class A Common Stock issuable upon exercise of the warrants, and to cause such registration statement to maintain its effectiveness and to maintain a current prospectus relating to those shares of Class A Common Stock until the warrants expire or are redeemed, as specified in the warrant agreement. If a registration statement covering the shares of Class A Common Stock issuable upon exercise of the warrants is not effective by the 60th business day after the Closing, warrant holders may, until such time as there is an effective registration statement and during any period when we have failed to maintain an effective registration statement, exercise warrants on a "cashless basis" in accordance with Section 3(a)(9) of the Securities Act or another exemption. If that exemption, or another exemption, is not available, holders will not be able to exercise their warrants on a cashless basis.

Once the warrants become exercisable, we may call the warrants for redemption:

- in whole or in part;
- at a price of \$0.01 per warrant;
- upon not less than 30 days' prior written notice of redemption (the "30-day redemption period") to each warrant holder; and

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- if, and only if, the last reported 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 ending three trading days before we send the notice of redemption to the warrant holders.

If and when the warrants become redeemable by us, we may not exercise its redemption right if the issuance of shares of Class A Common Stock upon exercise of the warrants is not exempt from registration or qualification under applicable state blue sky laws or we are unable to effect such registration or qualification.

If the foregoing conditions are satisfied and we issue a notice of redemption of the warrants, each warrant holder will be entitled to exercise its warrant prior to the scheduled redemption date. However, the price of the Class A Common Stock may fall below the \$18.00 redemption trigger price (as adjusted for stock splits, stock dividends, reorganizations, recapitalizations and the like) as well as the \$11.50 warrant exercise price after the redemption notice is issued.

If we call the warrants for redemption as described above, our management will have the option to require any holder that wishes to exercise its warrant to do so on a “cashless basis.” In determining whether to require all holders to exercise their warrants on a “cashless basis,” our management will consider, among other factors, our cash position, the number of warrants that are outstanding and the dilutive effect on our stockholders of issuing the maximum number of shares of Class A Common Stock issuable upon the exercise of its warrants. If our management takes advantage of this option, all holders of warrants would pay the exercise price by surrendering their warrants for that number of shares of Class A Common Stock equal to the quotient obtained by dividing (x) the product of the number of shares of Class A Common Stock underlying the warrants, multiplied by the difference between the exercise price of the warrants and the “fair market value” (defined below) over the exercise price of the warrants by (y) the fair market value. The “fair market value” shall mean the average reported last sale price of the Class A Common Stock for the 10 trading days ending on the third trading day prior to the date on which the notice of redemption is sent to the warrant agent. If our management takes advantage of this option, the notice of redemption will contain the information necessary to calculate the number of shares of Class A Common Stock to be received upon exercise of the warrants, including the “fair market value” in such case. Requiring a cashless exercise in this manner will reduce the number of shares to be issued and thereby lessen the dilutive effect of a warrant redemption. We believe this feature is an attractive option to it if we do not need the cash from the exercise of the warrants. If the Company calls its warrants for redemption and our management does not take advantage of this option, the Sponsor and its permitted transferees would still be entitled to exercise their private placement warrants for cash or on a cashless basis using the same formula described above that other warrant holders would have been required to use had all warrant holders been required to exercise their warrants on a cashless basis, as described in more detail below.

A holder of a warrant may notify the Company in writing in the event it elects to be subject to a requirement that such holder will not have the right to exercise such warrant, to the extent that after giving effect to such exercise, such person (together with such person’s affiliates), to the warrant agent’s actual knowledge, would beneficially own in excess of 4.9% or 9.8% (or such other amount as a holder may specify) of the shares of Class A Common Stock outstanding immediately after giving effect to such exercise.

If the number of outstanding shares of Class A Common Stock is increased by a stock dividend payable in shares of Class A Common Stock, or by a split-up of shares of Class A Common Stock or other similar event, then, on the effective date of such stock dividend, split-up or similar event, the number of shares of Class A Common Stock issuable on exercise of each warrant will be increased in proportion to such increase in the outstanding shares of Class A Common Stock. A rights offering to holders of Class A Common Stock entitling holders to purchase shares of Class A Common Stock at a price less than the fair market value will be deemed a stock dividend of a number of shares of Class A Common Stock equal to the product of (i) the number of shares of Class A Common Stock actually sold in such rights offering (or issuable under any other equity securities sold in such rights offering that are convertible into or exercisable for Class A Common Stock) and (ii) one minus the quotient of (x) the price per share of Class A Common Stock paid in such rights offering divided by (y) the fair market value. For these

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purposes (i) if the rights offering is for securities convertible into or exercisable for Class A Common Stock, in determining the price payable for Class A Common Stock, there will be taken into account any consideration received for such rights, as well as any additional amount payable upon exercise or conversion and (ii) fair market value means the volume weighted average price of Class A Common Stock as reported during the 10 trading day period ending on the trading day prior to the first date on which the shares of Class A Common Stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive such rights.

In addition, if we, at any time while the warrants are outstanding and unexpired, pay a dividend or make a distribution in cash, securities or other assets to the holders of Class A Common Stock on account of such shares of PubCo Class A Common Stock (or other shares of our capital stock into which the warrants are convertible), other than (i) as described above, (ii) certain ordinary cash dividends

(initially defined as up to \$0.50 per share in a 365 day period), (iii) to satisfy the redemption rights of the holders of EGA Class A Common Stock in connection with the Closing, or (iv) to satisfy the redemption rights of the holders of Class A Common Stock in connection with a stockholder vote to amend our Charter with respect to any provision relating to stockholders' rights, then the warrant exercise price will be decreased, effective immediately after the effective date of such event, by the amount of cash and/or the fair market value of any securities or other assets paid on each share of Class A Common Stock in respect of such event.

If the number of outstanding shares of Class A Common Stock is decreased by a consolidation, combination, reverse stock split or reclassification of shares of Class A Common Stock or other similar event, then, on the effective date of such consolidation, combination, reverse stock split, reclassification or similar event, the number of shares of Class A Common Stock issuable on exercise of each warrant will be decreased in proportion to such decrease in outstanding shares of Class A Common Stock.

Whenever the number of shares of Class A Common Stock purchasable upon the exercise of the warrants is adjusted, as described above, the warrant exercise price will be adjusted by multiplying the warrant exercise price immediately prior to such adjustment by a fraction (x) the numerator of which will be the number of shares of Class A Common Stock purchasable upon the exercise of the warrants immediately prior to such adjustment, and (y) the denominator of which will be the number of shares of Class A Common Stock so purchasable immediately thereafter.

In case of any reclassification or reorganization of the outstanding shares of Class A Common Stock (other than those described above or that solely affects the par value of such shares of Class A Common Stock), or in the case of any merger or consolidation of the Company with or into another corporation (other than a consolidation or merger in which the Company is the continuing corporation and that does not result in any reclassification or reorganization of outstanding shares of Class A Common Stock), or in the case of any sale or conveyance to another corporation or entity of the assets or other property of the Company as an entirety or substantially as an entirety in connection with which the Company is dissolved, the holders of the warrants will thereafter have the right to purchase and receive, upon the basis and upon the terms and conditions specified in the warrants and in lieu of the shares of Class A Common Stock immediately theretofore purchasable and receivable upon the exercise of the rights represented thereby, the kind and amount of shares of stock or other securities or property (including cash) receivable upon such reclassification, reorganization, merger or consolidation, or upon a dissolution following any such sale or transfer, that the holder of the warrants would have received if such holder had exercised their warrants immediately prior to such event. However, (i) if the holders of the Class A Common Stock were entitled to exercise a right of election as to the kind or amount of securities, cash or other assets receivable upon such consolidation or merger, then the kind and amount of securities, cash or other assets for which each warrant shall become exercisable shall be deemed to be the weighted average of the kind and amount received per share by the holders of the Class A Common Stock in such consolidation or merger that affirmatively make such election, and (ii) if a tender, exchange or redemption offer shall have been made to and accepted by the holders of the Class A Common Stock (other than a tender, exchange or redemption offer made by the Company in connection with redemption rights held by stockholders of the Company as provided for in the Charter or as a result of the repurchase of shares of Class A Common Stock by the Company) under circumstances in which, upon completion of such tender or exchange offer, the maker thereof, together with members of any group (within the meaning of Rule 13d-5(b)(1) under the Exchange Act (or any successor rule)) of which such maker is a part, and together with any affiliate or associate of such maker

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(within the meaning of Rule 12b-2 under the Exchange Act (or any successor rule)) and any members of any such group of which any such affiliate or associate is a part, own beneficially (within the meaning of Rule 13d-3 under the Exchange Act (or any successor rule)) more than 50% of the issued and outstanding shares of Class A Common Stock, the holder of a warrant shall be entitled to receive the highest amount of cash, securities or other property to which such holder would actually have been entitled as a stockholder if such warrant holder had exercised the warrant prior to the expiration of such tender or exchange offer, accepted such offer and all of the Class A Common Stock held by such holder had been purchased pursuant to such tender or exchange offer, subject to adjustments (from and after the consummation of such tender or exchange offer) as nearly equivalent as possible.

In addition, if less than 70% of the consideration receivable by the holders of Class A Common Stock in such a transaction is payable in the form of common stock in the successor entity that is listed for trading on a national securities exchange or is quoted in an established over-the-counter market, or is to be so listed for trading or quoted immediately following such event, and if the registered holder of the warrant properly exercises the warrant within 30 days following public disclosure of such transaction, the warrant exercise price will be reduced as specified in the warrant agreement based on the Black-Scholes value (as defined in the warrant agreement) of the warrant. The purpose of such exercise price reduction is to provide additional value to holders of the warrants when an extraordinary transaction occurs during the exercise period of the warrants pursuant to which the holders of the warrants otherwise do not receive the full potential value of the warrants in order to determine and realize the option value component of the warrant. This formula is to compensate the warrant holder for the loss of the option value portion of the warrant due to the requirement that the warrant holder exercise the warrant within 30 days of the event. The Black-Scholes model is an accepted pricing model for estimating fair market value where no quoted market price for an instrument is available.

The warrants have been issued in registered form under a warrant agreement between Continental Stock Transfer & Trust Company, as warrant agent, and EGA. The warrant agreement provides that the terms of the warrants may be amended without the consent of any holder to cure any ambiguity or correct any defective provision, but requires the approval by the holders of at least 50% of the then outstanding public warrants to make any other change.

The warrants may be exercised upon surrender of the warrant certificate on or prior to the expiration date at the offices of the warrant agent, with the exercise form on the reverse side of the warrant certificate completed and executed as indicated, accompanied by full payment of the exercise price (or on a cashless basis, if applicable), by certified check or wire payable to the Company, for the number of warrants being exercised. The warrant holders do not have the rights or privileges of holders of Class A Common Stock or any voting rights until they exercise their warrants and receive shares of Class A Common Stock. After the issuance of shares of Class A Common Stock upon exercise of the warrants, each holder will be entitled to one vote for each share held of record on all matters to be voted on by stockholders.

No fractional shares will be issued upon exercise of the warrants. If, upon exercise of the warrants, a holder would be entitled to receive a fractional interest in a share, we will, upon exercise, round down to the nearest whole number of shares of Class A Common Stock to be issued to the warrant holder.

#### Exclusive Forum

Our Charter and Bylaws provide that, to the fullest extent permitted by law, and unless the Company provides notice in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware will be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Company, (ii) any action asserting a claim of breach of a fiduciary duty owed by any of our directors, officers or employees to the Company or its stockholders, creditors or other constituents, (iii) any action asserting a claim arising pursuant to any provision of the DGCL, our Charter or Bylaws or as to which the DGCL confers jurisdiction on the Court of Chancery of the State of Delaware, (iv) any action asserting a claim governed by the internal affairs doctrine or (v) any action asserting an "internal corporate claim" as that term is defined in Section 115 of the DGCL, in each such case subject to such Court of Chancery having personal jurisdiction over the indispensable parties named as defendants therein, provided that, if and only if the Court of Chancery of the

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State of Delaware dismisses any such action for lack of subject matter jurisdiction, such action may be brought in another state court sitting in the State of Delaware (or, if no state court located within the State of Delaware has jurisdiction, the federal district court for the District of Delaware). Our Charter and Bylaws further provide that, unless we consent in writing to the selection of an alternative forum, the federal district courts of the United

States will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act. There is uncertainty as to whether a court would enforce such a provision relating to causes of action arising under the Securities Act, and investors cannot waive compliance with the federal securities laws and the rules and regulations thereunder.

### **Anti-Takeover Effects of Provisions of our Charter and Bylaws**

The provisions of our Charter and Bylaws summarized below may have an anti-takeover effect and may delay, defer or prevent a tender offer or takeover attempt that you might consider in your best interest, including an attempt that might result in your receipt of a premium over the market price for your shares of our Class A Common Stock.

Our Charter and Bylaws contain certain provisions that are intended to enhance the likelihood of continuity and stability in the composition of our Board and that may have the effect of delaying, deferring or preventing a future takeover or change in control of us unless such takeover or change in control is approved by our Board.

These provisions include:

**Advance Notice Procedures.** Our Bylaws contain an advance notice procedure for stockholder proposals to be brought before an annual meeting of our stockholders, and for stockholder nominations of persons for election to our Board to be brought before an annual or special meeting of stockholders. Stockholders at an annual meeting will only be able to consider proposals or nominations specified in the notice of meeting or brought before the meeting by or at the direction of our Board or the chairperson of the meeting or by a stockholder who was a stockholder of record on the record date for the meeting, who is entitled to vote at the meeting and who has given our Secretary timely written notice, in proper form, of the stockholder's intention to bring that business or nomination before the meeting. Although the Bylaws do not give the Board the power to approve or disapprove stockholder nominations of candidates or proposals regarding other business to be conducted at a special or annual meeting, as applicable, the Bylaws may have the effect of precluding the conduct of certain business at a meeting if the proper procedures are not followed or may discourage or deter a potential acquirer from conducting a solicitation of proxies to elect its own slate of directors or otherwise attempting to obtain control of our Company.

**Authorized but Unissued Shares.** Our authorized but unissued shares of common stock and preferred stock will be available for future issuance without stockholder approval, subject to rules of the securities exchange on which our Class A Common Stock is listed. These additional shares may be utilized for a variety of corporate purposes, including future public offerings to raise additional capital, corporate acquisitions, in connection with the redemption or exchange of LGM Common Units and employee benefit plans. The existence of authorized but unissued shares of common stock and preferred stock could render more difficult or discourage an attempt to obtain control of a majority of our Class A Common Stock by means of a proxy contest, tender offer, merger or otherwise.

**Business Combinations with Interested Stockholders.** Our Charter provides that our Company is not subject to Section 203 of the DGCL, an anti-takeover law. In general, Section 203 prohibits a publicly held Delaware corporation from engaging in a business combination, such as a merger, with an "interested stockholder" (which includes a person or group owning 15% or more of the corporation's voting stock) for a period of three years following the date the person became an interested stockholder, unless (with certain exceptions) the business combination or the transaction in which the person became an interested stockholder is approved in a prescribed manner. Accordingly, we are not subject to any anti-takeover effects of Section 203.

## Limitations on Liability and Indemnification of Officers and Directors

Our Charter will limit the liability of the Company's directors and officers to the fullest extent permitted by the DGCL. Our Charter and Bylaws will provide that the Company, to the fullest extent permitted by the DGCL, will provide the Company's directors and officers with customary indemnification and advancement and prepayment of expenses. We have entered into customary indemnification agreements with each of its executive officers and directors that provide them, in general, with customary indemnification in connection with their service to the Company or on its behalf.

Exhibit 31.1

### CERTIFICATION OF THE PRINCIPAL EXECUTIVE OFFICER PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Thomas James Segrave, Jr., certify that:

1. I have reviewed this Annual Report on Form 10-K of flyExclusive, Inc.;
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)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

Name	a)	Title	Date
/s/ Gregg S. Hymowitz Gregg S. Hymowitz	Chief Executive Officer (Principal Executive Officer) and Director	April 12, 2023	
/s/ Sophia Park Mullen Sophia Park Mullen	President (Principal Financial and Accounting Officer) and Director	April 12, 2023	
_____	Chairman of the Board of Directors	April 12, 2023	
Gary Fegel			
/s/ Louise Curbishley Louise Curbishley	Director	April 12, 2023	
/s/ Linda Hall Daschle Linda Hall Daschle	Director	April 12, 2023	
/s/ Jonathan Silver Jonathan Silver	Director	April 12, 2023	
/s/ Noorsurainah (Su) Tengah Noorsurainah (Su) Tengah	Director	April 12, 2023	

EXHIBIT 31.1

**CERTIFICATION**  
**PURSUANT TO RULES 13a-14(a) AND 15d-14(a)**  
**UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS ADOPTED PURSUANT TO**

SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Gregg S. Hymowitz, certify that:

1. I have reviewed this Annual Report on Form 10-K for the year ended December 31, 2022 of EG Acquisition Corp.;
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 officers 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 have:
  - a. Designed 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;
  - b. b) Designed designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under my 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; and
  - c. c) Evaluated 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. d) Disclosed 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 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):

The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, 5. to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

- a. a) All 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. b) Any any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls control over financial reporting.

Date: April 12, 2023 April 30, 2024

By: /s/ Gregg  
S.  
Hymowitz

Gregg S. Hymowitz  
Thomas James  
Segrave, Jr.  
Chief Executive  
Officer (Principal  
(Principal Executive  
Officer)

EXHIBIT

Exhibit 31.2

**CERTIFICATION**  
**OF THE PRINCIPAL FINANCIAL OFFICER**  
**PURSUANT TO RULES 13a-14(a) AND 15d-14(a)**  
**UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS ADOPTED PURSUANT TO**  
**SECTION 302 OF THE**  
**SARBANES-OXLEY ACT OF 2002**

I, Sophia Park Mullen, Billy Barnard, certify that:

1. I have reviewed this Annual Report on Form 10-K of flyExclusive, Inc.;
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)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

I have reviewed this Annual Report on Form 10-K for the year ended December 31, 2022 of EG Acquisition Corp.:

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 officers 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 have:
  - a. a) Designed 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;
  - b. b) Designed designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under my 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; and
  - c. c) Evaluated 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. d) Disclosed 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 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):

The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, 5. to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a. a) All 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. b) Any any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls control over financial reporting.

Date: April 12, 2023 April 30, 2024

By: \_\_\_\_\_  
Billy Barnard  
Interim Chief  
Financial Officer  
(Principal Financial  
Officer and Principal  
Accounting Officer)

By: /s/  
Sophia  
Park  
Mullen

Sophia Park Mullen

President (Principal Financial and Accounting Officer)

EXHIBIT

Exhibit 32.1

CERTIFICATION OF THE PRINCIPAL EXECUTIVE OFFICER AND THE PRINCIPAL FINANCIAL OFFICER 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 Annual Report of EG Acquisition Corp. flyExclusive, Inc. (the "Company" "Company") on Form 10-K for the year ended December 31, 2022, December 31, 2023 as filed with the Securities and Exchange Commission on the date hereof (the "Report" "Report"), I, Gregg S. Hymowitz, Thomas James Segrave, Jr., Chief Executive Officer of the Company, certify, and Billy Barnard, Interim Chief Financial Officer of the Company, each hereby certifies, pursuant to 18 U.S.C. Section section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my his knowledge:

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

Date: April 12, 2023

/s/ Gregg S. Hymowitz

Date: April 30, 2024

Name: Gregg S. Hymowitz

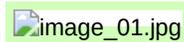
Title: By: Thomas James Segrave, Jr. Chief Executive Officer (Principal (Principal Executive Officer)

EXHIBIT 32.2

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

By: \_\_\_\_\_

Billy Barnard



## **Compensation Recovery Policy**

### **I. Introduction**

The Board of Directors (the “Board”) of flyExclusive, Inc. (the “Company”) believes that it is in the best interests of the Company and its shareholders to create and maintain a culture that emphasizes integrity and accountability and that reinforces the Company’s pay-for-performance compensation philosophy. The Board has therefore adopted this policy which provides for the recoupment of certain executive compensation in the event of an accounting restatement resulting from material noncompliance with financial reporting requirements under the federal securities laws (the “Policy”). This Policy is designed to comply with Section 10D of the Securities Exchange Act of 1934 (the “Exchange Act”).

### **II. Administration**

This Policy shall be administered by the Board or, if so designated by the Board, the Compensation Committee, in which case references herein to the Board shall be deemed references to the Compensation Committee. Any determinations made by the Board shall be final and binding on all affected individuals subject to this Policy, unless determined to be an abuse of discretion.

### **III. Covered Executives**

This Policy applies to the Company’s current and former executive officers, as determined by the Board in accordance with Section 10D of the Exchange Act and the listing standards of the national securities exchange on which the Company’s securities are listed, and such other employees who may from time to time be deemed subject to the Policy by the Board (“Covered Executives”).

### **IV. Recoupment; Accounting Restatement**

In connection the event the Company is required to prepare an accounting restatement of its financial statements due to the Company’s material noncompliance with any financial reporting requirement under the securities laws, including any required accounting restatement to correct an error in previously issued financial statements that is material to the previously issued financial statements, or that would result in a material misstatement if the error were corrected in the current period or left uncorrected in the current period, the Board will require reasonably prompt reimbursement or forfeiture of any excess Incentive Compensation (as defined below)

received by any Covered Executive during the three completed fiscal years immediately preceding the date on which the Company is required to prepare an accounting restatement.

## **V. Incentive Compensation**

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For purposes of this Policy, “Incentive Compensation” means any of the following; provided that such compensation is granted, earned, or vested based wholly or in part on the attainment of a financial reporting measure:

- Annual Report bonuses and other short- and long-term cash incentives.
  - Incentive stock options.
  - Nonstatutory stock options.
  - Stock appreciation rights.
  - Dividend equivalent rights.
  - Restricted stock awards.
  - Restricted stock unit awards.

Financial reporting measures include:

- Company stock price.
- Total shareholder return.
  - Revenues.
  - Net income.
- Earnings measures such as earnings per share.
  - Book value per share.
  - Pre-provision net revenue.

This Policy applies to all Incentive Compensation received by a Covered Executive (a) after beginning service as a Covered Executive; (b) who served as a Covered Executive at any time during the performance period

for the Incentive Compensation; (c) while the Company has a class of EG Acquisition Corp. (the "Company") securities listed on Form 10-K for a national securities exchange or a national securities association; and (d) during the three completed fiscal years immediately preceding the date that the Company is required to prepare an accounting restatement. This Policy shall also apply to any transition period that results from a change in the Company's fiscal year ended December 31, 2022, as within or immediately following those three completed fiscal years, provided, however, that a transition period between the last day of the Company's previous fiscal year and the first day of its new fiscal year that comprises a period of nine to 12 months shall be deemed a completed fiscal year. The Company's obligation to recover erroneously awarded compensation is not dependent on if or when the restated financial statements are filed with the Securities and Exchange Commission.

#### **VI. Excess Incentive Compensation: Amount Subject to Recovery.**

The amount to be recovered will be the excess of the Incentive Compensation paid to the Covered Executive based on the erroneous data over the Incentive Compensation that would have been paid to the Covered Executive had it been based on the restated results, as determined by the Board in accordance with Rule 10D-1 of the Exchange Act and the listing standards of the

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national securities exchange on which the Company's securities are listed. Such amount must be computed without regard to any taxes paid.

If the Board cannot determine the amount of excess Incentive Compensation received by the Covered Executive directly from the information in the accounting restatement, then it will make its determination based on a reasonable estimate of the effect of the accounting restatement.

For purposes of determining the relevant recovery period, the date hereof (the "Report"), I, Sophia Park Mullen, President that the Company is required to prepare an accounting restatement is the earlier to occur of (a) the date the Board, a committee of the Board, or the officer or officers of the Company certify, authorized to take such action if Board action is not required, concludes, or reasonably should have concluded, that the Company is required to prepare an accounting restatement; or (b) the date a court, regulator, or other legally authorized body directs the Company to prepare an accounting restatement.

#### **VII. Method of Recoupment**

The Board will determine, in its sole discretion, the method for recouping Incentive Compensation hereunder, which may include, without limitation:

(a) requiring reimbursement of cash Incentive Compensation previously paid;

(b) seeking recovery of any gain realized on the vesting, exercise, settlement, sale, transfer, or other disposition of any equity-based awards;

(c) cancelling outstanding vested or unvested equity awards; and/or

(d) taking any other remedial and recovery action permitted by law, as determined by the Board.

#### **VIII. No Indemnification**

Notwithstanding anything to the contrary in any other policy of the Company or any agreement between the Company and any Covered Executive, the Company shall not indemnify any Covered Executives against the loss of any incorrectly awarded Incentive Compensation, including any payment or reimbursement for the cost of third-party insurance purchased by any Covered Executive to fund potential recovery obligations under this Policy.

#### **IX. Interpretation**

The Board is authorized to interpret and construe this Policy and to make all determinations necessary, appropriate, or advisable for the administration of this Policy. It is intended that this Policy be interpreted in a manner that is consistent with the requirements of Section 10D of the Exchange Act and any applicable rules or standards adopted by the Securities and Exchange Commission or any national securities exchange on which the Company's securities are listed.

#### **X. Effective Date**

This Policy shall be effective as of the date it is adopted by the Board (the "Effective Date") and shall apply to Incentive Compensation that is received by Covered Executives on or after December 27, 2023. For purposes of this Policy, Incentive Compensation is deemed "received" in the Company's fiscal period during which the financial reporting measure specified

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in the Incentive Compensation is attained, even if the payment or grant of the Incentive Compensation occurs after the end of that period.

#### **XI. Amendment; Termination**

The Board may amend this Policy from time to time in its discretion and may terminate this Policy at any time.

#### **XII. Agreement to Policy by Covered Executive**

The Board will take reasonable steps to inform each Covered Executive of this Policy and obtain their agreement to this Policy, which steps may constitute the inclusion of this Policy as an attachment or incorporation

of this Policy by reference to any award that is accepted by the Covered Executive.

### **XIII. Other Recoupment Rights**

The Board intends that this Policy will be applied to the fullest extent of the law. The Board may require that any employment agreement, equity award agreement, or similar agreement entered into on or after the Effective Date shall, as a condition to the grant of any benefit thereunder, require a Covered Executive to agree to abide by the terms of this Policy. Any right of recoupment under this Policy is in addition to, and not in lieu of, any other remedies or rights of recoupment that may be available to the Company pursuant to 18 U.S.C. the terms of any similar policy in any employment agreement, equity award agreement, or similar agreement and any other legal remedies available to the Company, including the requirements of Section 1350, as adopted pursuant to Section 906304 of the Sarbanes-Oxley Act of 2002 that are applicable to my knowledge:

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

Date: April 12, 2023

/s/ Sophia Park Mullen

Name: Sophia Park Mullen

Title: President (Principal Financial and Accounting Officer)

the Company's Chief Executive Officer and Chief Financial Officer.

### **XIV. Impracticability**

The Board shall recover any excess Incentive Compensation in accordance with this Policy unless such recovery would be impracticable, as determined by the Board in accordance with Rule 10D-1 of the Exchange Act and the listing standards of the national securities exchange on which the Company's securities are listed.

### **XV. Successors**

This Policy shall be binding and enforceable against all Covered Executives and their beneficiaries, heirs, executors, administrators or other legal representatives.

\* \* \* \* \*

Adopted by the Board of Directors on December 27, 2023.

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