

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

FORM 10-K

(Mark One)

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

For the fiscal year ended December 31, 2023

OR

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

Commission File Number 001-37605

LM FUNDING AMERICA, INC.  
(Exact name of Registrant as specified in its Charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

1200 Platt Street Suite 1000 Tampa, FL  
(Address of principal executive offices)

47-3844457  
(I.R.S. Employer  
Identification No.)

33602  
(Zip Code)

Registrant's telephone number, including area code: (813) 222-8996

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

Title of each class:

Trading  
symbol

Name of each exchange on which registered

Common Stock par value \$0.001 per share

LMFA

The Nasdaq Stock Market 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 15(d) of the 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 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, every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (\$232.405 of this chapter) during the preceding 12 months (or for such shorter period that the Registrant was required to submit such files). YES ☒ NO ☐

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

Large accelerated filer ☐

Non-accelerated filer ☒

Accelerated filer ☐

Smaller reporting company ☒

Emerging growth company ☐

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

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). ☐

Indicate by check mark whether the Registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). YES ☐ NO ☒

The aggregate market value of voting and nonvoting common equity held by non-affiliates of the Registrant, as of June 30, 2023, the last business day of the registrant's most recently completed second fiscal quarter, was approximately \$9,165,600 based on the closing sales price as reported on the NASDAQ Capital Market as of such date.

The number of shares of the Registrant's common stock outstanding as of March 22, 2024 was 2,492,964.

#### **Documents Incorporated By Reference**

Information required by Part III is incorporated by reference from registrant's Proxy Statement for its 2024 annual meeting of stockholders or an amendment to this Annual Report on Form 10-K, which will be filed with the Securities and Exchange Commission within 120 days after the end of its fiscal year ended December 31, 2023.

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## PART I

### Item 1. Business.

LM Funding America, Inc. ("we", "our", "LMFA", or the "Company") currently has two lines of business: our cryptocurrency mining business and our specialty finance business.

On September 15, 2021, we announced our plan to operate in the Bitcoin mining ecosystem, and we subsequently commenced Bitcoin mining operations in late September 2022. This business operation deploys our computing power to mine Bitcoin and validate transactions on the Bitcoin network. We conduct this business through a wholly owned subsidiary, US Digital Mining and Hosting Co, LLC, a Florida limited liability company ("US Digital"), which we formed in 2021 to develop and operate our cryptocurrency mining business.

With respect to our specialty finance business, the Company has historically engaged in the business of providing funding to nonprofit community associations primarily located in the state of Florida. We offer incorporated nonprofit community associations, which we refer to as "Associations," a variety of financial products customized to each Association's financial needs. Our original product offering consists of providing funding to Associations by purchasing their rights under delinquent accounts that are selected by the Associations arising from unpaid Association assessments. Historically, we provided funding against such delinquent accounts, which we refer to as "Accounts," in exchange for a portion of the proceeds collected by the Associations from the account debtors on the Accounts. In addition to our original product offering, we also purchase Accounts on varying terms tailored to suit each Association's financial needs, including under our New Neighbor Guaranty™ program.

#### Cryptocurrency Mining Business

Bitcoin was introduced in 2008 with the goal of serving as a digital means of exchanging and storing value. Bitcoin is a form of digital currency that depends upon a consensus-based network and a public ledger called a "blockchain", which contains a record of every Bitcoin transaction ever processed. The Bitcoin network is the first decentralized peer-to-peer payment network, powered by users participating in the consensus protocol, with no central authority or middlemen, that has wide network participation. The authenticity of each Bitcoin transaction is protected through digital signatures that correspond with addresses of users that send and receive Bitcoin. Users have full control over remitting Bitcoin from their own sending addresses. All transactions on the Bitcoin blockchain are transparent, allowing those running the appropriate software to confirm the validity of each transaction. To be recorded on the blockchain, each Bitcoin transaction is validated through a proof-of-work consensus method, which entails solving complex mathematical problems to validate transactions and post them on the blockchain. This process is called mining. Miners are rewarded with Bitcoins, both in the form of newly-created Bitcoins and fees in Bitcoin, for successfully solving the mathematical problems and providing computing power to the network.

Factors such as access to computer processing capacity, interconnectivity, electricity cost, environmental factors (such as cooling capacity) and location play important roles in mining. In Bitcoin mining, "hashrate" is a measure of the computing and processing power and speed by which a mining computer mines and processes transactions on the Bitcoin network. A company's computing power measured in Hashrate is generally considered to be one of the most important metrics for evaluating Bitcoin mining companies.

We obtain Bitcoin as a result of our mining operations, and we sell Bitcoin from time to time to support our operations and strategic growth. We plan to convert our Bitcoin to U.S. dollars. We do not currently plan to engage in regular trading of bitcoin (other than as necessary to convert our bitcoin into U.S. dollars) or to engage in hedging activities related to our holding of bitcoin; however, our decisions to hold or sell bitcoin at any given time may be impacted by the bitcoin market, which has been historically characterized by significant volatility. Currently, we do not use a formula or specific methodology to determine whether or when we will sell Bitcoin that we hold, or the number of Bitcoins we will sell. Rather, decisions to hold or sell Bitcoins are currently determined by management by monitoring the market in real time.

#### Factors Affecting Profitability

##### *Market Price of Bitcoin*

Our business is heavily dependent on the price of bitcoin. The prices of digital assets, including bitcoin, have historically experienced substantial volatility, and digital asset prices have in the past and may in the future be driven by speculation and incomplete information, subject to rapidly changing investor sentiment, and influenced by factors such as technology, macroeconomic conditions, regulatory void or changes, fraudulent actors, manipulation, and media reporting. Further, the value of bitcoin and other digital assets may be significantly impacted by factors beyond our control, including consumer trust in the market acceptance of bitcoin as a means of exchange by consumers and producers.

### *Bitcoin "Halving" Events*

Bitcoin halving is a phenomenon that has historically occurred approximately every four years on the Bitcoin network. Halving is a key part of the Bitcoin protocol and serves to control the overall supply and reduce the risk of inflation in digital assets using a Proof-of-Work consensus algorithm. At a predetermined block, the mining reward is cut in half, hence the term "halving." For example, the reward for adding a single block to the blockchain was initially set at 50 bitcoin currency rewards. The Bitcoin blockchain has undergone halving three times since its inception as follows: (1) on November 28, 2012 at block height 210,000; (2) on July 9, 2016 at block height 420,000; and (3) on May 11, 2020 at block height 630,000, when the reward was reduced to its current level of 6.25 bitcoin per block. The next halving for the Bitcoin blockchain is anticipated to occur around April 2024 at block height 840,000. This process will recur until the total amount of bitcoin currency rewards issued reaches 21.0 million, and the theoretical supply of new bitcoin is exhausted, which is expected to occur around 2140. Many factors influence the price of Bitcoin, and potential increase or decrease in prices in advance of or following the future halving is unknown.

Halving is an important part of the Bitcoin ecosystem, and it is closely watched by miners, investors, and other participants in the digital asset market. Each halving event has historically been associated with significant price movements in the value of bitcoin.

### *Network Hash Rate and Difficulty*

Generally, a bitcoin mining rig's chance of solving a block on the Bitcoin blockchain and earning a bitcoin reward is a function of the mining rig's hash rate, relative to the global network hash rate (i.e., the aggregate amount of computing power devoted to supporting the Bitcoin blockchain at a given time). As demand for bitcoin increases, the global network hash rate rapidly increases, and as more adoption of bitcoin occurs, we expect the demand for new bitcoin will likewise increase as more mining companies are drawn into the industry by this increase in demand. Further, as more and increasingly powerful mining rigs are deployed, the network difficulty for Bitcoin increases. Network difficulty is a measure of how difficult it is to solve a block on the Bitcoin blockchain, which is adjusted every 2,016 blocks, or approximately every two weeks, so that the average time between each block is approximately ten minutes. A high difficulty means that it will take more computing power to solve a block and earn a new bitcoin reward which, in turn, makes the Bitcoin network more secure by limiting the possibility of one miner or mining pool gaining control of the network. Therefore, as new and existing miners deploy additional hash rate, the global network hash rate will continue to increase, meaning a miner's share of the global network hash rate (and therefore its chance of earning bitcoin rewards) will decline if it fails to deploy additional hash rate at pace with the industry.

### *Equipment Purchases*

During 2021, we purchased an aggregate of 5,046 Bitcoin S19J Pro Antminer cryptocurrency mining machines for an aggregate purchase price of \$24.4 million (the "Mining Machines") from Bitmain after certain credits. We received all of the Mining Machines purchased during 2021 from August 2022 through November 2022.

During the year ended December 31, 2022, we purchased an additional 400 Bitcoin Miner S19J Pro machines from Bitmain for an aggregate purchase price of approximately \$1.3 million which were delivered in December 2022.

Additionally, during the year ended December 31, 2022, we purchased 200 Bitcoin S19 XP Antminer cryptocurrency mining machines ("XP Machines") from Bitmain for an aggregate purchase price of approximately \$1.3 million, which were delivered in January 2023. We used various Bitmain credits and coupons totaling approximately \$1.0 million to pay for the machines and we paid the remaining \$0.3 million non-refundable payment in cash.

We purchased an additional 65 S19 XP machines on December 20, 2022 and another 125 S19 XP machines on January 15, 2023 from Bitmain for an aggregate purchase price of approximately \$1.1 million. We used various Bitmain credits and coupons totaling approximately \$0.6 million to pay for the 65 S19 XP machines that were ordered in December 2022, and in January 2023 we paid the remaining \$0.5 million non-refundable payment relating to the 125 S19 XP machines in cash. All 190 XP machines were delivered in April 2023. We also paid \$0.3 million to acquire an additional 101 S19 XP machines from Bitmain which were delivered in May 2023.

Since the inception of our contracts with Bitmain, we have paid an aggregate of approximately \$28.0 million to Bitmain and related vendors relating to the purchase of these machines through December 31, 2023.

As of March 8, 2024, we have approximately 5,900 active machines with hashing capacity of approximately 0.61 EH/s.

### *Hosting Contracts*

The Company, through its wholly-owned subsidiary, US Digital, entered into a hosting agreement (the "Core Hosting Agreement") with Core Scientific Inc. ("Core") pursuant to which Core agreed to host approximately 4,870 of the Company's Bitcoin Miner S19J Pro or XP machines at a secure location and provide power, maintenance and other services specified in the contract with a term of one year, with automatic renewals unless we or Core notifies the other in writing not less than ninety (90) calendar days before such renewal of its desire for the order not to renew unless terminated sooner pursuant to the terms of the Core Hosting Agreement. These

agreements mature in different tranches starting in May 2024 for approximately 4,380 machines and December 2024 for approximately 500 machines.

As required under the Core Hosting Agreement, the Company has paid approximately \$2.2 million of deposits, of which \$0.1 million has been applied to outstanding invoices as of December 31, 2023 as a deposit. As of March 8, 2024, Core has energized approximately 4,870 of our machines located at their sites with a hashing capacity of approximately 0.50 EH/s on a daily basis. In December 2022, Core filed for Chapter 11 bankruptcy in the U.S. Bankruptcy Court for the Southern District of Texas and exited bankruptcy in January 2024. Core's bankruptcy filing did not negatively impact our mining ability at their sites.

On January 26, 2023, the Company entered into a hosting agreement (the "Phoenix Hosting Agreement") with Phoenix Industries Inc. ("Phoenix") pursuant to which Phoenix agreed to host 228 of the Company's Bitcoin Miner S19J Pro machines at a secure location and provide power, maintenance and other services specified in the contract with a term of two years. This Phoenix Hosting Agreement would renew automatically for an additional two years if the Company were to provide written notice to Phoenix of our desire of renewal at least sixty (60) days in advance of the conclusion of the initial term of two years, unless terminated sooner pursuant to the terms of the Phoenix Hosting Agreement. As required under the Phoenix Hosting Agreement, the Company paid approximately \$36 thousand as a deposit in January 2023. The Company and Phoenix mutually terminated this agreement effective April 18, 2023 and the Company's S19J Pro machines were returned to the Company in May 2023. The Company fully impaired the \$36 thousand deposit during the year ended December 31, 2023.

On March 9, 2023, the Company entered into a hosting agreement (the "Longbow Hosting Agreement") with Longbow Host Co LLC ("Longbow") pursuant to which Longbow agreed to host 500 of the Company's Bitcoin Miner S19J Pro machines at a secure location and provide power, maintenance and other services specified in the contract with a term of two years. Upon written request from the Company at least ninety (90) days prior to the conclusion of the then current term and approval by Longbow, the term shall renew for successive one year periods with a three percent (3%) increase as of the commencement of each renewal term unless terminated sooner pursuant to the terms of the Longbow Hosting Agreement. As required under the Longbow Hosting Agreement, the Company paid approximately \$157 thousand as a refundable deposit in March 2023. The Company had 500 machines installed at the Longbow site as of June 30, 2023. The Company terminated this agreement on August 1, 2023 and expensed 50% of the \$157 thousand deposit during the year ended December 31, 2023 and applied the remainder to outstanding invoices. The machines were returned to the Company in September 2023.

On May 5, 2023, the Company entered into a hosting agreement (the "GIGA Hosting Agreement") with GIGA Energy Inc. ("GIGA") pursuant to which GIGA agreed to host 1,080 of the Company's Bitcoin Miner S19J Pro machines at a secure location and provide power, maintenance and other services specified in the contract with a term of one year. As required under the GIGA Hosting Agreement, the Company paid approximately \$173 thousand as a pre-payment in May 2023, which was applied to subsequent invoices. The Company also paid a refundable deposit of \$94 thousand in August 2023 of which \$42 thousand was applied to subsequent invoices. The Company had approximately 1,075 active machines installed at the GIGA site as of December 31, 2023.

### **Specialty Finance Business**

In our specialty finance business, we purchase an Association's right to receive a portion of the Association's collected proceeds from owners that are not paying their assessments. After taking assignment of an Association's right to receive a portion of the Association's proceeds from the collection of delinquent assessments, we engage law firms to perform collection work on a deferred billing basis wherein the law firms receive payment upon collection from the account debtors or a predetermined contracted amount if payment from account debtors is less than legal fees and costs owed. Under this business model, we typically fund an amount equal to or less than the statutory minimum an Association could recover on a delinquent account for each Account, which we refer to as the "Super Lien Amount". Upon collection of an Account, the law firm working on the Account, on behalf of the Association, generally distributes to us the funded amount, interest, and administrative late fees, with the law firm retaining legal fees and costs collected, and the Association retaining the balance of the collection. In connection with this line of business, we have developed proprietary software for servicing Accounts, which we believe enables law firms to service Accounts efficiently and profitably.

Under our New Neighbor Guaranty program, an Association will generally assign substantially all of its outstanding indebtedness and accruals on its delinquent units to us in exchange for payment by us of monthly dues on each delinquent unit. This simultaneously eliminates a substantial portion of the Association's balance sheet bad debts and assists the Association to meet its budget by receiving guaranteed monthly payments on its delinquent units and relieving the Association from paying legal fees and costs to collect its bad debts. We believe that the combined features of the program enhance the value of the underlying real estate in an Association and the value of an Association's delinquent receivables.

Because we acquire and collect on the delinquent receivables of Associations, the Account debtors are third parties about whom we have little or no information. Therefore, we cannot predict when any given Account will be paid off or how much it will yield. In assessing the risk of purchasing Accounts, we review the property values of the underlying units, the governing documents of the relevant Association, and the total number of delinquent receivables held by the Association.

## **Recent Developments**

### Equity Distribution Agreement

On June 26, 2023, we entered into an equity distribution agreement with Maxim Group LLC pursuant to which we may from time to time offer and sell shares of our common stock under our shelf registration statement having an aggregate offering price of up to \$4.7 million (the "2023 ATM Program") in "at-the-market" offerings as defined in Rule 415 under the Securities Act. No shares of our common stock were sold under the 2023 ATM Program during the year ended December 31, 2023.

### Asset Purchase Agreement with Symbiont.io, LLC

On June 2, 2023, the United States Bankruptcy Court for the Southern District of New York entered an order (the "Symbiont Bankruptcy Order") approving the sale of substantially all of the assets of Symbiont.io, LLC, as debtor in possession ("Symbiont"), to the Company pursuant to a form of asset purchase agreement attached to the Symbiont Bankruptcy Sale Order (the "Asset Purchase Agreement") free and clear of all liens, claims and encumbrances. The Company and Symbiont signed the Asset Purchase Agreement on June 5, 2023, and the purchase and sale of the Symbiont assets pursuant to the Asset Purchase Agreement closed on June 5, 2023.

Pursuant to the Asset Purchase Agreement, the Company purchased substantially all of the assets of Symbiont (the "Symbiont Assets") for a purchase price of \$2.6 million, which was paid by means of a credit bid of the full amount of the note payable owed by Symbiont to the Company. The Symbiont Assets are comprised principally of intellectual property and software code relating to Symbiont's financial services blockchain enterprise platform. The Company did not assume any liabilities of Symbiont in the transaction.

### Asset Purchase Agreement with Platonic Holdings, Inc.

On December 26, 2023, we entered into an asset purchase agreement with Platonic Holdings, Inc. ("Platonic") pursuant to which we agreed to sell to Platonic the Symbiont Assets. The sale of the Symbiont Assets closed on December 27, 2023. The sales price for the Symbiont Assets was \$2.0 million in cash, of which \$200,000 is being held in a customary indemnity escrow until December 26, 2024.

### Reverse Stock Split

On November 9, 2023, our shareholders voted in favor of a proposal to amend to our Certificate of Incorporation, in the event it is deemed advisable by our Board of Directors, to effect a reverse stock split of the Company's issued and outstanding common stock at a ratio within the range of one-for-two (1:2) and one-for-ten (1:10), as determined by the Board of Directors.

On February 23, 2024, the Board approved a one-for-six (1:6) reverse split of the Company's issued and outstanding common stock, par value \$0.001 per share, pursuant to which every six outstanding shares of common stock was converted into one share of common stock (the "Reverse Stock Split"). The Reverse Stock Split was effected by the filing of an amendment to our Certificate of Incorporation on March 7, 2024 which provided that the Reverse Stock Split become effective at 12:01 a.m. eastern time on March 12, 2024. The amendment provides that no fractional shares shall be issued and, in lieu thereof, any person who would otherwise be entitled to a fractional share of common stock as a result of the Reverse Stock Split will be entitled to receive one share of common stock. The Company's common stock began trading on The Nasdaq Capital Market on a split-adjusted basis on March 12, 2024. The Company has retroactively adjusted all share amounts and per share data herein to give effect to the Reverse Stock Split.

## **Markets, Geography and Major Customers**

Bitcoin is a global store and exchange of value used by people across the world as an asset and to conduct daily transactions. Mining Bitcoin supports the global Bitcoin blockchain and the millions of people that depend on it for economic security and other benefits. Strictly speaking, there is no customer market for mining Bitcoin but we consider our mining pool operators as customers because they compensate us for providing processing power to the mining pool (see Item 1A. Risk Factors- "Our reliance on a third-party mining pool service provider for our mining revenue payouts may adversely affect an investment in us."). We lease hosting space for our mining equipment from other hosting and mining companies.

Our specialty finance business focused on Associations is focused entirely in the state of Florida.

## **Working Capital Items**

The Bitcoin mining industry is highly competitive and dependent on specialized mining machines that have few manufacturers. Machine purchases require large down payments and miner deliveries often arrive many months after initial orders are placed. However, over the last 12 months, we have seen a significant improvement in the availability and pricing for Bitcoin mining machines. The recent market conditions have provided opportunities to purchase both new and used machines on the spot-market from other miners or retail-dealers of machines for better financial terms and delivery terms, but there can be no guarantee that such opportunities will continue on a long-term basis. Currently, we are purchasing mining machines from Bitmain.

In addition to the approximate 5,900 machines in operation as of the date of this filing, we also expect to receive an additional 300 S-21 miners in the second quarter of 2024 with respect to which we have prepaid 50% of the invoice price as of December 31, 2023. The

remaining 50% was paid in March 2024. The Company expects to enter into additional agreements to purchase more miners in the coming years. The majority of miners we operate and expect to operate once received are some of the latest generation of miners manufactured by Bitmain, including the S19J-Pro and S19 XP.

### **Materials and Suppliers**

We engage in the operation of high efficiency Bitcoin mining machines. These specialized computers, often called mining rigs, have few manufacturers. All of the machines we purchased this year were manufactured by Bitmain, one of the preeminent manufacturers of Bitcoin mining rigs. It is headquartered in China and manufactures throughout Asia.

Historically, we have been able to manage our supply chains effectively, but global supply chains continue to be constrained, and from time-to-time experience substantial increases in shipping costs and logistical delays as we make efforts to ensure timely delivery of equipment. There can be no certainty that we will not be affected in the future, and we believe that there is a significant risk that equipment supply chains will continue to be affected in 2024.

While some macro-economic indicators available as of the date of this filing suggest that inflation may be slowing, inflationary pressures impact virtually all aspects of our materials and suppliers, including power prices, and are likely to impact our fiscal year 2024.

Bankruptcies of hosting companies and digital asset exchange companies may occur and may pose a risk to our ability to mine Bitcoin. As indicated above, the bankruptcy filing of Core did not impact our mining ability, and we do not have any business relationships with some of the notable digital asset exchange companies that have recently declared bankruptcy such as Three Arrow Capital, FTX, Genesis Global Holdco, Genesis Asia Pacific, BlockFi, Voyager Digital and Celsius.

### **Environmental Issues**

No significant pollution or other types of hazardous emission result from the Company's direct operations and it is not anticipated that our operations will be materially affected by federal, state or local provisions concerning environmental controls. Our costs of complying with environmental, health and safety requirements have not been material.

There are increasing concerns over the large energy usage of Bitcoin mining and its effects on the environment. Many media reports focus exclusively on the energy requirements of Bitcoin mining and cite it as an environmental concern. However, we do not believe that existing or pending climate change legislation, regulation, or international treaties or accords are reasonably likely to have a material effect in the foreseeable future on our business or markets that we serve, nor on our results of operations, capital expenditures or financial position. We continue to monitor emerging developments in this area.

### **Competition**

Bitcoin mining is a global activity. During fiscal year 2021, a majority of Bitcoin mining occurred in China. After China banned Bitcoin mining in May 2021, the center of mining moved to North America. Although Bitcoin mining by its nature is not a directly competitive business, all miners compete for Bitcoin rewards; based on this, we define competitors as other Bitcoin miners. Our competitors include large, publicly-listed mining companies, large private mining companies, and, in some cases, independent, individual miners who pool resources. We believe our principal competitive advantages include our energy background, a combination of owned, operated, and co-located miners and facilities, our strategic use of the Bitcoin we mine to fund operations growth, and our commitment to sustainable business practices, including sourcing renewable energy. Within North America, our major competitors include:

- CleanSpark, Inc.
- Bitfarms Ltd
- Iris Energy Ltd
- Stronghold Digital Mining Inc.
- Bit Digital, Inc.
- Soluna Holdings, Inc.
- Mawson Infrastructure Group Inc.
- Sphere 3D Corp.

In addition to the foregoing, we compete with other companies that focus all or a portion of their activities on mining activities at scale. We face significant competition in certain operational aspects of our business, including, but not limited to, the acquisition of new miners, obtaining low cost electricity, obtaining access to energy sites with reliable sources of power, and evaluating new technology developments in the industry.



## **Intellectual Property**

We do not currently hold any patents or patent applications in connection with our Bitcoin mining related operations or our specialty finance business. We do rely, and expect to continue relying, upon trade secrets, trademarks, service marks, trade names, copyrights and other non-patent intellectual property rights.

## **Government Regulation**

### Bitcoin Mining

Cryptocurrency mining is largely an unregulated activity at both the state and federal level. We anticipate that cryptocurrency mining will be a focus for increased regulation in the near- and long-term, and we cannot predict how future regulations may affect our business or operations. State regulation of cryptocurrency mining is important with respect to where we conduct our mining operations. The majority of our mining facilities are located in Kentucky, which we believe currently has one of the most favorable regulatory environments for cryptocurrency miners.

In March 2022, the United States announced plans to establish a unified federal regulatory regime for cryptocurrency, and a group of United States Senators sent a letter to the United States Treasury Department asking Treasury Secretary Yellen to investigate Treasury's ability to monitor and restrict the use of cryptocurrencies to evade sanctions imposed by the United States. We are unable to predict the impact that any new regulations may have on our business at the time of filing this Annual Report. We continue to monitor and proactively engage in dialogue on legislative matters related to our industry.

In August 2021, the chair of the SEC stated that he believed investors using digital asset trading platforms are not adequately protected, and that activities on the platforms can implicate the securities laws, commodities laws and banking laws, raising a number of issues related to protecting investors and consumers, guarding against illicit activity, and ensuring financial stability. The chair expressed a need for the SEC to have additional authorities to prevent transactions, products, and platforms from "falling between regulatory cracks," as well as for more resources to protect investors in "this growing and volatile sector." The chair called for federal legislation centering on digital asset trading, lending, and decentralized finance platforms, seeking "additional plenary authority" to write rules for digital asset trading and lending. In addition, it is possible the failure of FTX Trading Ltd. ("FTX") in November 2022 and the resulting market turmoil could lead to increased SEC, CFTC, or criminal investigations, enforcement, and/or other regulatory activity.

While these statements are focused on digital asset exchanges (not Bitcoin miners), the failure of large exchanges, such as the recent failure of the exchange operated by FTX Trading Ltd. ("FTX"), who applied for Chapter 11 bankruptcy in November 2022, may impact the adoption and value of Bitcoin. Additionally, because we store and sell our Bitcoin on exchanges, we may also be potentially impacted by exchange failures in that respect. For those reasons, we carefully vet our custodians for adequate compliance with U.S. laws as well as liquidity, using the information available to us, but we cannot be certain that we will be able to avoid the negative effects of a large exchange failure. We have not been directly impacted by the FTX bankruptcy other than the impact it had on the price of Bitcoin.

As the regulatory and legal environment evolves, we may become subject to new laws, such as further regulation by the SEC, CFTC, and other agencies, which may affect our mining and other activities. For additional discussion regarding our belief about the potential risks existing and future regulation pose to our business, see Part I, Item 1A. "Risk Factors"

## **Insurance**

We have property insurance coverage for our bitcoin miners under an insurance program for a total of \$11,896,000 in limits. This insurance coverage covers all the Company's bitcoin miners with a deductible of \$100,000 or 5%, whichever is greater, with a \$500,000 minimum and pertains to fire, water damage, water intrusion, named storms, wind, or hail. We do not maintain business interruption coverage, which is currently not being provided by underwriters to any bitcoin mining companies. The policy also excludes coverage of our bitcoin holdings and cybersecurity coverage. We engage our insurance broker annually to solicit underwriters to provide proposals to renew our current coverage or update our policies to meet our needs, prior to the policies' expiration each year.

## **Human Capital**

We believe that our future success depends, in no small part, on our ability to continue to attract, hire, and retain qualified personnel. As of March 22, 2024, we had 8 employees, all of which were full time and all located in the United States. We believe that we have adequate personnel and resources with the specialized skills required to carry out our operations successfully. Employees participate in equity incentive plans and receive what we believe is generous compensation in the form of salary and benefits. We continually seek to hire and retain talented professionals, although the competition for such personnel in our segments is significant. None of our employees are represented by a labor union, and we have never experienced a work stoppage. We believe we have a strong and engaging relationship with our employees.

We use outside consultants, attorneys, and accountants, as necessary. We endeavor to maintain a workplace that is free from discrimination or harassment on the basis of color, race, sex, national origin, ethnicity, religion, age, disability, sexual orientation, gender identification or expression or any other status protected by applicable law. The basis for recruitment, hiring, development, training, compensation and advancement is a person's qualifications, performance, skills and experience. We believe that our employees are fairly compensated, without regard to gender, race and ethnicity, and routinely recognized for outstanding performance.

#### **Corporate Information**

The Company was originally organized in January 2008 as a Florida limited liability company under the name LM Funding, LLC. Prior to our initial public offering in 2015, all of our business was conducted through LM Funding, LLC and its subsidiaries. Immediately prior to our initial public offering in October 2015, the members of the LM Funding, LLC contributed all of their membership interests to LM Funding America, Inc., a Delaware corporation incorporated on April 20, 2015 ("LMFA"), in exchange for shares of the common stock of LMFA. Immediately after such contribution and exchange, the former members of LM Funding, LLC became the holders of 100% of the issued and outstanding common stock of LMFA, thereby making LM Funding, LLC a wholly-owned subsidiary of LMFA.

The Company organized two new subsidiaries in 2020: LMFA Financing LLC, a Florida limited liability company, on November 21, 2020, and LMFAO Sponsor LLC, a Florida limited liability company ("Sponsor"), on October 29, 2020. LMFAO Sponsor LLC organized a subsidiary, LMF Acquisition Opportunities Inc., on October 29, 2020. LM Funding America Inc. organized a subsidiary, US Digital Mining and Hosting Co., LLC. ("US Digital"), on September 10, 2021. US Digital has created various 100% owned subsidiaries to engage in business in various states. The Company also from time to time organizes other subsidiaries to serve a specific purpose or hold a specific asset.

#### **Where you can Find More Information**

We maintain a corporate website at: <https://www.lmfunding.com>. The contents of this website is not incorporated in, or otherwise to be regarded as part of, this Annual Report.

We are required to file annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and other information, including our proxy statement, with the Securities and Exchange Commission ("SEC"). The public can obtain copies of these materials by accessing the SEC's website at <http://www.sec.gov>. In addition, as soon as reasonably practicable after these materials are filed with or furnished to the SEC, we will make copies available to the public free of charge through our website, <https://www.lmfunding.com>. The information on our website is not incorporated into, and is not part of, this Annual Report on Form 10-K or our other filings with the SEC.

## Item 1A. Risk Factors.

*You should carefully consider each of the risks described below, together with all of the other information contained in this Annual Report on Form 10-K, before making an investment decision with respect to our securities. If any of the following risks actually occur, our business, financial condition, results of operations, or cash flow could be materially and adversely affected and you may lose all or part of your investment.*

### Risks Relating to our Business -- General Risks

- Our quarterly operating results may fluctuate and cause our stock price to decline.
- Our organizational documents and Delaware law may make it harder for us to be acquired without the consent and cooperation of our Board of Directors and management.
- A reversal of the U.S. economic recovery and a return to volatile or recessionary conditions in the United States or abroad could adversely affect our business or our access to capital markets in a material manner.
- We have been adversely affected by the effects of inflation.
- We may need financing in the future to sustain and expand our operations and may not be able to obtain such financing on acceptable terms, or at all.
- We maintain our cash at financial institutions, which at times, exceed federally insured limits.

### Risks Relating to Our Cryptocurrency Mining Business

- Our cryptocurrency mining business is in an early stage of development and may not be able to achieve profitability.
- Our limited operating history in the cryptocurrency mining business makes evaluating our business difficult.
- Operating results may fluctuate due to the highly volatile nature of cryptocurrency markets.
- The uncertain impact of geopolitical and economic events on the demand for Bitcoin may adversely affect our business.
- We have exposure to pricing risk and volatility associated with the value of Bitcoin because we do not currently hedge our investment in Bitcoin.
- The sale of our Bitcoins to pay for expenses at a time of low Bitcoin prices could adversely affect an investment in us.
- Our mining costs may exceed our mining revenues.
- We face the risk of the development and acceptance of competing blockchain platforms or technologies.
- We will be exposed to risks and potential unexpected costs related to disruptions or other failures in the supply chain for cryptocurrency hardware and difficulties in obtaining new hardware.
- Bankruptcy of our hosting vendors could lead to interruption of service and could adversely affect our business and results of operations.
- Inability to contract with a hosting vendor could lead to interruption of service and could adversely affect our business and results of operations.
- If we are unable to maintain power and hosting arrangements or secure sites for data centers, our business results may suffer.
- Because our miners are designed specifically to mine Bitcoin and may not be readily adaptable to mining other cryptocurrencies, a sustained decline in Bitcoin's value could adversely affect our business and results of operations.
- Our reliance primarily on a single supplier of miners may subject our operations to increased risk of design flaws.
- We may not be able to realize the benefits of forks.
- The reward for successfully solving a block will halve in the future and its value may not adjust to compensate us for the reduction in the rewards we receive from our mining efforts.
- If we fail to grow our hash rate, we may be unable to compete, and our results of operations could suffer.
- Transaction fees may decrease demand for Bitcoin and prevent expansion.
- Cryptocurrencies face significant scaling obstacles that can lead to high fees or slow transaction settlement times.
- Our reliance on a third-party mining pool service provider for our mining revenue payouts may adversely affect us.
- We face risks from the open-source structure of the Bitcoin network protocol and any failure to properly monitor and upgrade the protocol.
- We face risks from potential Internet disruptions.
- Banks and financial institutions may not provide services to businesses that engage in cryptocurrency-related activities.
- The loss or destruction of private keys required to access our Bitcoins may be irreversible.
- We may not have adequate sources of recovery if our digital assets are lost, stolen or destroyed.
- Bitcoins held by us are not subject to FDIC or SIPC protections.
- Bitcoins we mine or hold for our own account may be subject to loss, theft, or restriction on access.
- Potential actions of malicious actors or botnets may adversely impact us.
- We face risks from potential failures of digital asset exchanges and custodians.
- We may not have adequate sources of recovery if our digital assets are lost, stolen or destroyed.

- The irreversibility of incorrect or fraudulent Bitcoin transactions creates risks for our business.
- We may have limited rights of legal recourse available to us following any loss of our Bitcoins.
- We face the risk that the possibility that a cryptocurrency other than Bitcoin could be more desirable to the digital asset user base.
- We may not be able to grow our hashrate.
- We will likely need to raise additional capital to fund our planned cryptocurrency mining business.
- Bitcoin mining activities are energy-intensive, which may restrict the geographic locations of miners and have a negative environmental impact. Government regulators may potentially restrict the ability of electricity suppliers to provide electricity to mining operations, such as ours, or even fully or partially ban mining operations.
- We may be affected by price fluctuations in the wholesale and retail power markets.
- We will be vulnerable to severe weather conditions and natural disasters, including severe heat, earthquakes, fires, floods, hurricanes, as well as power outages and other industrial incidents, which could severely disrupt the normal operation of our business and adversely affect our results of operations.
- The properties in our mining network may experience damages, including damages that are not covered by insurance.

#### **Risks Related to Governmental Regulation and Enforcement Operations**

- Potential changes in laws and regulations applicable to mining Bitcoin, Bitcoin itself, or interpretations thereof, including, without limitation, banking regulations and securities regulations and regulations governing mining activities, both in the U.S. and in other countries.
- We may incur additional compliance costs if deemed subject to the Commodity Exchange Act.
- The SEC or another regulatory body may consider Bitcoin or any other cryptocurrency to be a security.
- It may be illegal to mine, acquire, own hold, sell or use Bitcoin or other cryptocurrencies in certain jurisdictions.
- Changing environmental regulation and public energy policy may adversely impact the mining business.
- Future developments regarding the treatment of digital assets for U.S. federal income and applicable state, local and non-U.S. tax purposes may adversely affect us.
- We face potential exposure to specifically designated nationals or blocked persons as a result of our interactions with the Bitcoin network.

#### **Risks Related to the Specialty Finance Business**

- We may not be able to purchase Accounts at favorable prices, or on sufficiently favorable terms, or at all.
- We may not be able to recover sufficient amounts on our Accounts to fund our operations.
- We are dependent upon third-party law firms to service our Accounts.
- Government regulations may limit our ability to recover and enforce the collection of our Accounts.
- We may become regulated under the Consumer Financial Protection Bureau, or CFPB, and have not developed compliance standards for such oversight.
- Class action suits and other litigation could divert our management's attention from operating our business, increase our expenses, and otherwise harm our business.
- If our technology and software systems are not operational or are subject to cybersecurity incidents, our operations could be disrupted and our ability to successfully acquire and collect Accounts could be adversely affected.
- All of our Accounts are located in Florida.
- Foreclosure on an Association's lien may not result in our recouping the amount that we invested in the related Account.
- The liens securing the Accounts we own may not be superior to all liens on the related units and homes.
- We may not choose to pursue a foreclosure action against delinquent condominium and home owners.
- The holding period for our Accounts from purchase to payoff is indeterminate.

#### **Risks Relating to Our Securities**

- Our common shares could be delisted from the Nasdaq Capital Market.
- Future sales of our common stock by our affiliates or other stockholders may depress our stock price.
- The market price and trading volume of our shares of common stock may be volatile.
- Securities analysts may not initiate coverage of our securities or may issue negative reports.
- Any future issuance of preferred stock may adversely affect holders of our common stock.
- Our management may identify material weaknesses in its internal control over financial reporting in the future.
- We qualify as a smaller reporting company and are subject to scaled disclosure requirements; and
- We may become subject to a threatened direct or derivative claim by stockholders.

### **Risks Relating to our Business -- General Risks**

#### ***Our quarterly operating results may fluctuate and cause our stock price to decline.***

Because of the nature of our business, our quarterly operating results may fluctuate, which may adversely affect the market price of our common stock. Our results may fluctuate as a result of the following factors:

- (i) the price of Bitcoin and the amount of hashrate generated by our Bitcoin mining activity;
- (ii) the timing and amount of collections on our Account portfolio;
- (iii) our inability to identify and acquire additional Accounts;
- (iv) a decline in the value of our Account portfolio recoveries;
- (v) increases in operating expenses associated with the growth of our operations; and
- (vi) general, economic and real estate market conditions.

#### ***Any future acquisitions that we make may prove unsuccessful or strain or divert our resources.***

We may seek to grow through acquisitions of related businesses. Such acquisitions present risks that could materially adversely affect our business and financial performance, including:

- (i) the diversion of our management's attention from our everyday business activities;
- (ii) the assimilation of the operations and personnel of the acquired business;
- (iii) the contingent and latent risks associated with the past operations of, and other unanticipated problems arising in, the acquired business; and
- (iv) the need to expand our management, administration and operational systems to accommodate such acquired business.

If we make such acquisitions we cannot predict whether:

- (i) we will be able to successfully integrate the operations of any new businesses into our business;
- (ii) we will realize any anticipated benefits of completed acquisitions; or
- (iii) there will be substantial unanticipated costs associated with such acquisitions.

In addition, future acquisitions by us may result in potentially dilutive issuances of our equity securities, the incurrence of additional debt, and the recognition of significant charges for depreciation and amortization related to goodwill and other intangible assets.

Although we have no definitive plans or intentions to make acquisitions of related businesses, we continuously evaluate such potential acquisitions. However, we have not reached any agreement or arrangement with respect to any particular acquisition and we may not be able to complete any acquisitions on favorable terms or at all.

#### ***Our investments in other businesses and entry into new business ventures may adversely affect our operations.***

We previously made and subsequently disposed of, and may in the future acquire, interests in companies or may commence operations in businesses and industries that are not identical to those with which we have historically engaged. If these investments or arrangements are not successful, our earnings could be materially adversely affected by increased expenses and decreased revenues.

#### ***Our organizational documents and Delaware law may make it harder for us to be acquired without the consent and cooperation of our Board of Directors and management.***

Certain provisions of our organizational documents and Delaware law may deter or prevent a takeover attempt, including a takeover attempt in which the potential purchaser offers to pay a per share price greater than the current market price of our common stock. Under the terms of our certificate of incorporation, our Board of Directors has the authority, without further action by our stockholders, to issue shares of preferred stock in one or more series and to fix the rights, preferences, privileges and restrictions thereof. In addition, our directors serve staggered terms of one to three years each and, as such, at any given annual meeting of our stockholders, only a portion of our Board of Directors may be considered for election, which may prevent our stockholders from replacing a majority of our Board of Directors at certain annual meetings and may entrench our management and discourage unsolicited stockholder proposals. The ability to issue shares of preferred stock could tend to discourage takeover or acquisition proposals not supported by our current Board of Directors.

#### ***We are currently operating in a period of economic uncertainty and capital markets disruption, which has been significantly impacted by geopolitical instability due to the ongoing military conflict between Russia and Ukraine. Our business, financial condition and results of operations could be materially adversely affected by any negative impact on the global economy and capital markets resulting from the conflict in Ukraine or any other geopolitical tensions.***

U.S. and global markets are experiencing volatility and disruption following the escalation of geopolitical tensions and the start of the military conflict between Russia and Ukraine. On February 24, 2022, a full-scale military invasion of Ukraine by Russian troops was reported. Although the length and impact of the ongoing military conflict is highly unpredictable, the conflict in Ukraine could lead to market disruptions, including significant volatility in commodity prices, credit and capital markets, as well as supply chain interruptions. We are continuing to monitor the situation in Ukraine and globally and assessing its potential impact on our business.

Additionally, the recent military conflict in Ukraine has led to sanctions and other penalties being levied by the United States, European Union and other countries against Russia. Additional potential sanctions and penalties have also been proposed and/or threatened. Russian military actions and the resulting sanctions could adversely affect the global economy and financial markets and lead to instability and lack of liquidity in capital markets, potentially making it more difficult for us to obtain additional funds.

Although our business has not been materially impacted by the ongoing military conflict between Russian and Ukraine to date, it is impossible to predict the extent to which our operations, or those of our suppliers and manufacturers, will be impacted in the short and long term, or the ways in which the conflict may impact our business. The extent and duration of the military action, sanctions and resulting market disruptions are impossible to predict, but could be substantial. Any such disruptions may also magnify the impact of other risks described in this Annual Report.

***Volatile or recessionary conditions in the United States or abroad could adversely affect our business or our access to capital markets in a material manner.***

Worsening economic and market conditions, downside shocks, or a return to recessionary economic conditions could severely reduce demand for our products and adversely affect our operating results. These economic conditions may also impact the financial condition of one or more of our key suppliers, which could affect our ability to secure product to meet our customers' demand. Our results of operations and the implementation of our business strategy could be adversely affected by general conditions in the global economy. An economic downturn may cause uncertainty in the capital and credit markets and could have a material adverse effect on us. We could also be adversely affected by such factors as changes in foreign currency rates, weak economies, and political conditions in each of the countries in which we sell our products.

***We have been adversely affected by the effects of inflation.***

Inflation has the potential to adversely affect our liquidity, business, financial condition and results of operations by increasing our overall cost structure, particularly if we are unable to achieve commensurate increases in the prices we charge our customers. The existence of inflation in the economy has resulted in, and may continue to result in, higher interest rates and capital costs, shipping costs, supply shortages, increased costs of labor, weakening exchange rates and other similar effects. As a result of inflation, we have experienced and may continue to experience, cost increases. Although we may take measures to mitigate the impact of this inflation, if these measures are not effective our business, financial condition, results of operations and liquidity could be materially adversely affected. Even if such measures are effective, there could be a difference between the timing of when these beneficial actions impact our results of operations and when the cost inflation is incurred.

***We rely heavily on our management team, whose continued service and performance is critical to our future success. Any failure by management to properly manage growth, including hiring and retaining competent and skilled management and other personnel, could have a material adverse effect on our business, operating results, and financial condition.***

We currently have four executive officers — our Chief Executive Officer and President, Bruce Rodgers, our Chief Financial Officer, Richard Russell, our VP of Operations, Ryan Duran, and our VP of Strategies, Christopher Taylor — who are responsible for our management functions and are responsible for strategic development, financing and other critical functions. Some of the members of our management team and our Board of Directors do not have prior experience in the Bitcoin mining industry. This lack of experience may impair our management teams' and directors' ability to evaluate and make well-informed decisions involving our current operations and any future projects we may undertake in the industries in which we operate. Such impairment and lack of experience could adversely affect our business, financial condition and future operations.

Our future success depends significantly on the continued service and performance of our existing management team. The departure, death, disability or other extended loss of services of any member of our management team, particularly with little or no notice, could cause delays on projects, frustrate our growth prospects and could have an adverse impact on our industry relationships, our project exploration and development programs, other aspects of our business and our financial condition, results of operations, cash flow and prospects.

Our success, growth prospects, and ability to capitalize on market opportunities also depend to a significant extent on our ability to identify, hire, motivate and retain qualified managerial personnel, including additional senior members of management. Our growth may be constrained by resource limitations as competitors and customers compete for increasingly scarce human capital resources. The demand for professionals familiar with Bitcoin mining and other skilled workers is currently high. Our competitors may be able to offer a work environment with higher compensation or more opportunities than we can. Any new personnel we hire may not be or become as productive as we expect, as we may face challenges in adequately or appropriately integrating them into our workforce and culture. If we are unable to attract and retain a sufficient number of skilled personnel, our ability to successfully implement our business plan, grow our company and maintain or expand our mining operations may be adversely affected, and the costs of doing so may increase, which may adversely impact our business, financial condition and results of operations.

Our expansion could also place significant demands on our management, operations, systems, accounting, internal controls and financial resources. If we experience difficulties in any of these areas, we may not be able to expand our business successfully or

effectively manage our growth. Any failure by management to manage growth and to respond to changes in our business could have a material adverse effect on our business, financial condition and results of operations.

***We may engage in strategic acquisitions and other arrangements that could disrupt our business, cause dilution to our stockholders, reduce our financial resources and harm our operating results.***

We have previously engaged in strategic transactions, including acquisitions of companies, technologies and personnel, and, as part of our growth strategy, in the future, we may seek additional opportunities to grow our mining operations, including through purchases of miners and facilities from other operating companies, including companies in financial distress. Our ability to grow through future acquisitions will depend on the availability of, and our ability to identify, suitable acquisition and investment opportunities at an acceptable cost, our ability to compete effectively to attract those opportunities and the availability of financing to complete acquisitions. Future acquisitions may require us to issue common stock that would dilute our current stockholders' percentage ownership, assume or otherwise be subject to liabilities of an acquired company, record goodwill and non-amortizable intangible assets that will be subject to impairment testing on a regular basis and potential periodic impairment charges, incur amortization expenses related to certain intangible assets, incur large acquisition and integration costs, immediate write-offs, and restructuring and other related expenses, and become subject to litigation.

The benefits of an acquisition may also take considerable time to develop, and we cannot be certain that any particular acquisition will produce the intended benefits in a timely manner or to the extent anticipated or at all. We may experience difficulties integrating the operations, technologies, and personnel of an acquired company or be subjected to liability for the target's pre-acquisition activities or operations as a successor in interest. Such integration may divert management's attention from normal daily operations of our business. Future acquisitions may also expose us to potential risks, including risks associated with entering markets in which we have no or limited prior experience, especially when competitors in such markets have stronger market positions, the possibility of insufficient revenues to offset the expenses we incur in connection with an acquisition and potential loss of, or harm to, our relationships with employees and suppliers as a result of integration of new businesses.

***In the future, we may require additional financing to sustain and expand our operations, and we may not be able to obtain financing on acceptable terms, or at all, which would have a material adverse effect on our business, financial condition, results of operations, cash flow and prospects.***

Our ability to operate profitably and to grow our business is dependent upon, among other things, generating sufficient revenue from our operations and, when and if needed, obtaining financing. If we are unable to generate sufficient revenues to operate and/or expand our business, we will be required to raise additional capital to fund operating deficits (if applicable) and growth of our business, pursue our business plans and to finance our operating activities, including through equity or debt financings, which may not be available to us on favorable terms, or at all. Our ability to obtain capital through sales of Bitcoin would also be impacted by declines in the price of Bitcoin.

We have raised capital to finance our strategic growth of our business through public offerings of our common stock, and we expect to need to raise additional capital through similar public offerings to finance the completion of current and future expansion initiatives. Utilizing those sources may be more challenging in the current financial market conditions, in particular where trading volume is diminished. We may not be able to obtain additional debt or equity financing on favorable terms, if at all, which could impair our growth and adversely impact our existing operations.

To the extent that we raise additional capital through the sale of equity or convertible debt securities, stockholder ownership interest in the Company may be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect rights as a stockholder. Debt and equity financings, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as redeeming our shares of common stock, making investments, incurring additional debt, making capital expenditures or declaring dividends.

***We maintain our cash at financial institutions, which at times, exceed federally insured limits.***

The majority of our cash is held in accounts at U.S. banking institutions that we believe are of high quality. Cash held in non-interest-bearing and interest-bearing operating accounts may exceed the Federal Deposit Insurance Corporation insurance limits. If such banking institutions were to fail, we could lose all or a portion of those amounts held in excess of such insurance limitations.

### **Risks Relating to Our Cryptocurrency Mining Business**

***Our cryptocurrency mining business has a limited operating history. If we are not able to grow our operations as anticipated, we may not be able to generate material revenues or achieve profitability and you may lose your investment.***

We have limited operating history in the cryptocurrency mining business and have only begun generating revenues in that business in late third quarter of 2022. Although we believe that our planned cryptocurrency mining business significant profit potential, we may not attain profitable operations and our management may not succeed in realizing our business objectives. If we are not

able to develop our business as anticipated, we may not be able to generate material revenues or achieve profitability and you may lose your investment.

***Our limited operating history in the cryptocurrency mining business makes evaluating our business and future prospects difficult and increases the risk of an investment in our securities.***

We have limited operating history in the cryptocurrency mining business upon which an investor may evaluate our business, prospects, financial condition and operating results. It is difficult to predict our future revenues and appropriately budget for our expenses, and we have limited insight into trends that may emerge and affect our cryptocurrency mining business. Furthermore, we plan to focus our business on cryptocurrency, and specifically Bitcoin, mining, a new and developing field, which could further exacerbate the risks. In the event that actual results differ from our plans and expectations, our business, prospects, financial condition and operating results could be adversely affected.

***Our operating results may fluctuate due to the highly volatile nature of cryptocurrencies in general and, specifically, Bitcoin.***

The revenue from our cryptocurrency mining business is dependent on cryptocurrencies and, specifically, Bitcoin and the broader blockchain and Bitcoin mining ecosystem. Due to the highly volatile nature of the cryptocurrency markets and the prices of cryptocurrency assets, our operating results may fluctuate significantly from quarter to quarter in accordance with market sentiments and movements in the broader cryptocurrency ecosystem. Our operating results may fluctuate as a result of a variety of factors, many of which are unpredictable and in certain instances are outside of our control, including:

- macroeconomic conditions;
- changes in the legislative or regulatory environment, or actions by governments or regulators, including fines, orders, or consent decrees;
- adverse legal proceedings or regulatory enforcement actions, judgments, settlements, or other legal proceeding and enforcement-related costs;
- increases in operating expenses that we expect to incur to grow and expand our operations and to remain competitive;
- system errors, failures, outages and computer viruses, which could disrupt our ability to continue mining;
- power outages and certain other events beyond our control, including natural disasters and telecommunication failures;
- breaches of security or privacy;
- our ability to attract and retain talent; and
- our ability to compete with our existing and new competitors.

As a result of these factors, it may be difficult for us to forecast growth trends accurately and our business and future prospects are difficult to evaluate, particularly in the short term.

***The impact of geopolitical and economic events on the demand for Bitcoin is uncertain.***

Geopolitical crises may trigger large-scale purchases of Bitcoin, which could rapidly increase their prices. This may, however, also increase the likelihood of a subsequent price swing in the opposite direction as crisis-driven purchasing behavior dissipates, ultimately decreasing the value of Bitcoins or any other digital asset in our possession. Such risks are similar to the risks of purchasing commodities in generally uncertain times, such as the risk of purchasing, holding or selling gold.

Alternatively, global crises and economic downturns may discourage investment in Bitcoin and digital assets in general as investors shift their investments towards less volatile asset classes. Such events could have a material adverse effect on our business, prospects or operations and potentially the value of Bitcoin we mine or otherwise acquire or hold for our own account.

***The value of Bitcoin has historically been subject to wide swings. Because we do not currently hedge our investment in Bitcoin and do not intend to for the foreseeable future, we are directly exposed to Bitcoin's price volatility and surrounding risks.***

While Bitcoin prices are determined primarily using data from various exchanges, over-the-counter markets and derivative platforms, they have historically been volatile and are impacted by a variety of factors. Such factors include, but are not limited to, the worldwide growth in the adoption and use of Bitcoins, the maintenance and development of the software protocol of the Bitcoin network, changes in consumer demographics and public tastes, fraudulent or illegitimate actors, real or perceived scarcity, and political, economic,



regulatory or other conditions. Furthermore, pricing may be the result of, and may continue to result in, speculation regarding future appreciation in the value of Bitcoin, or our share price, making prices more volatile.

Currently, we do not use a formula or specific methodology to determine whether or when we will sell Bitcoin that we hold, or the number of Bitcoins we will sell. Rather, decisions to hold or sell Bitcoins are currently determined by management by analyzing forecasts and monitoring the market in real time. Such decisions, however well-informed, may result in untimely sales and even losses, adversely affecting an investment in us. At this time, we do not anticipate engaging in any hedging activities related to our holding of Bitcoin; this would expose us to substantial decreases in the price of Bitcoin.

***The sale of our Bitcoins to pay for expenses at a time of low Bitcoin prices could adversely affect an investment in us.***

We sell our Bitcoins to pay for operating expenses and growth on an as-needed basis. Consequently, we may sell our Bitcoins at a time when Bitcoin prices are low, which could adversely affect an investment in us. At this time, we do not engage in contractual or financial hedging activities related to our Bitcoin holdings to mitigate potential decreases in the price of Bitcoin. See the above risk factor entitled, "The value of Bitcoin has historically been subject to wide swings. Because we do not currently hedge our investment in Bitcoin and do not intend to for the foreseeable future, we are directly exposed to Bitcoin's price volatility and surrounding risks."

***Our mining costs may be in excess of our mining revenues, which could seriously harm our business and adversely impact an investment in us.***

Mining operations are costly and our expenses may increase in the future. Increases in mining expenses may not be offset by corresponding increases in revenue (i.e. the value of Bitcoin mined). Our expenses may become greater than we anticipate, and our investments to make our business more cost-efficient may not succeed. Further, even if our expenses remain the same or decline, our revenues may not exceed our expenses to the extent the price of Bitcoin continues to decrease without a corresponding decrease in Bitcoin network difficulty. Increases in our costs without corresponding increases in our revenue would adversely affect our profitability and could seriously harm our business and an investment in us.

***The development and acceptance of competing blockchain platforms or technologies may cause consumers to use alternative distributed ledgers or other alternatives.***

The development and acceptance of competing blockchain platforms or technologies may cause consumers to abandon Bitcoin. As we exclusively mine, and expect to exclusively mine Bitcoin, we could face difficulty adapting to emergent digital ledgers, blockchains, or alternatives thereto. This could prevent us from realizing the anticipated profits from our investments. Such circumstances could have a material adverse effect on our business, prospects or operations and potentially the value of any Bitcoin we mine or otherwise acquire or hold for our own account and harm investors.

***We will be exposed to risks related to disruptions or other failures in the supply chain for cryptocurrency hardware and difficulties in obtaining new hardware.***

Manufacture, assembly and delivery of certain components and products for mining operations could be complex and long processes, in the course of which various problems could arise, including disruptions or delays in the supply chain, product quality control issues, as well other external factors, over which we have no control.

Our mining operations can only be successful and ultimately profitable if the costs associated with Bitcoin mining, including hardware costs, are lower than the price of Bitcoin itself. In the course of the normal operation of our cryptocurrency mining facilities, our miners and other critical equipment and materials related to data center construction and maintenance, such as containers, switch gears, transformers and cables, will experience ordinary wear and tear and may also face more significant malfunctions caused by a number of extraneous factors beyond our control. Declines in the condition of our miners and other hardware will require us, over time, to repair or replace those miners. Additionally, as the technology evolves, we may be required to acquire newer models of miners to remain competitive in the market. Any upgrading process may require substantial capital investment, and we may face challenges in doing so on a timely and cost-effective basis.

Our mining business will be subject to limitations inherent within the supply chain of certain of our components, including competitive, governmental, and legal limitations, and other events. For example, we expect that we will significantly rely on foreign imports to obtain certain equipment and materials. Any global trade disruption, introductions of tariffs, trade barriers and bilateral trade frictions, together with any potential downturns in the global economy resulting therefrom, could adversely affect our necessary supply chains. Our third-party manufacturers, suppliers and subcontractors may also experience disruptions by worker absenteeism, quarantines, restrictions on employees' ability to work, office and factory closures, disruptions to ports and other shipping infrastructure, border closures, or other travel or health-related restrictions, such as those that were triggered by the COVID-19 pandemic, for example. Depending on the magnitude of such effects on our supply chain, shipments of parts for our miners, or any new miners that we order, may be delayed.

Furthermore, the global supply chain for cryptocurrency miners is currently heavily dependent on China, which has been severely affected by the China as a main supplier of cryptocurrency miners has been called into question in the wake of the COVID-19 pandemic. China has also in the past limited the shipment of products in and out of its borders, which could negatively impact our ability to receive mining equipment from our China-based suppliers. Should similar outbreaks or other disruptions to the China-based global supply chain for cryptocurrency hardware occur, such as, for example, as result of worsening of the U.S. trade relations with China, including imposition of new tariffs, trade barriers and bilateral trade frictions, we may not be able to obtain adequate equipment from the manufacturer on a timely basis. Such events could have a material adverse effect on our business, prospects, financial condition, and operating results.

***Bankruptcy of our hosting vendors could lead to interruption of service and could adversely affect our business and results of operations.***

We have entered into several agreements for colocation, management and other services with vendors ("hosting vendors") whereby our mining machines are installed, operated and maintained at third-party locations. In the event that any of our hosting vendors declare bankruptcy, the hosting vendors may be unable to fulfill all or some of their obligations under the contract, may operate at a reduced capacity or may be unable to continue operating their facilities entirely. Any disruption in the hosting vendors ability to operate, or any reduction or change in the services available to be provided to us by the hosting vendor, could negatively impact our ability to mine and receive revenue. In the event that the hosting company is unable to continue operations or is unable to provide services at the level necessary to support our business for a prolonged period we may find it necessary to relocate our mining machines to another facility. Relocation costs could be material and we may be unable to recover damages from the hosting vendor for such costs incurred, which would negatively impact our results of operations.

In December 2022, Core Scientific filed for Chapter 11 in the U.S. Bankruptcy Court for the Southern District of Texas and exited bankruptcy in January 2024. This bankruptcy did not negatively impact our existing mining operations.

***Inability to contract with a hosting vendor could lead to interruption of service and could adversely affect our business and results of operations.***

Our existing hosting contracts expire between May 2024 and December 2024. These agreements provide for colocation, management and other services with vendors ("hosting vendors") whereby our mining machines are installed, operated and maintained at third-party locations. In the event that we are unable to extend, expand or contract with new hosting vendors, we may be unable to continue operating our miners, which could negatively impact our ability to mine and receive revenue, and we may be unable to conduct our operations until we find and engage a new hosting vendor. Relocation costs to a new hosting vendor could be material, and the time required to re-locate could be significant, which would negatively impact our business and results of operations.

***If we are unable to successfully maintain our power and hosting arrangements or secure the sites for our data centers, on acceptable terms or at all, or if we must otherwise relocate to replacement sites, our operations may be disrupted, and our business results may suffer.***

As part of the build out of our cryptocurrency mining operations, we have engaged several companies to host our machines at various cryptocurrency mining facilities (or sites). Actually securing these sites on terms acceptable to our management team may not occur within our timing expectations or at all. Although we have entered into agreements with Core and Giga Energy to provide hosting services, our inability to secure sites for our Bitcoin miners could adversely impact the anticipated timing of our buildout phase and therefore the time by which we are able to expand our operations.

***Because our miners are designed specifically to mine Bitcoin and may not be readily adaptable to mining other cryptocurrencies, a sustained decline in Bitcoin's value could adversely affect our business and results of operations.***

We have invested substantial capital in acquiring miners using ASIC chips designed specifically to mine Bitcoin and other cryptocurrencies using the SHA-256 algorithm as efficiently and as rapidly as possible on our assumption that we will be able to use them to mine Bitcoin and generate revenue from our operations. Therefore, our mining operations focus exclusively on mining Bitcoin, and our mining revenue is based on the value of Bitcoin we mine. Accordingly, if the value of Bitcoin declines and fails to recover, for example, because of the development and acceptance of competing blockchain platforms or technologies, including competing cryptocurrencies which our miners may not be able to mine, the revenue we generate from our mining operations will likewise decline. Moreover, because our miners use these highly specialized ASIC chips, we may not be able to successfully repurpose them in a timely manner, if at all, if we decide to switch to mining a different cryptocurrency (or to another purpose altogether) following a sustained decline in Bitcoin's value or if Bitcoin is replaced by another cryptocurrency not using the SHA-256 algorithm. This would result in a material adverse effect on our business and could potentially impact our ability to continue as a going concern.

***Our reliance primarily on a single model of miner may subject our operations to increased risk of design flaws.***

The performance and reliability of our miners and our technology is critical to our reputation and our operations. Because we currently only use Bitmain Antminer type miners, if there are issues with those machines, such as a design flaw in the ASIC chips they employ, our entire system could be affected. Any system error or failure may significantly delay response times or even cause our system to fail. Any disruption in our ability to continue mining could result in lower yields and harm our reputation and business. Any exploitable weakness, flaw, or error common to Bitmain miners could affect all our miners; therefore, if a defect or other flaw exists and is exploited, our entire miner fleet could be adversely impacted. Any interruption, delay or system failure could result in financial losses, a decrease in the trading price of our common stock and damage to our reputation.

***We may not be able to realize the benefits of forks.***

The Bitcoin blockchain is subject to modification based on a consensus of the users on its network. When a significant minority of users on the network agree to a modification that is not compatible with the prior network protocol, a "fork" of the network results, with one prong running the pre-modified protocol and the other running the modified protocol. The effect of such a fork would be the existence of two "versions" of the blockchain running in parallel that are not interchangeable, which requires exchange-type transaction to convert between the two forks. Additionally, it may be unclear following a fork which of the two protocols represents the original and which is the new protocol. Different metrics adopted by industry participants to determine which is the original asset include: referring to the wishes of the core developers of a cryptocurrency; determining based on the blockchain with the greatest amount of hash rate contributed by miners or validators; or by reference to the "length" of blockchain (i.e., the time between the first transaction recorded in the blockchain's distributed ledger, and the date of the most recent transaction). Accordingly, we may not be able to realize the economic benefit of a fork, either immediately or ever, which could adversely affect an investment in our securities.

Bitcoins and other digital assets we mine or hold for our own account may be subject to loss, theft or restriction on access.

***Bitcoin is subject to halving; the reward for successfully solving a block will halve several times in the future and its value may not adjust to compensate us for the reduction in the rewards we receive from our mining efforts.***

Halving is a process designed to control the overall supply and reduce the risk of inflation in cryptocurrencies using a Proof-of-Work consensus algorithm. In an event referred to as Bitcoin "halving," the Bitcoin reward for mining any block is cut in half. For example, the mining reward for Bitcoin declined from 12.5 to 6.25 Bitcoin on May 11, 2020. The mining reward for Bitcoin is expected to decline again during the second quarter of 2024 from 6.25 Bitcoin to 3.125 Bitcoin. This process is scheduled to occur once every 210,000 blocks, or roughly four years, until the total amount of Bitcoin rewards issued reaches 21 million, which is expected to occur around 2140. Once 21 million Bitcoin are generated, the network will stop producing more. Currently, there are more than 19 million Bitcoin in circulation. While Bitcoin prices have had a history of price fluctuations around halving events, there is no guarantee that the price change will be favorable or would compensate for the reduction in mining reward. If a corresponding and proportionate increase in the price of Bitcoin does not follow these anticipated halving events, the revenue from our mining operations would decrease, and we may not have an adequate incentive to continue mining and may cease mining operations altogether, which may adversely affect an investment in us.

Furthermore, such reductions in Bitcoin rewards for uncovering blocks may result in a reduction in the aggregate hashrate of the Bitcoin network as the incentive for miners decreases. Miners ceasing operations would reduce the collective processing power on the network, which would adversely affect the confirmation process for transactions and make the Bitcoin network more vulnerable to malicious actors or botnets obtaining control in excess of 50 % of the processing power active on the blockchain. Such events may adversely affect our activities and an investment in us.

While Bitcoin prices have historically increased around these halving events, there is no guarantee that the price change will be favorable or would compensate for the reduction in mining rewards. If a corresponding and proportionate increase in the price of the Bitcoin does not follow future halving events, the revenue we earn from our Mining operations would see a decrease, which could have a material adverse effect on our results of operations and financial condition.

***If we fail to grow our hash rate, we may be unable to compete, and our results of operations could suffer.***

Generally, a Bitcoin miner's chance of solving a block on the Bitcoin blockchain and earning a Bitcoin reward is a function of the miner's hash rate (i.e., the amount of computing power devoted to supporting the Bitcoin blockchain), relative to the global network hash rate. As demand for Bitcoin has increased, the global network hash rate has increased, and as more adoption of Bitcoin occurs, we expect the demand for Bitcoin will increase, drawing more mining companies into the industry and further increasing the global network hash rate. As new and more powerful miners are deployed, the global network hash rate will continue to increase, meaning a miner's chance of earning Bitcoin rewards will decline unless it deploys additional hash rate at pace with the industry. Accordingly, to compete in this highly competitive industry, we believe we will need to continue to acquire new miners, both to replace those lost to ordinary wear-and-tear and other damage, and to increase our hash rate to keep up with a growing global network hash rate.

We plan to grow our hash rate by acquiring newer, more effective and energy-efficient miners. These new miners are highly specialized servers that are very difficult to produce at scale. As a result, there are limited producers capable of producing large numbers of sufficiently effective miners, and, as demand for new miners has increased in response to increased Bitcoin prices, we have observed the price of these new miners has increased. If we can't acquire sufficient numbers of new miners or access sufficient capital to fund our acquisitions, our results of operations and financial condition, which could adversely affect investments in our securities.

***Transaction fees may decrease demand for Bitcoin and prevent expansion.***

As the number of Bitcoins currency rewards awarded for solving a block in a blockchain has decreased, transaction fees have increasingly been used to incentivize miners to continue to contribute to the Bitcoin network. However, high Bitcoin transaction fees may slow the adoption of Bitcoin as a means of payment, which may decrease demand for Bitcoin and future prices of Bitcoin may suffer as a result. If Bitcoin prices are not sufficiently high, our Mining revenue may not exceed our associated costs, and our results of operations and financial condition may suffer. Further, because the price of shares of our common stock may be linked to the price of Bitcoin, if demand for Bitcoin decreases, causing future Bitcoin prices to decrease, the market price of our securities may be materially and adversely affected, limiting our ability to raise additional capital to fund our strategic growth plans.

***Cryptocurrencies face significant scaling obstacles that can lead to high fees or slow transaction settlement times.***

Cryptocurrencies face significant scaling obstacles that can lead to high fees or slow transaction settlement times, and attempts to increase the volume of transactions may not be effective. Scaling cryptocurrencies is essential to the widespread acceptance of cryptocurrencies as a means of payment, including Bitcoin. Many cryptocurrency networks face significant scaling challenges. For example, cryptocurrencies are limited with respect to how many transactions can occur per second. Participants in the cryptocurrency ecosystem debate potential approaches to increasing the average number of transactions per second that the network can handle and have implemented mechanisms or are researching ways to increase scale, such as increasing the allowable sizes of blocks, and therefore the number of transactions per block, and sharding (a horizontal partition of data in a database or search engine), which would not require every single transaction to be included in every single miner's or validator's block. However, there is no guarantee that any of the mechanisms in place or being explored for increasing the scale of settlement of cryptocurrency transactions will be effective.

If adoption of Bitcoin (and cryptocurrencies, generally) as a means of payment does not occur on the schedule or scale we anticipate, the demand for Bitcoin may stagnate or decrease, which could adversely affect future Bitcoin prices, and our results of operations and financial condition, which could have a material adverse effect on the market price for our securities.

***Our reliance on a third-party mining pool service provider for our mining revenue payouts may adversely affect an investment in us.***

We currently rely on open access mining pools that support cryptocurrencies including Bitcoin, to receive our mining rewards and fees from the network. Our pools have the sole discretion to modify the terms of our agreement at any time, and, therefore, our future rights and relationship with our pools may change. In general, mining pools allow miners to combine their computing and processing power, increasing their chances of solving a block and getting paid by the Bitcoin network. The rewards, distributed proportionally to our contribution to the pool's overall mining power, are distributed by the pool operator. Should our pools' operator systems suffer downtime due to a cyber-attack, software malfunction or other similar issues, it will negatively impact our ability to mine and receive revenue. Furthermore, while we receive daily reports from our pools detailing the total processing power provided to the pools and the proportion of that total processing power, we provided to determine the distribution of rewards to us, we are dependent on the accuracy of our pool's record keeping. Therefore, we have little means of recourse against our pools' operators if we determine the proportion of the reward paid out to us by the mining pool operator is incorrect, other than leaving the pools. If we are unable to consistently obtain accurate proportionate rewards from our pools, we may experience reduced rewards for our efforts, which would have an adverse effect on our business and operations.

***The open-source structure of the Bitcoin network protocol means that the contributors to the protocol are generally not directly compensated for their contributions in maintaining and developing the protocol. A failure to properly monitor and upgrade the protocol could damage the Bitcoin network and an investment in us.***

As an open-source project, Bitcoin does not generate revenues for its contributors, and contributors are generally not compensated for maintaining and updating the Bitcoin network protocol. The lack of guaranteed financial incentives for contributors to maintain or develop the Bitcoin network and the lack of guaranteed resources to adequately address emerging issues with the Bitcoin network may reduce incentives to address the issues adequately or in a timely manner. To the extent that contributors may fail to adequately update and maintain the Bitcoin network protocol, it could have a material adverse effect on our business, prospects, or operations and potentially the value of any Bitcoin or other cryptocurrencies we mine or otherwise acquire or hold for our own account.

***We may face risks of Internet disruptions, which could have an adverse effect on not only the price of Bitcoin but our ability to mine Bitcoin.***

A disruption of the Internet may adversely affect the mining and use of cryptocurrencies, including Bitcoin. Generally, cryptocurrencies and our business of mining Bitcoin is dependent upon the Internet. A significant disruption in Internet connectivity could disrupt Bitcoin's network operations until the disruption is resolved and have an adverse effect on the price of Bitcoin and our ability to mine Bitcoin.

***Banks and financial institutions may not provide banking services, or may cut off services, to businesses that engage in cryptocurrency-related activities.***

A number of companies that engage in Bitcoin and/or other cryptocurrency-related activities have been unable to find banks or financial institutions that are willing to provide them with bank accounts and other services. Similarly, a number of companies and individuals or businesses associated with cryptocurrencies may have had and may continue to have their existing bank accounts closed or services discontinued with financial institutions. To the extent that such events may happen to us, they could have a material adverse effect on our business, prospects or operations and potentially the value of any Bitcoin or other cryptocurrencies we mine or otherwise acquire or hold for our own account.

***The loss or destruction of private keys required to access our Bitcoins may be irreversible. Our loss of access to our private keys or our experience of a data loss relating to our Bitcoins could adversely affect an investment in us.***

Bitcoins may only be controlled by the possessor of both the unique public and private keys relating to the local or online digital wallet in which they are held. We publish the public key relating to digital wallets in use when we verify the receipt or transfers of Bitcoins to and from our wallets and disseminate such information into the network on an anonymous basis, but we safeguard the private keys relating to such digital wallets. Digital asset exchanges, such as Gemini, where we hold our Bitcoin, engage in similar practices. To the extent such private keys are lost, destroyed or otherwise compromised, we will be unable to access our Bitcoins and such private keys may not be capable of being restored by any network. Any loss of private keys relating to digital wallets used to store our Bitcoins whether by us or digital asset exchanges where we hold our Bitcoin, could have a material adverse effect on our business, prospects or operations and potentially the value of any Bitcoin we mine or otherwise acquire or hold for our own account.

***We may not have adequate sources of recovery if our digital assets are lost, stolen or destroyed.***

We rely on Gemini to facilitate the custody of our Bitcoins. If our Bitcoins are lost, stolen or destroyed under circumstances rendering a party, including Gemini, liable to us, the responsible party may not have the financial resources sufficient to satisfy our claim. For example, as to a particular event of loss, the only source of recovery for us might be limited, to the extent identifiable, to other responsible third parties (e.g., a thief or terrorist), any of which may not have the financial resources (including liability insurance coverage) to satisfy a valid claim of ours. Gemini maintains certain commercial crime and specie insurance for digital assets they custody which insures against the theft of digital assets that results from a direct security breach or hack of Gemini's systems, a fraudulent transfer initiated by Gemini, or theft by a Gemini employee.

***Bitcoins held by us are not subject to FDIC or SIPC protections.***

We do not hold our Bitcoins with a banking institution or a member of the Federal Deposit Insurance Corporation ("FDIC") or the Securities Investor Protection Corporation ("SIPC"), and, therefore, our Bitcoins are not subject to the protections enjoyed by depositors with FDIC or SIPC member institutions. As a result, we may suffer a loss with respect to our Bitcoins that is not covered by insurance, and we may not be able to recover any of our carried value in these Bitcoins if they are lost or stolen or suffer significant and sustained reduction in conversion spot price. If we are not otherwise able to recover damages from a malicious actor in connection with these losses, our business and results of operations may suffer, which may have a material negative impact on our stock price.

***Bitcoins we mine or hold for our own account may be subject to loss, theft or restriction on access.***

There is a risk that some or all of our Bitcoins could be lost or stolen. Bitcoins are stored in and accessed by cryptocurrency sites commonly referred to as "wallets." A hot wallet refers to any cryptocurrency wallet that is connected to the Internet. Generally, hot wallets are easier to set up and access than wallets in cold storage, but they are also more susceptible to hackers and other technical vulnerabilities. Cold storage refers to any cryptocurrency wallet that is not connected to the Internet. Cold storage is generally more secure than hot storage, but is not ideal for quick or regular transactions. When we keep our Bitcoin in cold storage, we may experience lag time in our ability to respond to market fluctuations in the price of our cryptocurrency assets.

We currently mine Bitcoin by contributing to and benefiting from our pools' processing power. Our share of Bitcoins mined from our pools are initially received by us in wallets we control, which are maintained by Gemini, a U.S. based digital assets exchange. We currently sell the majority of the Bitcoin we mine and utilize hot wallets to hold this Bitcoin immediately prior to selling for working capital purposes. We hold any remainder of our Bitcoin in cold storage. Bitcoins we mine or hold for our own account may be subject to loss, theft or restriction on access. Hackers or malicious actors may launch attacks to steal, compromise or secure Bitcoins, such as by attacking the Bitcoin network source code, exchange miners, third-party platforms (including Gemini), cold and hot storage locations or software, or by other means. We may be in control and possession of substantial holdings of Bitcoin, and as we increase

in size, we may become a more appealing target of hackers, malware, cyber-attacks or other security threats. Any of these events may adversely affect our operations and, consequently, our investments and profitability.

***If a malicious actor or botnet obtains control of more than 50% of the processing power on the bitcoin network, or if significant contributors propose amendments to the bitcoin network's protocols and software that are accepted, such actor, botnet, or contributor could manipulate or alter the network to adversely affect us, which would adversely affect an investment in us.***

If a malicious actor or botnet, a collection of computers controlled by networked software coordinating the actions of the computers, obtains over 50% of the processing power dedicated to mining Bitcoin, such actor may be able to construct fraudulent blocks or prevent certain transactions from completing in a timely manner, or at all. The malicious actor or botnet could control, exclude or modify the order of transactions, though it could not generate new units or transactions using such control. The malicious actor could also "double-spend," or spend the same Bitcoin in more than one transaction, or it could prevent transactions from being validated. In certain instances, reversing any fraudulent or malicious changes made to the Bitcoin blockchain may not be possible.

Although there are no known reports of malicious activity or control of blockchains achieved through controlling over 50% of the processing power on the Bitcoin network, it is believed that certain mining pools may have exceeded, and could exceed, the 50% threshold on the Bitcoin network. This possibility creates a greater risk that a single mining pool could exert authority over the validation of Bitcoin transactions. To the extent that the Bitcoin ecosystem, and the administrators of mining pools, do not have adequate controls and responses in place, the risk of a malicious actor obtaining control of the processing power may increase. If such an event were to occur, it could have a material adverse effect on our business, prospects or operations and potentially the value of any Bitcoin we mine or otherwise acquire or hold for our own account and harm investors.

Further, significant contributors to the bitcoin network could propose amendments to the network's protocols and software that, if accepted and authorized by the network, could adversely affect an investment in us. For example, a small group of individuals contribute to the Bitcoin Core project on GitHub.com. This group of contributors is currently led by Wladimir J. van der Laan, the current lead "maintainer." These individuals can propose refinements or improvements to the bitcoin network's source code through one or more software upgrades that alter the protocols and software that govern the bitcoin network and the properties of bitcoin, including the irreversibility of transactions and limitations on the mining of new bitcoin. Proposals for upgrades and discussions relating thereto take place on online forums. For example, there is an ongoing debate regarding altering the blockchain by increasing the size of blocks to accommodate a larger volume of transactions. Although some proponents support an increase, other market participants oppose an increase to the block size as it may deter miners from confirming transactions and concentrate power into a smaller group of miners. To the extent that a significant majority of the users and miners on the bitcoin network install such software upgrade(s), the bitcoin network would be subject to new protocols and software that may adversely affect an investment in us. In the event a developer or group of developers proposes a modification to the bitcoin network that is not accepted by a majority of miners and users, but that is nonetheless accepted by a substantial plurality of miners and users, two or more competing and incompatible blockchain implementations could result. This is known as a "hard fork." In such a case, the "hard fork" in the blockchain could materially and adversely affect the perceived value of digital assets as reflected on one or both incompatible blockchains, which may adversely affect an investment in us.

***The digital asset exchanges on which cryptocurrencies, including Bitcoin, trade are relatively new and largely unregulated, and thus may be exposed to fraud and failure. Such failures may result in a reduction in the price of Bitcoin and other cryptocurrencies and can adversely affect an investment in us.***

Digital asset exchanges on which cryptocurrencies trade are relatively new and, in most cases, largely unregulated. Many digital exchanges do not provide the public with significant information regarding their ownership structure, management teams, corporate practices or regulatory compliance. As a result, the marketplace may lose confidence in, or may experience problems relating to, cryptocurrency exchanges, including prominent exchanges handling a significant portion of the volume of digital asset trading.

For example, in the first half of 2022, each of Celsius Network, Voyager Digital Ltd., and Three Arrows Capital declared bankruptcy, resulting in a loss of confidence in participants of the digital asset ecosystem and negative publicity surrounding digital assets more broadly. In November 2022, FTX, the third largest digital asset exchange by volume at the time, halted customer withdrawals and shortly thereafter, FTX and its subsidiaries filed for bankruptcy. The cryptocurrency lender Genesis Global Holdco also filed for bankruptcy protection in January 2023.

In response to these events, the digital asset markets, including the market for Bitcoin specifically, have experienced extreme price volatility and several other entities in the digital asset industry have been, and may continue to be, negatively affected, further undermining confidence in the digital assets markets and in Bitcoin. These events have also negatively impacted the liquidity of the digital assets markets as certain entities affiliated with FTX engaged in significant trading activity. If the liquidity of the digital assets markets continues to be negatively impacted by these events, digital asset prices (including the price of Bitcoin) may continue to experience significant volatility and confidence in the digital asset markets may be further undermined. These events are continuing to develop and it is not possible to predict at this time all of the risks that they may pose to us, our service providers or on the digital asset industry as a whole.

A perceived lack of stability in the digital asset exchange market and the closure or temporary shutdown of digital asset exchanges due to business failure, hackers or malware, government-mandated regulation, or fraud, may reduce confidence in digital asset networks and result in greater volatility in cryptocurrency values. These potential consequences of a digital asset exchange's failure could adversely affect an investment in us.

***We may not have adequate sources of recovery if our digital assets are lost, stolen or destroyed.***

We rely on Gemini to facilitate the custody of a portion of our Bitcoin holdings. If our Bitcoins are lost, stolen or destroyed under circumstances rendering a party, including Gemini, liable to us, the responsible party may not have the financial resources sufficient to satisfy our claim. For example, as to a particular event of loss, the only source of recovery for us might be limited, to the extent identifiable, to other responsible third parties (e.g., a thief or terrorist), any of which may not have the financial resources (including liability insurance coverage) to satisfy a valid claim of ours.

***Incorrect or fraudulent Bitcoin transactions may be irreversible.***

Bitcoin transactions are irreversible and stolen or incorrectly transferred Bitcoins may thus be irretrievable. While we exchange our Bitcoins directly for U.S. dollars on Gemini and do not presently use, or expect to use, our Bitcoins for any other transactions other than limited payroll related payments, any incorrectly executed or fraudulent Bitcoin transactions may still adversely affect our investments and assets.

***The limited rights of legal recourse available to us expose us and our investors to the risk of loss of our Bitcoins for which no person is liable.***

At this time, there is no specifically enumerated U.S. or foreign governmental, regulatory, investigative or prosecutorial authority or mechanism through which to bring an action or complaint regarding missing or stolen cryptocurrency; though law enforcement agencies like the FBI have recovered stolen Bitcoin, that recovery has required significant amounts of time. To the extent that we are unable to recover our losses from such action, error or theft, such events could have a material adverse effect on our business, prospects or operations of and potentially the value of any Bitcoin we mine or otherwise acquire or hold for our own account.

***Potential that, in the event of a bankruptcy filing by a custodian, Bitcoin held in custody could be determined to be property of a bankruptcy estate and we could be considered a general unsecured creditor thereof.***

The treatment of Bitcoins held by custodians that file for bankruptcy protection is uncharted territory in U.S. Bankruptcy law. We cannot say with certainty whether Bitcoin held in custody by a bankrupt custodian would be treated as property of a bankruptcy estate and, accordingly, whether the owner of that Bitcoin would be treated as a general unsecured creditor.

***Demand for Bitcoin is driven, in part, by its status as a prominent and secure cryptocurrency. It is possible that a cryptocurrency other than Bitcoin could have features that make it more desirable to a material portion of the digital asset user base, resulting in a reduction in demand for Bitcoins.***

Bitcoin holds a "first-to-market" advantage over other cryptocurrencies. This first-to-market advantage is driven in large part by having the largest user base and, more importantly, the largest combined mining power in use. Nonetheless, another form of cryptocurrency could become materially popular due to either a perceived or exposed shortcoming of the Bitcoin network or a perceived advantage of another form of digital currency. If another form of digital currency obtains significant market share, this could reduce the interest in, and value of, Bitcoin and the profitability of our Bitcoin operations.

***If we fail to grow our hashrate, we may be unable to compete, and our results of operations could suffer.***

Generally, a Bitcoin miner's chance of solving a block on the Bitcoin blockchain and earning a Bitcoin reward is a function of the miner's hashrate (i.e., the amount of computing power devoted to supporting the Bitcoin blockchain), relative to the global network hashrate. As demand for Bitcoin has increased, the global network hashrate has increased, and to the extent more adoption of Bitcoin occurs, we would expect the demand for Bitcoin would increase, drawing more mining companies into the industry and further increasing the global network hashrate. As new and more powerful miners are deployed, the global network hashrate will continue to increase, meaning a miner's percentage of the total daily rewards will decline unless it deploys additional hashrate at pace with the growth of global hashrate. Accordingly, to compete in this highly competitive industry, we believe we will need to continue to acquire new miners, both to replace those lost to ordinary wear-and-tear and other damage, and to increase our hashrate to keep up with a growing global network hashrate.

We plan to grow our hashrate, in part, by acquiring newer, more effective, and energy-efficient miners. These new miners are highly specialized servers that are very difficult to produce at scale. As a result, there are limited producers capable of producing large numbers of sufficiently effective miners. The cost of these miners is directly correlated to Bitcoin prices and the profitability of Bitcoin mining. Demand for new miners increased in response to increased Bitcoin prices in 2021 followed by a decrease in demand due to falling Bitcoin prices in 2022. Demand for new machines started to increase in December 2023 as Bitcoin prices increased. We observed the price of these new miners followed changes in demand, resulting in elevated machine prices when Bitcoin mining economics are high and significantly lower prices when these economics are strained. As a result, positive Bitcoin economics may

negatively impact our future equipment costs and the increase the competition to secure mining equipment. If we can't acquire sufficient numbers of new miners or access sufficient capital to fund our acquisitions, our results of operations and financial condition may be adversely affected, which could adversely affect investments in our securities.

***We will likely need to raise additional capital to fund our cryptocurrency mining business and purchase related equipment, and such capital may not be available on terms acceptable to us, or at all.***

We have entered into agreements under which we have agreed to purchase a substantial number of cryptocurrency mining machines, and we will have escalating operating expenses associating with growing our planned cryptocurrency mining business. Accordingly, we will likely require additional capital to fund our additional equipment purchases and to respond to technological advancements, competitive dynamics or technologies, customer demands, business opportunities, challenges, or unforeseen circumstances. Accordingly, we will likely need to engage in equity or debt financings or enter into credit facilities for the above-mentioned or other reasons. We may not be able to timely secure additional debt or equity financing on favorable terms, or at all. If we raise additional funds through equity financing, our existing stockholders could experience significant dilution.

Furthermore, any debt financing obtained by us in the future could involve restrictive covenants relating to our capital raising activities and other financial and operational matters, which may make it more difficult for us to obtain additional capital and to pursue business opportunities. If we are unable to obtain adequate financing or financing on terms satisfactory to us, when we require it, our ability to continue to grow or support our business and to respond to business challenges could be significantly limited.

***Bitcoin mining activities are energy-intensive, which may restrict the geographic locations of miners and have a negative environmental impact. Government regulators may potentially restrict the ability of electricity suppliers to provide electricity to mining operations, such as ours, or even fully or partially ban mining operations.***

Mining Bitcoin requires massive amounts of electrical power, and electricity costs are expected to account for a significant portion of our overall costs. The availability and cost of electricity will restrict the geographic locations of our mining activities. Any shortage of electricity supply or increase in electricity costs in any location where we plan to operate may negatively impact the viability and the expected economic return for Bitcoin mining activities in that location.

Further, our business model can only be successful and our mining operations can only be profitable if the costs, including electrical power costs, associated with Bitcoin mining are lower than the price of Bitcoin itself. As a result, any mining operation we establish can only be successful if we can obtain sufficient electrical power for that site on a cost-effective basis, and our establishment of new mining data centers requires us to find sites where that is the case. Even if our electrical power costs do not increase, significant fluctuations in, and any prolonged periods of, low Bitcoin prices may also cause our electrical supply to no longer be cost-effective.

Furthermore, there may be significant competition for suitable cryptocurrency mining sites, and government regulators, including local permitting officials, may potentially restrict our ability to set up cryptocurrency mining operations in certain locations. They can also restrict the ability of electricity suppliers to provide electricity to mining operations in times of electricity shortage, or may otherwise potentially restrict or prohibit the provision of electricity to mining operations. In addition, if cryptocurrency mining becomes more widespread, government scrutiny related to restrictions on cryptocurrency mining facilities and their energy consumption may significantly increase. The considerable consumption of electricity by mining operators may also have a negative environmental impact, including contribution to climate change, which could set the public opinion against allowing the use of electricity for Bitcoin mining activities or create a negative consumer sentiment and perception of Bitcoin, specifically, or cryptocurrencies, generally. This, in turn, could lead to governmental measures restricting or prohibiting cryptocurrency mining or the use of electricity for Bitcoin mining activities. Any such development in the jurisdictions where we plan to operate could increase our compliance burdens and have a material adverse effect on our business, prospects, financial condition, and operating results. Government regulators in other countries may also ban or substantially limit their local cryptocurrency mining activities, which could have a material effect on our supply chains for mining equipment or services and the price of Bitcoin. It could also increase our domestic competition as some of those cryptocurrency miners or new entrants in this market may consider moving their cryptocurrency mining operations or establishing new operations in the United States.

Additionally, our mining operations could be materially adversely affected by power outages and similar disruptions. Given the power requirements for our mining equipment, it would not be feasible to run this equipment on back-up power generators in the event of a government restriction on electricity or a power outage. If we are unable to receive adequate power supply and are forced to reduce our operations due to the availability or cost of electrical power, it would have a material adverse effect on our business, prospects, financial condition, and operating results.

***We may be affected by price fluctuations in the wholesale and retail power markets.***

A substantial portion of our power and hosting arrangements will likely contain certain price adjustment mechanisms in case of certain events. Furthermore, a portion of our power and hosting arrangements will likely include merchant power prices, or power prices reflecting market movements.



Market prices for power, generation capacity and ancillary services, are unpredictable. Depending upon the effectiveness of any price risk management activity undertaken by us, an increase in market prices for power, generation capacity, and ancillary services may adversely affect our business, prospects, financial condition, and operating results. Long- and short-term power prices may fluctuate substantially due to a variety of factors outside of our control, including, but not limited to:

- increases and decreases in generation capacity;
- changes in power transmission or fuel transportation capacity constraints or inefficiencies;
- volatile weather conditions, particularly unusually hot or mild summers or unusually cold or warm winters;
- technological shifts resulting in changes in the demand for power or in patterns of power usage, including the potential development of demand-side management tools, expansion and technological advancements in power storage capability and the development of new fuels or new technologies for the production or storage of power;
- federal and state power, market and environmental regulation and legislation; and
- changes in capacity prices and capacity markets.

If we are unable to secure power supply at prices or on terms acceptable to us, it would have a material adverse effect on our business, prospects, financial condition, and operating results.

***We will be vulnerable to severe weather conditions and natural disasters, including severe heat, earthquakes, fires, floods, hurricanes, as well as power outages and other industrial incidents, which could severely disrupt the normal operation of our business and adversely affect our results of operations.***

Our business will be subject to the risks of severe weather conditions and natural disasters, including severe heat, earthquakes, fires, floods, hurricanes, as well as power outages and other industrial incidents, any of which could result in system failures, power supply disruptions and other interruptions that could harm our business.

The majority of our power and hosting arrangements have merchant power prices, or power prices reflecting the market movements. In an event of a major power outage, the merchant power prices could be too high to make Bitcoin mining profitable. To extent the power prices increase significantly as result of severe weather conditions, natural disasters or any other causes, resulting in contract prices for power being significantly lower than current market prices, the counterparties under our power and hosting arrangements may refuse to supply power to us during that period of fluctuating prices.

From time to time, we may consider protecting against power price movements by adopting a more risk averse power procurement strategy and hedging our power purchase prices, which would translate into additional hedging costs for us.

Furthermore, state or regional government officials to introduce new legislation and requirements on power providers that may result in, among other things, restrictions on cryptocurrency mining operations in general.

***The properties in our mining network may experience damages, including damages that are not covered by insurance.***

Any cryptocurrency mining sites we establish will be subject to a variety of risks relating to physical condition and operation, including:

- the presence of construction or repair defects or other structural or building damage;
- any noncompliance with, or liabilities under, applicable environmental, health or safety regulations or requirements or building permit requirements;
- any damage resulting from extreme weather conditions or natural disasters, such as hurricanes, earthquakes, fires, floods and snow or windstorms; and
- claims by employees and others for injuries sustained at our properties.

For example, our cryptocurrency mining facilities could be rendered inoperable, temporarily or permanently, as a result of, among others, a fire or other natural disasters. The security and other measures we anticipate to take to protect against these risks may not be sufficient.

Additionally, our mines could be materially adversely affected by a power outage or loss of access to the electrical grid or loss by the grid of cost-effective sources of electrical power generating capacity.

### **Risks Related to Governmental Regulation and Enforcement Operations**

***If regulatory changes or interpretations of our activities require our registration as a money services business (an “MSB”) under the regulations promulgated by the Financial Crimes Enforcement Network (“FinCEN”) under the authority of the U.S. Bank Secrecy Act (the “BSA”), or otherwise under state laws, we may incur significant compliance costs, which could be substantial or cost-prohibitive. If we become subject to these regulations, our costs in complying with them may have a material adverse effect on our business and the results of our operations.***

To the extent our Bitcoin mining activities cause us to be deemed an MSB under the regulations promulgated by FinCEN under the authority of the BSA, we may be required to comply with FinCEN regulations, including those that would mandate us to implement anti-money laundering programs, make certain reports to FinCEN and maintain certain records.

To the extent that our cryptocurrency activities cause us to be deemed a “money transmitter” (an “MT”) or be given an equivalent designation, under state law in any state in which we operate, we may be required to seek a license or otherwise register with a state regulator and comply with state regulations that may include the implementation of anti-money laundering programs, maintenance of certain records and other operational requirements. Currently, the New York State Department of Financial Services maintains a comprehensive “BitLicense” framework for businesses that conduct “virtual currency business activity.” In July 2020, Louisiana enacted the Virtual Currency Businesses Act, becoming the second state after New York to enact a stand-alone virtual currency law. We will continue to monitor for developments in state-level legislation, guidance or regulations applicable to us.

Such additional federal or state regulatory obligations in the United States or obligations that could arise under the regulatory frameworks of other countries may cause us to incur significant expenses, possibly affecting its business and financial condition in a material and adverse manner. Furthermore, we and our service providers may not be capable of complying with certain federal or state regulatory obligations applicable to MSBs and MTs or similar obligations in other countries. If we are deemed to be subject to such additional regulatory and registration or licensing requirements, we may be required to substantially alter our Bitcoin mining activities and possibly cease engaging in such activities. Any such action may adversely affect our business operations and financial condition and an investment in our company.

***Current regulation regarding the exchange of Bitcoins under the CEA by the CFTC is unclear; to the extent we become subject to regulation by the CFTC in connection with our exchange of Bitcoin, we may incur additional compliance costs, which may be significant.***

The Commodity Exchange Act, as amended (the “CEA”), does not currently impose any direct obligations on us related to the mining or exchange of Bitcoins. Generally, the Commodity Futures Trading Commission (“CFTC”), the federal agency that administers the CEA, regards Bitcoin and other cryptocurrencies as commodities. This position has been supported by decisions of federal courts.

However, the CEA imposes requirements relative to certain transactions involving Bitcoin and other digital assets that constitute a contract of sale of a commodity for future delivery (or an option on such a contract), a swap, or a transaction involving margin, financing or leverage that does not result in actual delivery of the commodity within 28 days to persons not defined as “eligible contract participants” or “eligible commercial entities” under the CEA (e.g., retail persons). Changes in the CEA or the regulations promulgated by the CFTC thereunder, as well as interpretations thereof and official promulgations by the CFTC, may impact the classification of Bitcoins and, therefore, may subject them to additional regulatory oversight by the agency. Although to date the CFTC has not enacted regulations governing non-derivative or non-financed, margined or leveraged transactions in Bitcoin, it has authority to commence enforcement actions against persons who violate certain prohibitions under the CEA related to transactions in any contract of sale of any commodity, including Bitcoin, in interstate commerce (e.g., manipulation and engaging in certain deceptive practices).

We cannot be certain as to how future regulatory developments will impact the treatment of Bitcoins under the law. Any requirements imposed by the CFTC related to our mining activities or our transactions in Bitcoin could cause us to incur additional extraordinary, non-recurring expenses, thereby materially and adversely impacting an investment in the Company. In addition, changes in the classification of Bitcoins could subject us, as a result of our Bitcoin mining operations, to additional regulatory oversight by the agency. Although to date the CFTC has not enacted regulations governing non-derivative or non-financed, margined or leveraged transactions in Bitcoin, it has authority to commence enforcement actions against persons who violate certain prohibitions under the CEA related to transactions in any contract of sale of any commodity, including Bitcoin, in interstate commerce (e.g., manipulation and engaging in certain deceptive practices).

Moreover, if our mining activities or transactions in Bitcoin were deemed by the CFTC to constitute a collective investment in derivatives for our shareholders, we may be required to register as a commodity pool operator with the CFTC through the National Futures Association. Such additional registrations may result in extraordinary, non-recurring expenses, thereby materially and adversely impacting an investment in the Company. If we determine not to comply with such additional regulatory and registration requirements, we may seek to cease certain of our operations. Any such action may adversely affect an investment in the Company.

While no provision of the CEA, or CFTC rules, orders or rulings (except as noted herein) appears to be currently applicable to our business, this is subject to change.

***If the SEC or another regulatory body considers Bitcoin to be a security under U.S. securities laws, we may be required to comply with significant SEC registration and/or other requirements.***

In general, novel or unique assets such as Bitcoin and other digital assets may be classified as securities if they meet the definition of investment contracts under U.S. law. In recent years, the offer and sale of digital assets other than Bitcoin, including Kik Interactive Inc.'s Kin tokens and Telegram Group Inc.'s TON tokens, have been deemed to be investment contracts by the SEC. The SEC has also sued Genesis Global Capital LLC and Gemini Trust Company LLC over their crypto-lending program that allegedly violated investor-protection laws, and has pursued a number of actions against cryptocurrency networks, exchanges, and related entities alleging violations of the federal securities laws. While we believe that Bitcoin is unlikely to be considered an investment contract, and thus a security under the investment contract definition, we cannot provide any assurances that digital assets that we mine or otherwise acquire or hold for our own account, including Bitcoin, will never be classified as securities under U.S. law. This would obligate us to comply with registration and other requirements by the SEC and, therefore, cause us to incur significant, non-recurring expenses, thereby materially and adversely impacting an investment in the Company.

***It may be illegal now, or in the future, to mine, acquire, own, hold, sell or use Bitcoin or other cryptocurrencies, participate in blockchains or utilize similar cryptocurrency assets in one or more countries, the ruling of which could adversely affect us.***

Although currently cryptocurrencies generally are not regulated or are lightly regulated in most countries, several countries, such as China, India and Russia, may continue taking regulatory actions in the future that could severely restrict the right to mine, acquire, own, hold, sell or use these cryptocurrency assets or to exchange for local currency. For example, in China and Russia (India is currently proposing new legislation), it is illegal to accept payment in Bitcoin and other cryptocurrencies for consumer transactions and banking institutions are barred from accepting deposits of cryptocurrencies. In addition, in March 2021, the governmental authorities for the Chinese province of Inner Mongolia banned Bitcoin mining in the province due to the industry's intense electrical power demands and its negative environmental impacts. If other countries, including the U.S., implement similar restrictions, such restrictions may adversely affect us. For example, in New York State, a moratorium on certain Bitcoin mining operations that run on carbon-based power sources was signed into law on November 22, 2022. Such circumstances could have a material adverse effect on us, which could have a material adverse effect on our business, prospects or operations and potentially the value of any Bitcoin or other cryptocurrencies we mine or otherwise acquire or hold for our own account, and thus harm investors.

***Changing environmental regulation and public energy policy may expose our business to new risks.***

Our Bitcoin mining operations require a substantial amount of power and can only be successful, and ultimately profitable, if the costs we incur, including for electricity, are lower than the revenue we generate from our operations. As a result, any mine we establish can only be successful if we can obtain sufficient electrical power for that mine on a cost-effective basis, and our establishment of new mines requires us to find locations where that is the case. For instance, our plans and strategic initiatives for expansion are based, in part, on our understanding of current environmental and energy regulations, policies, and initiatives enacted by federal, New York State and Georgia State regulators. If new regulations are imposed, or if existing regulations are modified, the assumptions we made underlying our plans and strategic initiatives may be inaccurate, and we may incur additional costs to adapt our planned business, if we are able to adapt at all, to such regulations.

In addition, there continues to be a lack of consistent climate legislation, which creates economic and regulatory uncertainty for our business because the Bitcoin mining industry, with its high energy demand, may become a target for future environmental and energy regulation. New legislation and increased regulation regarding climate change could impose significant costs on us and our suppliers, including costs related to increased energy requirements, capital equipment, environmental monitoring and reporting, and other costs to comply with such regulations. Further, any future climate change regulations could also negatively impact our ability to compete with companies situated in areas not subject to such limitations. For example, the recently passed legislation in the state of New York imposing a moratorium on certain Bitcoin mining operations that run carbon-based power.

Given the political significance and uncertainty around the impact of climate change and how it should be addressed, we cannot predict how legislation and regulation will affect our financial condition and results of operations. Further, even without such regulation, increased awareness and any adverse publicity in the global marketplace about potential impacts on climate change by us or other companies in our industry could harm our reputation. Any of the foregoing could result in a material adverse effect on our business and financial condition.

***Future developments regarding the treatment of digital assets for U.S. federal income and applicable state, local and non-U.S. tax purposes could adversely impact our business.***

Due to the new and evolving nature of digital assets and the absence of comprehensive legal guidance with respect to digital assets and related transactions, many significant aspects of the U.S. federal income and applicable state, local and non-U.S. tax treatment of transactions involving digital assets, such as the purchase and sale of Bitcoin and the receipt of staking rewards and other digital asset incentives and rewards products, are uncertain, and it is unclear what guidance may be issued in the future with respect to the tax treatment of digital assets and related transactions.

Current IRS guidance indicates that for U.S. federal income tax purposes digital assets such as Bitcoins should be treated and taxed as property, and that transactions involving the payment of Bitcoins for goods and services should be treated in effect as barter transactions. The IRS has also released guidance to the effect that, under certain circumstances, hard forks of digital currencies are taxable events giving rise to taxable income and guidance with respect to the determination of the tax basis of digital currency. However, current IRS guidance does not address other significant aspects of the U.S. federal income tax treatment of digital assets and related transactions. Moreover, although current IRS guidance addresses the treatment of certain forks, there continues to be uncertainty with respect to the timing and amount of income inclusions for various crypto asset transactions, including, but not limited to, staking rewards and other crypto asset incentives and rewards products. While current IRS guidance creates a potential tax reporting requirement for any circumstance where the ownership of a Bitcoin passes from one person to another, it preserves the right to apply capital gains treatment to those transactions, which is generally favorable for investors in Bitcoin.

There can be no assurance that the IRS will not alter its existing position with respect to digital assets in the future or that other state, local and non-U.S. taxing authorities or courts will follow the approach of the IRS with respect to the treatment of digital assets such as Bitcoins for income tax and sales tax purposes. Any such alteration of existing guidance or issuance of new or different guidance may have negative consequences including the imposition of a greater tax burden on investors in Bitcoin or imposing a greater cost on the acquisition and disposition of Bitcoin, generally; in either case potentially having a negative effect on the trading price of Bitcoin or otherwise negatively impacting our business. In addition, future technological and operational developments that may arise with respect to digital currencies may increase the uncertainty with respect to the treatment of digital currencies for U.S. federal income and applicable state, local and non-U.S. tax purposes.

***Our interactions with the Bitcoin network may expose us to SDN or blocked persons or cause us to violate provisions of law that did not contemplate distributed ledger technology.***

The Office of Financial Assets Control ("OFAC") of the US Department of Treasury requires us to comply with its sanction program and not conduct business with persons named on its specially designated nationals ("SDN") list. However, because of the pseudonymous nature of blockchain transactions, we may inadvertently and without our knowledge engage in transactions with persons named on OFAC's SDN list. We also may not be adequately capable of determining the ultimate identity of the persons with whom we transact.

**Risks Related to the Specialty Finance Business**

***We may not be able to purchase Accounts at favorable prices, or on sufficiently favorable terms, or at all.***

Our success depends upon the continued availability of Association Accounts. The availability of Accounts at favorable prices and on terms acceptable to us depends on a number of factors outside our control, including:

- (i) the status of the economy and real estate market in markets which we have operations may become so strong that delinquent Accounts do not occur in sufficient quantities to efficiently acquire them;
- (ii) the perceived need of Associations to sell their Accounts to us as opposed to taking other measures to solve budget problems such as increasing assessments; and
- (iii) competitive pressures from law firms, collections agencies, and others to produce more revenue for Associations than we can provide through the purchase of Accounts.

In addition, our ability to purchase Accounts, in particular with respect to our original product, is reliant on state statutes allowing for a Super Lien Amount to protect our principal investment; any change of those statutes and elimination of the priority of the Super Lien Amount, particularly in Florida, could have an adverse effect on our ability to purchase Accounts. If we were unable to purchase Accounts at favorable prices or on terms acceptable to us, or at all, it would likely have a material adverse effect on our financial condition and results of operations.

***We may not be able to recover sufficient amounts on our Accounts to recover charges to the Accounts for interest and late fees necessary to fund our operations.***

We acquire and collect on the delinquent receivables of Associations. Since Account debtors are third parties that we have little to no information about, we cannot predict when any given Account will pay off or how much it will yield. In order to operate profitably over the long term, we must continually purchase and collect on a sufficient volume of Accounts to generate revenue that exceeds our costs.

***We are subject to intense competition seeking to provide a collection solution to Associations for delinquent Accounts.***

Lawyers, collection agencies, and other direct and indirect competitors vying to collect on Accounts all propose to solve the problem delinquent Accounts pose to Associations. Additionally, Associations and their management companies sometimes try to solve their delinquent Account problems in house, without the assistance of third-party collection agencies. An Account that an Association attempts to collect through any of these other options is an Account we cannot purchase and collect. We compete on the basis of reputation, industry experience, performance and financing dollars. Some of these competitors have greater contacts with Associations, greater financial resources and access to capital, more personnel, wider geographic presence and greater resources than we have. In addition, we expect the entry of new competitors in the future given the relatively new nature of the market in which we operate. Aggressive pricing by our competitors could raise the price of acquiring and purchasing Accounts above levels that we are willing to pay, which could reduce the number of Accounts suitable for us to purchase or if purchased by us, reduce the profits, if any, generated by such Accounts. If we are unable to purchase Accounts at favorable prices or at all, the revenues generated by us and our earnings could be materially reduced.

***We are dependent upon third-party law firms to service our Accounts.***

Although we utilize our proprietary software and in-house staff to track, monitor, and direct the collection of our Accounts, we depend upon third-party law firms to perform the collection work. As a result, we are dependent upon the efforts of our third-party law firms, particularly BLG Association Law, PLLC ("BLGAL") to service and collect our Accounts.

On February 1, 2022, LM Funding America, Inc. (the "Company") consented to the assignment by the law firm of Business Law Group, P.A. to the law firm BLG Association Law, PLLC of the Services Agreement, dated April 15, 2015, previously entered into by the Company and Business Law Group, P.A. (the "Services Agreement"). The Services Agreement had set forth the terms under which Business Law Group, P.A. would act as the primary law firm used by the Company and its association clients for the servicing and collection of association accounts. The assignment of the Services Agreement was necessitated by the death of the principal attorney and owner of Business Law Group, P.A. In connection with the assignment, BLGAL agreed to amend the Services Agreement on February 1, 2022, to reduce the monthly compensation payable to the law firm from approximately \$82,000 to \$53,000 (the "Amendment"). Bruce M. Rodgers, the chairman and CEO of the Company, is a 50% owner of BLGAL, and the assignment and Amendment was approved by the independent directors of the Company.

As of December 31, 2023, BLGAL was responsible for servicing over 98% of our Accounts. Our revenues and profitability could be materially affected if:

- (i) our agreements with the third-party law firms we use are terminated and we are not able to secure replacement law firms or direct payments from Account debtors to our replacement law firms;
- (ii) our relationships with our law firms adversely change;
- (iii) our law firms fail to adequately perform their obligations; or
- (iv) internal changes at such law firms occur, such as loss of staff who service us.

***If we are unable to access external sources of financing, we may not be able to fund and grow our operations.***

We depend upon loans from external sources from time to time to fund and expand our operations. Our ability to grow our business is dependent on our access to additional financing and capital resources. The failure to obtain financing and capital as needed would limit our ability to purchase Accounts and achieve our growth plans.

***We may incur substantial indebtedness from time to time in connection with the purchase of Accounts and could be subject to risks associated with incurring such indebtedness.***

We may incur substantial indebtedness from time to time in connection with the purchase of Accounts and could be subject to risks associated with incurring such indebtedness, including:

- (i) we could be required to dedicate a portion of our cash flows from operations to pay debt service costs and, as a result, we would have less funds available for operations, future acquisitions of Accounts, and other purposes;
- (ii) it may be more difficult and expensive to obtain additional funds through financings, if such funds are available at all;
- (iii) we could be more vulnerable to economic downturns and fluctuations in interest rates, less able to withstand competitive pressures and less flexible in reacting to changes in our industry and general economic conditions; and
- (iv) if we default under any of our existing credit facilities or if our creditors demand payment of a portion or all of our indebtedness, we may not have sufficient funds to make such payments.

***We may encounter difficulties managing changes in our business including cyclical growth and declines, which could disrupt our operations, and there is no assurance that any such growth (if experienced) can be sustained.***

From time to time since our inception, we have experienced periods of significant growth and declines. Although there is no assurance that we will again experience periods of significant growth or continued declines in the future, if we do, there can be no assurance that we will be able to manage our changing operations effectively or that we will be able to maintain or accelerate our growth, and any failure to do so could adversely affect our ability to generate revenues and control expenses. Future growth will depend upon a number of factors, including:

- (i) the effective and timely initiation and development of relationships with law firms, management companies, accounting firms and other trusted advisors of Associations willing to sell Accounts;
- (ii) our ability to continue to develop our proprietary software for use in other markets and with different products;
- (iii) our ability to maintain the collection of Accounts efficiently;
- (iv) the recruitment, motivation and retention of qualified personnel both in our principal office and in new markets;
- (v) our ability to successfully implement our business strategy in states outside of the state of Florida; and
- (vi) our successful implementation of enhancements to our operational and financial systems.

Due to our limited financial resources and the limited experience and size of our management team, we may not be able to effectively manage the growth of our business. Significant growth may lead to significant costs and may divert our management and business development resources. Any inability to manage growth could delay the execution of our business strategy or disrupt our operations.

***Government regulations may limit our ability to recover and enforce the collection of our Accounts.***

Federal, state and municipal laws, rules, regulations and ordinances may limit our ability to recover and enforce our rights with respect to the Accounts acquired by us. These laws include, but are not limited to, the following federal statutes and regulations promulgated thereunder and comparable statutes in states where Account debtors reside and/or located:

- (i) the Fair Debt Collection Practices Act;
- (ii) the Federal Trade Commission Act;
- (iii) the Truth-In-Lending Act;
- (iv) the Fair Credit Billing Act;
- (v) the Dodd-Frank Act;
- (vi) the Equal Credit Opportunity Act; and
- (vii) the Fair Credit Reporting Act.

We may be precluded from collecting Accounts we purchase where the Association or its prior legal counsel, management company, or collection agency failed to comply with applicable laws in charging the account debtor or prosecuting the collection of the Account. Laws relating to the collection of consumer debt also directly apply to our business. Our failure to comply with any laws applicable to us, including state licensing laws, could limit our ability to recover our Accounts and could subject us to fines and penalties, which could reduce our revenues.

***We may become regulated under the Consumer Financial Protection Bureau, or CFPB, and have not developed compliance standards for such oversight.***

The Dodd-Frank Wall Street Reform and Consumer Protection Act (2010), or Dodd-Frank Act, represents a comprehensive overhaul of the financial services industry within the U.S. The Dodd-Frank Act allows consumers free access to their credit score if their score negatively affects them in a financial transaction or a hiring decision, and also gives consumers access to credit score disclosures as part of an adverse action and risk-based pricing notice. Title X of the Dodd-Frank Act establishes the Consumer Financial Protection Bureau, or CFPB, within the Federal Reserve Board, and requires the CFPB and other federal agencies to implement many new and significant rules and regulations. Significant portions of the Dodd-Frank Act related to the CFPB became effective on July 21, 2011. The CFPB has broad powers to promulgate, administer and enforce consumer financial regulations, including those applicable to us and possibly our funded Associations. Under the Dodd-Frank Act, the CFPB is the principal supervisor and enforcer of federal consumer financial protection laws with respect to nondepository institutions, or "nonbanks", including, without limitation, any "covered person" who is a "larger participant" in a market for other consumer financial products or services. We do not know if our unique business model makes us a covered person.

The CFPB has started to exercise authority to define unfair, deceptive or abusive acts and practices and to require reports and conduct examinations of these entities for purposes of (i) assessing compliance with federal consumer financial protections laws; (ii) obtaining information about the activities and compliance systems or procedures of such entities; and (iii) detecting and assessing risks to consumers and to markets for consumer financial products and services. The exercise of this supervisory authority must be risk-based, meaning that the CFPB will identify nonbanks for examination based on the risk they pose to consumers, including consideration of the entity's asset size, transaction volume, risk to consumers, existing oversight by state authorities and any other factors that the CFPB determines to be relevant. When a nonbank is in violation of federal consumer financial protection laws, including the CFPB's own rules, the CFPB may pursue administrative proceedings or litigation to enforce those laws and rules. In these proceedings, the

CFPB can obtain cease and desist orders, which can include orders for restitution or rescission of contracts, as well as other kinds of affirmative relief, and monetary penalties ranging from \$5,000 per day for ordinary violations of federal consumer financial protection laws to \$25,000 per day for reckless violations and \$1 million per day for knowing violations. Also, where a company has violated Title X of the Dodd-Frank Act or CFPB regulations under Title X, the Dodd-Frank Act empowers state attorneys general and state regulators to bring civil actions for the kind of cease and desist orders available to the CFPB (but not for civil penalties). If the CFPB or one or more state officials believe that we have committed a violation of the foregoing laws, they could exercise their enforcement powers in a manner that could have a material adverse effect on us.

At this time, we cannot predict the extent to which the Dodd-Frank Act or the resulting rules and regulations, including those of the CFPB, will impact the U.S. economy and our products and services. Compliance with these new laws and regulations may require changes in the way we conduct our business and could result in additional compliance costs, which could be significant and could adversely impact our results of operations, financial condition or liquidity.

***Current and new laws may adversely affect our ability to collect our Accounts, which could adversely affect our revenues and earnings.***

Currently all of our Accounts are located in Florida. But because our Accounts are generally originated and collected pursuant to a variety of federal and state laws by a variety of third parties and may involve consumers in all 50 states, the District of Columbia and Puerto Rico, there can be no assurance that all Associations and their management companies, legal counsel, collections agencies and others have at all times been in compliance with all applicable laws relating to the collection of Accounts. Additionally, there can be no assurance that we or our law firms have been or will continue to be at all times in compliance with all applicable laws. Failure to comply with applicable laws could materially adversely affect our ability to collect our Accounts and could subject us to increased costs, fines, and penalties. Furthermore, changes in state law regarding the lien priority status of delinquent Association assessments could materially and adversely affect our business. Currently all of our Accounts are located in Florida,

***Class action suits and other litigation could divert our management's attention from operating our business, increase our expenses, and otherwise harm our business.***

Certain originators and servicers involved in consumer credit collection and related businesses have been subject to class actions and other litigation. Claims include failure to comply with applicable laws and regulations such as usury and improper or deceptive origination and collection practices. From time to time we are a party to such litigation, and as a result, our management's attention may be diverted from our everyday business activities and implementing our business strategy, and our results of operations and financial condition could be materially adversely affected by, among other things, legal expenses and challenges to our business model in connection with such litigation.

***If our technology and software systems are not operational or are subject to cybersecurity incidents, our operations could be disrupted and our ability to successfully acquire and collect Accounts could be adversely affected.***

Our success depends in part on our proprietary software. We must record and process significant amounts of data quickly and accurately to properly track, monitor and collect our Accounts. Any failure of our information systems and their backup systems, including by means of cybersecurity attacks, breaches or other incidents, would interrupt our operations. We may not have adequate backup arrangements for all of our operations and we may incur significant losses if an outage occurs. In addition, we rely on third-party law firms who also may be adversely affected in the event of a cybersecurity breach or attack or other outage in which the third-party servicer does not have adequate backup arrangements. Any interruption in our operations or our third-party law firms' operations could have an adverse effect on our results of operations and financial condition.

***Insolvency of BLGAL could have a material adverse effect on our financial condition, results of operations and cash flows.***

Our primary Account servicer, BLGAL, deposits collections on the Accounts in its Interest on Lawyers Trust Account ("IOLTA Trust Account") and then distributes the proceeds to itself, us and the Associations pursuant to the terms of the purchase agreements with the Associations and applicable law. We do not have a perfected security interest in the amounts BLGAL collects on the Accounts while such amounts are held in the IOLTA Trust Account. BLGAL has agreed to promptly remit to us all amounts collected on the Accounts that are owed to us. If, however, BLGAL were to become subject to any insolvency law and a creditor or trustee-in-bankruptcy of BLGAL were to take the position that proceeds of the Accounts held in BLGAL's IOLTA Trust Account should be treated as assets of BLGAL, an Association or another third party, delays in payments from collections on the Accounts held by BLGAL could occur or reductions in the amounts of payments to be remitted by BLGAL to us could result, which could adversely affect our financial condition, results of operations and cash flows.

***Associations do not make any guarantee with respect to the validity, enforceability or collectability of the Accounts acquired by us.***

Associations do not make any representations, warranties or covenants with respect to the validity, enforceability or collectability of Accounts in their assignments of Accounts to us. If an Account proves to be invalid, unenforceable or otherwise generally uncollectible, we will not have any recourse against the respective Association. If a significant number of our Accounts are later held

to be invalid, unenforceable or are otherwise uncollectible, our financial condition, results of operations and cash flows could be adversely affected.

***All of our Accounts are located in Florida, and any adverse conditions affecting Florida could have a material adverse effect on our financial condition and results of operations.***

Our primary business relates to revenues from Accounts purchased by us, which are all based in Florida, and our primary source of revenue consists of payments made by condominium and home-owners to satisfy the liens against their condominiums and homes. As of December 31, 2023 and December 31, 2022, Florida represented 100% of our Accounts. An economic recession, adverse market conditions in Florida, and/or significant property damage caused by hurricanes, tornadoes or other inclement weather could adversely affect the ability of these condominium and home owners to satisfy the liens against their condominiums and homes, which could, in turn, have a material adverse effect on our financial condition and results of operations.

***Foreclosure on an Association's lien may not result in our company recouping the amount that we invested in the related Account.***

All of the Accounts purchased by us are in default. The Accounts are secured by liens held by Associations, which we have an option to foreclose upon on behalf of the Associations. Should we foreclose upon such a lien on behalf of an Association, we are generally entitled pursuant to our contractual arrangements with the Association to have the Association quitclaim its interests in the condominium unit or home to us. In the event that any Association quitclaims its interests in a condominium unit or home to us, we will be relying on the short-term rental prospects, to the extent permitted under bylaws and rules applicable to the Association, and value of its interest in the underlying property, which value may be affected by numerous risks, including:

- (i) changes in general or local economic conditions;
- (ii) neighborhood values;
- (iii) interest rates;
- (iv) real estate tax rates and other operating expenses;
- (v) the possibility of overbuilding of similar properties and of the inability to obtain or maintain full occupancy of the properties;
- (vi) governmental rules and fiscal policies;
- (vii) acts of God; and
- (viii) other factors which are beyond our control.

It is possible that as a result of a decrease in the value of the property or any of the other factors referred to in this paragraph, the amount realized from the sale of such property after taking title through a lien foreclosure may be less than our total investment in the Account. If this occurs with regard to a substantial number of Accounts, the amount expected to be realized from the Accounts will decrease and our financial condition and results of operations could be harmed.

***If Account debtors or their agents make payments on the Accounts to or negotiate reductions in the Accounts with an Association, it could adversely affect our financial condition, results of operations and cash flows.***

From time to time Account debtors and/or their agents may make payments on the Accounts directly to the Association or its management company. Our sole recourse in this instance is to recover these misapplied payments through set-offs of payments later collected for that Association by our third-party law firms. A significant number of misapplied or reduced payments could hinder our cash flows and adversely affect our financial condition and results of operations.

***Account debtors are subject to a variety of factors that may adversely affect their payment ability.***

Collections on the Accounts have varied and may in the future vary greatly in both timing and amount from the payments actually due on the Accounts due to a variety of economic, social and other factors. Failures by Account debtors to timely pay off their Accounts could adversely affect our financial condition, results of operations and cash flows.

***Defaults on the Accounts could harm our financial condition, results of operations and cash flows.***

We take assignments of the lien foreclosure rights of Associations against delinquent units owned by Account debtors who are responsible for payment of the Accounts. The payoff of the Accounts is dependent upon the ability and willingness of the condominium and home owners to pay such obligations. If an owner fails to pay off the Account relating to his, her or its unit or home, only net amounts recovered, if any, will be available with respect to that Account. Foreclosures by holders of first mortgages generally result in our receipt of reduced recoveries from Accounts. In addition, foreclosure actions by any holder of a tax lien may result in us receiving no recovery from an Account to the extent excess proceeds from such tax lien foreclosure are insufficient to provide for payment to us. If, at any time, (i) we experience an increase in mortgage foreclosures or tax lien foreclosures or (ii) we experience a decrease in owner payments, our financial condition, results of operations and cash flows could be adversely affected.

***We depend on the skill and diligence of third parties to collect the Accounts.***

Because the collection of Accounts requires special skill and diligence, any failure of BLGAL, or any other law firm utilized by us, to diligently collect the Accounts could adversely affect our financial condition, results of operations and cash flows.



***The payoff amounts received by us from Accounts may be adversely affected due to a variety of factors beyond our control.***

Several factors may reduce the amount that can be collected on any individual Account. The delinquent assessments that are the subject of the Accounts and related charges are included within an Association's claim of lien under the applicable statute. In Florida, Association liens are recorded in the official county records and hold first priority status with respect to a first mortgage holder for an amount equal to the Super Lien Amount. Associations have assigned to us the right to direct law firms to collect on the liens and foreclose, subject to the terms and conditions of the purchase agreements between each Association and us.

Each Account presents a separate risk as to the creditworthiness of the debtor obligated to pay the Account, which, in general, is the owner of the unit or home when the Account was incurred and subsequent owners. For instance, if the debtor has incurred a property tax lien, a sale related to such lien could result in our complete loss of the Account. Also, a holder of a first mortgage taking title through a foreclosure proceeding in which the Association is named as a defendant must only pay the Super Lien Amount in a state with a super lien statute. Although we purchase Accounts at a discount to the outstanding balance and the owner remains personally liable for any deficiency, we may decide that it is not cost-effective to pursue such a deficiency. As a result, the purchase or ownership of a significant number of Accounts which result in payment of only the Super Lien Amount or less where no statute specifying a Super Lien Amount applies, could adversely affect our financial condition and results of operations.

***The liens securing the Accounts we own may not be superior to all liens on the related units and homes.***

Although the liens of the Associations securing the Accounts may be superior in right of payment to some of the other liens on a condominium unit or home, they may not be superior to all liens on that condominium unit or home. For instance, a lien relating to delinquent property taxes would be superior in right of payment to the liens securing the Accounts. In addition, if an Association fails to assert the priority of its lien in a foreclosure action, the Association may inadvertently waive the priority of its lien. In the event that there is a lien of superior priority on a unit or home relating to one of the Accounts, the Association's lien might be extinguished in the event that such superior liens are foreclosed. In most instances, the unit or home owner will be liable for the payment of such Account and the ultimate payment would depend on the creditworthiness of such owner. In the case of a tax lien foreclosure, an owner taking title through foreclosure would not be liable for the payment of obligations that existed prior to the foreclosure sale. The purchase or ownership of a significant number of Accounts that are the subject of foreclosure by a superior lien could adversely affect our financial condition, results of operations and cash flows.

***We may not choose to pursue a foreclosure action against condominium and home owners who are delinquent in paying off the Accounts relating to their units or homes.***

Although we have the right to pursue a foreclosure action against a unit or home owner who is delinquent in paying off the Account relating to his or her unit or home, we may not choose to do so as the cost of such litigation may be prohibitive, especially when pursuing an individual claim against a single unit or home owner. Our choice not to foreclose on a unit or home may delay our ability to collect on the Account. If we decide not to pursue foreclosure against a significant number of Accounts, it could adversely affect our financial condition, results of operations and cash flows.

***The holding period for our Accounts from purchase to payoff is indeterminate.***

It can take our third-party law firms anywhere from three months to ten years or longer to collect on an Account. Approximately 65% of our Accounts were purchased prior to 2017, with some being purchased as early as 2008. Due to various factors, including those discussed above, we cannot project the payoff date for any Account. This indeterminate holding period reduces our liquidity and ability to fund our operations. If our ability to collect on a material number of Accounts was significantly delayed, it could adversely affect our cash flows and ability to fund our operations.

***Our business model and related accounting treatment may result in acceleration of expense recognition before the corresponding revenues can be recognized.***

As we expand our business, we may incur significant upfront costs relating to the acquisition of Accounts. Under United States generally accepted accounting principles ("GAAP") such amounts may be required to be recognized in the period that they are expended. However, the corresponding revenue stream relating to the acquisition of such Accounts will not be recognized until future dates. Therefore, we may experience reduced earnings in earlier periods until such time as the revenue stream relating to the acquisition of such Accounts may be recognized.

### **Risks Relating to Our Securities**

#### ***Our common shares could be delisted from the Nasdaq Capital Market.***

Nasdaq's listing standards provide that a company may be delisted if the bid price of its stock drops below \$1.00 for a period of 30 consecutive business days. On April 13, 2023, we received a Notification Letter from The Nasdaq Stock Market LLC ("Nasdaq") notifying the Company that it was not in compliance with the minimum bid price requirements set forth in Nasdaq Listing Rule 5550(a)(2) for continued listing on the Nasdaq Capital Market, due to the bid price of the Company's common stock closing below the minimum \$1 per share for the thirty (30) consecutive business days prior to the date of the Notification Letter. In accordance with listing rules, the Company was afforded 180 days, or until October 11, 2023, to regain compliance.

The Company was unable to regain compliance with the bid price requirement by October 11, 2023. However, on October 12, 2023, the Company received a notice from Nasdaq granting the Company an additional 180 calendar days, or until April 8, 2024, to regain compliance with the minimum \$1.00 bid price per share requirement for continued listing on the Nasdaq Capital Market. Nasdaq determined that the Company is eligible for the second compliance period due to the Company meeting the continued listing requirement for market value of publicly held shares and all other applicable requirements for initial listing on the Nasdaq Capital Market, with the exception of the bid price requirement, and the Company's written notice of its intention to cure the deficiency during the second compliance period by effecting a reverse stock split, if necessary.

On March 7, 2024, we filed an Amendment to our Certificate of Incorporation with the Secretary of State of the State of Delaware to effect a one-for-six reverse stock split of our common stock which became effective at 12:01 a.m. eastern time, on March 12, 2024. The Reverse Split was effected with the intent to satisfy the minimum bid price requirements and, on March 26, 2024, we received written notification from Nasdaq indicating that the Company's common stock had a closing price of \$1.00 per share or greater for the last ten consecutive business days, from March 12, 2024 to March 25, 2024, and that, as a result, the Company has regained compliance with the minimum bid price requirements and that the matter is now closed.

Even though we have regained compliance with the Nasdaq Capital Market's minimum closing bid price requirement, there is no guarantee that we will remain in compliance with such listing requirements or other listing requirements in the future. Any failure to maintain compliance with continued listing requirements of the Nasdaq Capital Market could result in delisting of our common stock from the Nasdaq Capital Market and negatively impact our company and holders of our common stock, including by reducing the willingness of investors to hold our common stock because of the resulting decreased price, liquidity and trading of our common stock, limited availability of price quotations and reduced news and analyst coverage. Delisting may adversely impact the perception of our financial condition, cause reputational harm with investors, our employees and parties conducting business with us and limit our access to debt and equity financing.

#### ***Future sales of our common stock by our affiliates or other stockholders may depress our stock price.***

Sales of a substantial number of shares of our common stock in the public market could cause a decrease in the market price of our common stock. We had authorized 350,000,000 shares of common stock and 150,000,000 shares of preferred stock as of December 31, 2023.

We had 2,492,964 shares of common stock issued and outstanding as of December 31, 2023. In addition, pursuant to our 2021 Omnibus Incentive Plan, options to purchase 599,597 shares of our common stock were outstanding as of December 31, 2023, of which 379,194 options were exercisable. There were 1,274,807 warrants outstanding and exercisable as of December 31, 2023 that allowed for the issuance of 1,274,807 shares of common stock, respectively.

We may issue additional shares in connection with our business and may grant additional stock options or restricted shares to our employees, officers, directors and consultants under our present or future equity compensation plans or we may issue warrants to third parties outside of such plans. If a significant portion of these shares were sold in the public market, the market value of our common stock could be adversely affected.

#### ***The market price and trading volume of our shares of common stock may be volatile and you may not be able to resell your shares of common stock (as the case may be) at or above the price you paid for them.***

Our securities may trade at prices significantly below the price you paid for it, in which case, holders of our securities may experience difficulty in reselling, or an inability to sell, our securities. In addition, when the market price of a company's equity drops significantly, equity holders often institute securities class action lawsuits against the company. A lawsuit against us could cause us to incur substantial costs and could divert the time and attention of our management and other resources away from the day-to-day operations of our business.

#### ***Securities analysts may not initiate coverage of our securities or may issue negative reports, which may adversely affect the trading price of our securities.***

We cannot assure you that securities analysts will continue to cover our company. As of December 31, 2023, we had two analysts covering our company. If securities analysts do not cover our company, this lack of coverage may adversely affect the trading price of

our securities. In the event that securities analysts begin to cover our company, the trading market for our securities will rely in part on the research and reports that such securities analysts publish about us and our business. If one or more of the analysts who cover our company downgrades our securities, the trading price of our securities may decline. If one or more of these analysts then ceases to cover our company, we could lose visibility in the market, which, in turn, could also cause the trading price of our securities to decline. Further, because of our small market capitalization, it may be difficult for us to attract securities analysts to cover our company, which could significantly and adversely affect the trading price of our securities.

***We have the right to designate and issue additional shares of preferred stock. If we were to designate and/or issue additional preferred stock, it is likely to have rights, preferences and privileges that may adversely affect the common stock.***

We are authorized to issue 150,000,000 shares of blank-check Preferred Stock, with such rights, preferences and privileges as may be determined from time to time by our Board of Directors. Our Board of Directors is empowered, without stockholder approval, to issue Preferred Stock in one or more series, and to fix for any series the dividend rights, dissolution or liquidation preferences, redemption prices, conversion rights, voting rights, and other rights, preferences and privileges for the Preferred Stock.

The issuance of shares of Preferred Stock, depending on the rights, preferences and privileges attributable to the Preferred Stock, could reduce the voting rights and powers of the common stock and the portion of our assets allocated for distribution to common stockholders in a liquidation event, and could also result in dilution in the book value per share of the common stock. The preferred stock could also be utilized, under certain circumstances, as a method for raising additional capital or discouraging, delaying or preventing a change in control of the Company, to the detriment of the investors in the common stock offered hereby. We cannot assure that we will not, under certain circumstances, issue shares of our Preferred Stock.

***We incur significant costs and demands upon management and accounting and finance resources as a result of complying with the laws and regulations affecting public companies; any failure to establish and maintain adequate internal controls and/or disclosure controls or to recruit, train and retain necessary accounting and finance personnel could have an adverse effect on our ability to accurately and timely prepare our financial statements and otherwise make timely and accurate public disclosure.***

As a public company, we incur significant administrative, legal, accounting and other burdens and expenses beyond those of a private company, including public company reporting obligations and Nasdaq listing requirements. In particular, we have needed, and continue to need, to enhance and supplement our internal accounting resources with additional accounting and finance personnel with the requisite technical and public company experience and expertise to enable us to satisfy such reporting obligations. Any failure to maintain an effective system of internal controls (including internal control over financial reporting) could limit our ability to report our financial results accurately and on a timely basis, or to detect and prevent fraud and could expose us to regulatory enforcement action and stockholders claims.

Furthermore, under Section 404 of the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act"), we are required to document and test our internal control procedures and prepare annual management assessments of the effectiveness of our internal control over financial reporting. Our assessments must include disclosure of identified material weaknesses in our internal control over financial reporting. Our independent registered public accounting firm also attests to the effectiveness of our internal control over financial reporting. The existence of one or more material weaknesses could affect the accuracy and timing of our financial reporting. Testing and maintaining internal control over financial reporting involves significant costs and could divert management's attention from other matters that are important to our business. Additionally, we may not be successful in remediating any deficiencies that may be identified.

***Our management may identify material weaknesses in the future. If we fail to remediate the material weakness or if we otherwise fail to establish and maintain effective control over financial reporting, our ability to accurately and timely report our financial results may be affected, and such failure may adversely affect investor confidence and business operations.***

In the course of preparing our financial statements, we and our independent registered public accounting firm may identify a material weakness in our internal control over financial reporting. For example, as previously disclosed in Part II Item 4A Controls and Procedures in our Annual Report on Form 10-K for the fiscal year ended December 31, 2022, we identified a material weakness associated with segregation of duties, specifically, the Company did not effectively segregate certain accounting duties nor have a proper multi-level review process due to the small size of its accounting staff. As of December 31, 2023, we concluded that this material weakness had been remediated. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the annual or interim financial statements will not be prevented or detected on a timely basis.

If we are unable to remediate a material weakness and otherwise implement and maintain effective internal control over financial reporting, our ability to record, process and report financial information accurately, and to prepare financial statements and satisfy our public reporting obligations within required time periods, could be adversely affected. We could also be required to restate financial statements for prior periods. If we are unable to assert that our internal control over financial reporting is effective, or if our independent registered public accounting firm is unable to express an unqualified opinion as to the effectiveness of our internal control over financial reporting, investors may lose confidence in the accuracy and completeness of our financial reports, the market price of our common stock could be adversely affected and we could become subject to private litigation or to investigations or enforcement actions by the

SEC or other regulatory authorities, all of which could require our expenditure of additional financial and management resources and could have a material adverse effect on our business, financial condition and results of operations. Those adverse consequences could be more severe if we are forced to effect any financial statement restatements.

***We qualify as a smaller reporting company, and, under the smaller reporting company rules, we are subject to scaled disclosure requirements that may make it more challenging for investors to analyze our results of operations and financial prospects.***

Currently, we qualify as a “smaller reporting company” as defined by Rule 12b-2 of the Exchange Act. We have elected to provide disclosure under the smaller reporting company rules and, therefore, are subject to decreased disclosure obligations in our filings with the SEC, including being required to provide only two years of audited financial statements in our annual reports. Consequently, it may be more challenging for investors to analyze our results of operations and financial prospects.

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

None.

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

##### **Cybersecurity Risk Management and Strategy**

We recognize the importance of assessing, identifying and managing material risks associated with cybersecurity threats, as such term is defined in Item 106(a) of Regulation S-K. Our share of Bitcoins mined from our pools are initially received by us in wallets we control. We currently sell the majority of the Bitcoin we mine and utilize hot wallets to hold this Bitcoin immediately prior to selling for working capital purposes. We hold any remainder of our Bitcoin in cold storage. Bitcoins we mine or hold for our own account may be subject to loss, theft or restriction on access. Hackers or malicious actors may launch attacks to steal, compromise or secure Bitcoins, such as by attacking the Bitcoin network source code, exchange miners, third-party platforms (including Gemini), cold and hot storage locations or software, or by other means. We may be in control and possession of substantial holdings of Bitcoin, and as we increase in size, we may become a more appealing target of hackers, malware, cyber-attacks or other security threats.

Our management evaluates all cybersecurity matters, with the purpose of meeting at least semi-annually and providing recommendations with respect to our information technology use and protection, including, but not limited to, data governance, privacy, compliance and cybersecurity. We have implemented controls, policies, procedures and technological safeguards to maintain and protect the integrity, continuous operation, redundancy and security of our IT systems and data that we believe to be reasonably consistent with industry standards and practices, or as required by applicable regulatory standards. We are also required to comply with applicable laws, rules, regulations and contractual obligations relating to the privacy and security of our IT systems and data and to the protection of such IT systems and data from unauthorized use, access, misappropriation or modification.

To our knowledge there has been no security breach or incident, unauthorized access or disclosure, or other compromise of or relating to the Company or its subsidiaries hard wallets, cold wallets, information technology and computer systems, networks, hardware, software, data and databases, equipment or technology. We have not been notified of, and have no knowledge of any event or condition that could result in, any security breach or incident, unauthorized access or disclosure or other compromise to their IT systems and data, and we have implemented appropriate controls, policies, procedures, and technological safeguards to maintain and protect the integrity, continuous operation, redundancy and security of our IT systems and Data reasonably consistent with industry standards and practices, or as required by applicable regulatory standards. We are presently in material compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT systems and data and to the protection of such IT systems and data from unauthorized use, access, misappropriation or modification.

##### **Cybersecurity Governance**

Our Board of Directors considers cybersecurity risk and other information technology risks as part of its risk oversight function and meets at least quarterly to discuss matters involving cybersecurity risks. The Chief Executive Officer and Chief Financial Officer provide information to our Board of Directors regarding its activities, including those related to cybersecurity risks, and are responsible for notifying the Board of material cybersecurity incidents.

#### **Item 2. Properties.**

Our executive and administrative offices are located in Tampa, Florida, where we lease approximately 5,600 square feet of general office space for approximately \$8,900 per month, plus utilities. The lease began on July 15, 2019 and, as extended, expires on July 31, 2025.

**Item 3. Legal Proceedings.**

We are not currently a party to material litigation proceedings, and we are not subject to any known material threatened legal proceedings other than described under Note 7 of our Consolidated Financial Statements included herein under the caption "Legal Proceedings." In addition to the foregoing, we periodically become a party to litigation in the ordinary course of business, including either the prosecution or defense of claims arising from contracts by and between us and client Associations. Regardless of the outcome, litigation can have an adverse impact on us because of prosecution, defense, and settlement costs, diversion of management resources and other factors.

**Item 4. Mine Safety Disclosures.**

None.

**PART II****Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.****Market Information**

Our common stock is quoted on the Nasdaq Capital Market under the symbol "LMFA". On December 31, 2023, there were 5 holders of record of our common stock.

**Securities Authorized for Issuance Under Equity Compensation Plans**

See "Equity Compensation Plan Information" in Part III, Item 12 of this Annual Report on Form 10-K.

**Recent Sales of Unregistered Securities**

None.

**Purchases of Equity Securities by the Issuer**

None.

**Item 6. [Reserved]**

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

### **Forward-Looking Statements**

This Annual Report on Form 10-K contains certain forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. All statements other than statements of historical facts included in this Annual Report on Form 10-K, including without limitation, statements regarding our future financial position, business strategy, budgets, projected revenues, projected costs and plans and objectives of management for future operations, are forward-looking statements. Forward-looking statements generally can be identified by the use of forward-looking terminology such as "may," "will," "expects," "intends," "plans," "projects," "estimates," "anticipates," "believes" or the negative thereof or any variation thereon or similar terminology or expressions.

We have based these forward-looking statements on our current expectations and projections about future events. These forward-looking statements are not guarantees and are subject to known and unknown risks, uncertainties and assumptions about us that may cause our actual results, levels of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied by such forward-looking statements. Important factors which could materially affect our results and our future performance include, without limitation, the following risks, as well as other factors set forth under "Risk Factors" in this report.

- our ability to retain the listing of our securities on the Nasdaq Capital market,
- our ability to obtain funds to purchase receivables,
- the early stage of our cryptocurrency mining business and our lack of operating history in such business,
- volatility surrounding the value of Bitcoin and other cryptocurrencies,
- the uncertainty surrounding the cryptocurrency mining business in general,
- bankruptcy or financial problems of our hosting vendors in our mining business,
- reliance to date on a single model of Bitcoin miner,
- the ability to scale our mining business,
- our ability to purchase defaulted consumer Association receivables at appropriate prices,
- competition to acquire such receivables,
- our dependence upon third party law firms to service our accounts,
- our ability to manage growth or declines in the business,
- changes in government regulations that affect our ability to collect sufficient amounts on our defaulted consumer Association receivables,
- the impact of class action lawsuits and other litigation on our business or operations,
- our ability to keep our software systems updated to operate our business,
- our ability to employ and retain qualified employees,
- our ability to establish and maintain internal accounting controls,
- changes in the credit or capital markets,
- changes in interest rates,
- deterioration in economic conditions,
- negative press regarding the debt collection industry which may have a negative impact on a debtor's willingness to pay the debt we acquire,
- the spread of the novel coronavirus (COVID-19), its impact on the economy generally and, more specifically, the specialty finance industry, and
- other factors set forth under "Risk Factors" in this report.

Except as required by law, we assume no duty to update or revise any forward-looking statements.

### **Corporate History**

The Company was originally organized in January 2008 as a Florida limited liability company under the name LM Funding, LLC. Prior to our initial public offering in 2015, all of our business was conducted through LM Funding, LLC and its subsidiaries. Immediately prior to our initial public offering in October 2015, the members of the LM Funding, LLC contributed all of their membership interests to LM Funding America, Inc., a Delaware corporation incorporated on April 20, 2015 ("LMFA"), in exchange for shares of the common stock of LMFA. Immediately after such contribution and exchange, the former members of LM Funding, LLC became the holders of 100% of the issued and outstanding common stock of LMFA, thereby making LM Funding, LLC a wholly-owned subsidiary of LMFA.

The Company organized two new subsidiaries in 2020: LMFA Financing LLC, a Florida limited liability company, on November 21, 2020, and LMFAO Sponsor LLC, a Florida limited liability company, on October 29, 2020. LMFAO Sponsor LLC organized a subsidiary, LM Acquisition Opportunities Inc., on October 29, 2020. LM Funding America Inc. organized a subsidiary, US Digital Mining and Hosting Co., LLC. ("US Digital"), on September 10, 2021. US Digital has created various 100% owned subsidiaries to

engage in business in various states. The Company also from time to time organizes other subsidiaries to serve a specific purpose or hold a specific asset.

## Overview

LM Funding America, Inc. (“we”, “our”, “LMFA”, or the “Company”) currently has two lines of business: our recently commenced cryptocurrency mining business and our historical specialty finance business.

On September 15, 2021, we announced our plan to operate in the Bitcoin mining ecosystem, and we commenced Bitcoin mining operations in late September 2022. This business operation deploys our computing power to mine Bitcoin and validate transactions on the Bitcoin network. We believe that developments in Bitcoin mining have created an opportunity for us to deploy capital and conduct large-scale mining operations in the United States. We conduct this business through a wholly owned subsidiary, US Digital, which we formed in 2021 to develop and operate our cryptocurrency mining business.

With respect to our specialty finance business, the Company has historically engaged in the business of providing funding to nonprofit community associations primarily located in the state of Florida. We offer incorporated nonprofit community associations, which we refer to as “Associations,” a variety of financial products customized to each Association’s financial needs. Our original product offering consists of providing funding to Associations by purchasing their rights under delinquent accounts that are selected by the Associations arising from unpaid Association assessments. Historically, we provided funding against such delinquent accounts, which we refer to as “Accounts,” in exchange for a portion of the proceeds collected by the Associations from the account debtors on the Accounts. In addition to our original product offering, we also purchase Accounts on varying terms tailored to suit each Association’s financial needs, including under our New Neighbor Guaranty™ program. corporate history.

## Bitcoin Mining

Bitcoin was introduced in 2008 with the goal of serving as a digital means of exchanging and storing value. Bitcoin is a form of digital currency that depends upon a consensus-based network and a public ledger called a “blockchain,” which contains a record of every bitcoin transaction ever processed. The bitcoin network is the first decentralized peer-to-peer payment network, powered by users participating in the consensus protocol, with no central authority or middlemen, that has wide network participation. The authenticity of each bitcoin transaction is protected through digital signatures that correspond with addresses of users that send and receive bitcoin. Users have full control over remitting bitcoin from their own sending addresses. All transactions on the bitcoin blockchain are transparent, allowing those running the appropriate software to confirm the validity of each transaction. To be recorded on the blockchain, each bitcoin transaction is validated through a proof-of-work consensus method, which entails solving cryptographic functions to validate transactions and post them on the blockchain. This process is called mining. Miners are rewarded with bitcoins, both in the form of newly created bitcoins and fees in bitcoin, for successfully solving for the cryptographic function and providing computing power to the network.

Factors such as access to computer processing capacity, interconnectivity, electricity cost, environmental factors (such as cooling capacity) and location play important roles in mining. As of December 31, 2023, our operating mining units were capable of producing over 0.61 EH/s of computing power. In bitcoin mining, “hashrate” is a measure of the computing and processing power and speed by which a computer processes transactions on the bitcoin network. A company’s computing power measured in hashrate is generally considered to be one of the most important metrics for evaluating bitcoin mining companies. We expect to continue increasing our computing power through 2024 and beyond.

We owned approximately 5,900 miners as of December 31, 2023. These miners range in age as of date of placed in service from 6-16 months and have an average age of approximately 11 months. We do not have scheduled downtime for our miners. We periodically perform unscheduled maintenance on our miners, but such downtime has not historically been significant. When performing unscheduled maintenance, we will typically replace the miner with a substitute miner to limit overall downtime. The miners owned as of December 31, 2023 have a range of energy efficiency (watts per terahash – “w/th”) of 18.9 to 29.5 w/th with an average energy efficiency of 28.6 w/th.

We obtain bitcoin as a result of our mining operations, and we sell bitcoin from time to time, to support our operations and strategic growth. We do not currently plan to engage in regular trading of bitcoin (other than as necessary to convert our bitcoin into U.S. dollars) or to engage in hedging activities related to our holding of bitcoin; however, our decisions to hold or sell bitcoin at any given time may be impacted by the bitcoin market, which has been historically characterized by significant volatility. Currently, we do not use a formula or specific methodology to determine whether or when we will sell bitcoin that we hold, or the number of bitcoins we will sell. Rather, decisions to hold or sell bitcoins are currently determined by management by analyzing forecasts and monitoring the market in real time.

## Factors Affecting Profitability

### Market Price of Bitcoin

Our business is heavily dependent on the price of bitcoin. The prices of digital assets, including bitcoin, have historically experienced substantial volatility, and digital asset prices have in the past and may in the future be driven by speculation and incomplete information, subject to rapidly changing investor sentiment, and influenced by factors such as technology, macroeconomic conditions, regulatory void or changes, fraudulent actors, manipulation, and media reporting. Further, the value of bitcoin and other digital assets may be significantly impacted by factors beyond our control, including consumer trust in the market acceptance of bitcoin as a means of exchange by consumers and producers.

### Bitcoin "Halving" Events

Bitcoin halving is a phenomenon that has historically occurred approximately every four years on the Bitcoin network. Halving is a key part of the Bitcoin protocol and serves to control the overall supply and reduce the risk of inflation in digital assets using a Proof-of-Work consensus algorithm. At a predetermined block, the mining reward is cut in half, hence the term "halving." For example, the reward for adding a single block to the blockchain was initially set at 50 bitcoin currency rewards. The Bitcoin blockchain has undergone halving three times since its inception as follows: (1) on November 28, 2012 at block height 210,000; (2) on July 9, 2016 at block height 420,000; and (3) on May11, 2020 at block height 630,000, when the reward was reduced to its current level of 6.25 bitcoin per block. The next halving for the Bitcoin blockchain is anticipated to occur around April 2024 at block height 840,000. This process will recur until the total amount of bitcoin currency rewards issued reaches 21.0 million, and the theoretical supply of new bitcoin is exhausted, which is expected to occur around 2140. Many factors influence the price of Bitcoin, and potential increase or decrease in prices in advance of or following the future halving is unknown.

Halving is an important part of the Bitcoin ecosystem, and it is closely watched by miners, investors, and other participants in the digital asset market. Each halving event has historically been associated with significant price movements in the value of bitcoin.

### Network Hash Rate and Difficulty

Generally, a bitcoin mining rig's chance of solving a block on the Bitcoin blockchain and earning a bitcoin reward is a function of the mining rig's hash rate, relative to the global network hash rate (i.e., the aggregate amount of computing power devoted to supporting the Bitcoin blockchain at a given time). As demand for bitcoin increases, the global network hash rate rapidly increases, and as more adoption of bitcoin occurs, we expect the demand for new bitcoin will likewise increase as more mining companies are drawn into the industry by this increase in demand. Further, as more and increasingly powerful mining rigs are deployed, the network difficulty for Bitcoin increases. Network difficulty is a measure of how difficult it is to solve a block on the Bitcoin blockchain, which is adjusted every 2,016 blocks, or approximately every two weeks, so that the average time between each block is approximately ten minutes. A high difficulty means that it will take more computing power to solve a block and earn a new bitcoin reward, which, in turn, makes the Bitcoin network more secure by limiting the possibility of one miner or mining pool gaining control of the network. Therefore, as new and existing miners deploy additional hash rate, the global network hash rate will continue to increase, meaning a miner's share of the global network hash rate (and therefore its chance of earning bitcoin rewards) will decline if it fails to deploy additional hash rate at pace with the industry.

The value of bitcoin has historically been subject to wide swings. The following table provides a range of intraday low and intraday high bitcoin prices between January 1, 2022 through December 31, 2023.

### Range of intraday bitcoin prices

Quarterly Reporting Periods Ended	Minimum Price		Maximum Price	
March 31, 2022	\$	32,960	\$	48,218
June 30, 2022	\$	17,581	\$	47,450
September 30, 2022	\$	18,157	\$	25,204
December 31, 2022	\$	15,486	\$	21,474
March 31, 2023	\$	16,489	\$	29,178
June 30, 2023	\$	24,750	\$	31,422
September 30, 2023	\$	24,915	\$	31,838
December 31, 2023	\$	26,544	\$	44,800



As of December 31, 2023 and 2022, we held approximately 95 and 55 bitcoins, respectively. The carrying value of our bitcoins as of December 31, 2023 and 2022 was approximately \$3.4 million and \$0.9 million, respectively, on our Consolidated Balance Sheet. We account for our bitcoin as indefinite-lived intangible assets, which are subject to impairment losses if the fair value of our bitcoin decreases below their carrying value at any time since their acquisition. Impairment losses cannot be recovered for any subsequent increase in fair value. The carrying value of each bitcoin we held at the end of each reporting period reflects the lowest price of one bitcoin quoted on the active exchange at any time since its acquisition. Therefore, negative swings in the market price of bitcoin could have a material impact on our earnings and on the carrying value of our bitcoin.

## Recent Developments

### Reverse Stock Split

On November 9, 2023, our shareholders voted in favor of the approval of an amendment to our Certificate of Incorporation, in the event it is deemed advisable by our Board of Directors, to effect a reverse stock split of the Company's issued and outstanding common stock at a ratio within the range of one-for-two (1:2) and one-for-ten (1:10), as determined by the Board of Directors.

On February 23, 2024, the Board approved a one-for-six (1:6) reverse split of the Company's issued and outstanding common stock, par value \$0.001 per share, pursuant to which every six outstanding shares of common stock was converted into one share of common stock (the "Reverse Stock Split"). The Reverse Stock Split was effected by the filing of an amendment to our Certificate of Incorporation on March 7, 2024 which provided that the Reverse Stock Split become effective at 12:01 a.m. eastern time on March 12, 2024. The amendment provides that no fractional shares shall be issued and, in lieu thereof, any person who would otherwise be entitled to a fractional share of common stock as a result of the Reverse Stock Split will be entitled to receive one share of common stock. The Company's common stock began trading on The Nasdaq Capital Market on a split-adjusted basis on March 12, 2024. The Company has retroactively adjusted all share amounts and per share data herein to give effect to the Reverse Stock Split.

## RESULTS OF OPERATIONS

### Summarized Consolidated Statements of Operations

	Years Ended December 31,	
	2023	2022
Revenue	\$ 12,984,090	\$ 1,733,951
Operating costs and expenses	23,046,009	26,409,936
Operating loss	(10,061,919)	(24,675,985)
Other income (loss)	(8,752,877)	(1,769,236)
Loss before income taxes	(18,814,796)	(26,445,221)
Income tax expense	(60,571)	(1,438,066)
Net loss	(18,875,367)	(27,883,287)
Less: loss (income) attributable to non-controlling interest	2,931,113	(1,356,914)
Net loss attributable to LM Funding America Inc.	\$ (15,944,254)	\$ (29,240,201)

### Bitcoin Mining Operations

The table below describes the average cost of mining each bitcoin for the years ended December 31, 2023 and 2022.

	Years Ended December 31,	
	2023	2022
<b>Cost of Revenues - Analysis of costs to mine one bitcoin (per bitcoin amounts are actual)</b>		
Digital mining revenues	\$ 12,289,131	\$ 945,560
Average revenue of each bitcoin mined (1)	\$ 29,025	\$ 17,707
Cost of Mining - Hosted Facilities	\$ 9,406,940	\$ 1,033,226
Hosting fees expense per one bitcoin	\$ 22,218	\$ 19,349
Bitcoin Mined	423.40	53.40
Weighted average cost of mining one bitcoin (2)	\$ 22,218	\$ 19,349
Cost of mining one bitcoin as % of average bitcoin mining revenue	76.55%	109.27%

(1) Average revenue of each bitcoin mined is calculated by dividing the sum of bitcoin mining revenue for hosted facilities by the total number of bitcoin mined during the respective periods. The Company uses the daily closing prices from our principal market as the source of recording revenue, which is not materially different from the fair value at contract inception. See the table "Range of intraday bitcoin prices" for information on the range of intraday bitcoin prices for quarterly periods since January 1, 2022.

(2) Weighted average cost of mining one bitcoin is calculated by dividing the sum of total hosting fee expense by the total bitcoin mined during the respective periods.

### ***The Year Ended December 31, 2023 compared with the Year Ended December 31, 2022***

#### **Revenues**

During the year ended December 31, 2023, total revenues increased by approximately \$11.3 million to approximately \$13.0 million from approximately \$1.7 million in the year ended December 31, 2022.

Digital mining revenues increased to approximately \$12.3 million for the year ended December 31, 2023 from \$0.9 million for the year ended December 31, 2022, due to the commencement of our digital mining operations in late September 2022.

Interest on delinquent association fees for the year ended December 31, 2023 was approximately \$266 thousand which represents a decrease of 25.9% as compared to the approximately \$359 thousand generated in the year ended December 31, 2022.

Underwriting and origination fees decreased by approximately \$29 thousand or 30.1% due to a reduction in units submitted for collection.

Rental revenue (which includes sales of units) for the year ended December 31, 2023 was approximately \$144 thousand as compared to approximately \$162 thousand for the year ended December 31, 2022.

#### **Operating Costs and Expenses**

During the year ended December 31, 2023, operating costs and expenses decreased by approximately \$3.4 million, or 12.7%, to approximately \$23.0 million from approximately \$26.4 million for the year ended December 31, 2022 primarily due to a decrease in staff costs and payroll and professional fees and an increase in realized gain on sale of digital assets, offset by an increase in digital mining costs of revenues, depreciation, and other expenses.

The net decrease of approximately \$13.6 million in staff costs and payroll is due to a decrease in the non-cash stock compensation expense of which \$2.9 million was incurred in 2023 versus \$17.7 million was incurred in 2022 (\$5.3 million of the 2022 expense is associated with the cancellation of options for the CEO and CFO), offset in part by an increase in payroll of approximately \$1.0 million in the year ended December 31, 2023.

The increase in depreciation and amortization expense of \$4.5 million and digital mining cost of revenues of \$8.4 million for the year ended December 31, 2023 is related to the commencement of mining operations in late September 2022.

Professional fees (excluding fees paid pursuant to our service agreement with BLG and BLGAL), for the years ended December 31, 2023 and 2022 were approximately \$1.2 million and \$2.4 million, respectively. Professional fees for the year ended December 31, 2022 included an expense of \$0.3 million related to the settlement of a legal claim and an expense of \$0.7 million due to the amortization of prepaid annual consulting fees paid in 2021 for digital strategy consultant work performed in 2022, which did not recur in the year ended December 31, 2023.

Legal fees for BLG and BLGAL for the year ended December 31, 2023 were approximately \$0.6 million compared to approximately \$0.8 million for the year ended December 31, 2022. Legal fees for the year ended December 31, 2022 include a \$150 thousand termination fee paid to BLG which did not recur in the year ended December 31, 2023. See Note 9. Related Party Transactions for further discussion regarding the service agreements with BLG and BLGAL.

Other operating costs decreased by \$0.5 million for the year ended December 31, 2023 as the result of a \$1.1 million decrease in non-cash stock expense for consultants incurred in the year ended December 31, 2022 that did not recur during the year ended December 31, 2023, offset in part by a \$0.2 million increase in investor relations cost, \$0.1 million increase in audit fees and \$0.2 million increase in insurance costs.

The Company recognized an impairment loss on the holding of mined digital assets (Bitcoin) of \$1.0 million for the year ended December 31, 2023 compared to \$80 thousand for year ended December 31, 2022. Impairment loss is measured using the intraday low bitcoin price during the holding period of the mined digital asset. ASC Topic 350 - *Goodwill and Other* provides that subsequent increases in bitcoin prices are not allowed to be recorded (unrealized gains) unless the bitcoin is sold, at which the point the gain is recognized.

The Company also recognized a realized gain on the sale of mined digital assets of \$2.1 million for the year ended December 31, 2023 compared to nil for year ended December 31, 2022. Realized gain on sale of bitcoin is the difference between the sale proceeds of bitcoin and the carrying amount.

## Other Income and Loss

Realized loss on marketable securities - the Company recognized a \$4 thousand dollar realized gain on marketable securities for the year ended December 31, 2023 as compared to a \$0.3 million loss for the year ended December 31, 2022. The prior year loss was primarily due to the sale of Borqs stock.

Realized gain on convertible debt securities - the Company incurred a realized gain on convertible debt securities of nil for the year ended December 31, 2023 as compared to \$0.3 million for the year ended December 31, 2022 due to the conversion of Borqs convertible debt securities to common stock during fiscal year 2022.

Impairment loss on prepaid mining machine deposits - the Company incurred an impairment loss on prepaid mining machine deposits of \$3.15 million for the year ended December 31, 2022 due to a \$3.15 million impairment charge for deposits held by Uptime Armory arising from the non-performance of Uptime Armory under the Uptime Purchase Agreement.

Impairment loss on prepaid hosting deposits - the Company incurred an impairment loss on prepaid hosting deposits of \$0.2 million for the year ended December 31, 2023 versus a \$1.8 million for the year ended December 31, 2022 due to a \$0.2 million and \$1.0 million, respectively of impairment charge on the deposits held by Compute North, which is in bankruptcy, and a \$0.8 million impairment charge in fiscal year 2022 for deposits held by Uptime Hosting arising from the non-performance of Uptime Hosting under the Uptime Purchase Agreement.

Impairment loss on digital assets - During the year ended December 31, 2022, the Company purchased an aggregate of approximately 32 Bitcoin for \$1.0 million. During the year ended December 31, 2022, we recorded approximately \$0.5 million of impairment losses on such digital assets.

Impairment loss on Symbiont assets - The Company recognized an impairment loss on Symbiont assets of approximately \$0.8 million for the year ended December 31, 2023 as compared to impairment loss on debt securities of approximately \$1.1 million for the year ended December 31, 2022. During the year ended December 31, 2022 an impairment of the Symbiont debt security was recognized due to Symbiont declaring bankruptcy. During the year ended December 31, 2023, the Company acquired Symbiont intangible assets through bankruptcy proceedings, and then subsequently recognized a \$0.8 million impairment on such assets as a result of the sale of Symbiont assets in December 2023.

Gain on adjustment of note receivable allowance - During the year ended December 31, 2023, the Company reversed the previously established \$1.1 million loss reserve on Symbiont notes receivable due to the acquisition of the Symbiont intangible assets as a result of Symbiont's bankruptcy proceedings.

Unrealized gain (loss) on investment and equity securities - The Company recognized an unrealized loss on securities of approximately \$9.8 million for the year ended December 31, 2023 as compared to an unrealized gain of approximately \$4.4 million for the year ended December 31, 2022 from the revaluation of Seastar Medical Holding Corporation (formerly LMAO's) common stock and warrants upon LMAO's merger with Seastar Medical Holding Corporation.

## Interest (Income) Expense, net

During the year ended December 31, 2023, net interest income was approximately \$0.2 million as compared to \$0.4 million of net interest income for the year ended December 31, 2022. The decrease is related to the reduction in investments in notes receivable for the year ended December 31, 2023.

## Income Tax Expense

During the year ended December 31, 2023, the Company generated a \$18.8 million net loss before income taxes. The Company's income tax due was \$0.1 million as of December 31, 2023. The Company recognized net income tax expense of \$0.1 million for the year ended December 31, 2023.

During the year ended December 31, 2022, the Company generated a \$26.4 million net loss before income taxes. However, due to a change in estimate from the year ended December 31, 2021 that resulted in a limitation on the use of its net operating loss carryforwards, the Company's income tax due was \$1.4 million during the year ended December 31, 2022. The Company recognized net income tax expense of \$1.4 million for the year ended December 31, 2022.

Under ASC 740-10-30-5, *Income Taxes*, deferred tax assets should be reduced by a valuation allowance if, based on the weight of available evidence, it is more-likely-than-not (i.e., a likelihood of more than 50%) that some portion or all of the deferred tax assets will not be realized. The Company considers all positive and negative evidence available in determining the potential realization of deferred tax assets including, primarily, the recent history of taxable earnings or losses. Based on operating losses reported by the Company during 2022, 2020, 2019 and 2018, the Company concluded there was not sufficient positive evidence to overcome this recent operating history. As a result, the Company believes that a valuation allowance continues to be necessary based on the more-likely-than-not threshold noted above. The Company recorded a valuation allowance of approximately \$14.1 million and \$8.5 million for the year ended December 31, 2023 and 2022, respectively.

### Net Income Attributable to Non-Controlling Interest

The Company owns 69.5% of LMFAO Sponsor LLC ("Sponsor"). As such, approximately \$2.9 million and \$1.4 million of the \$9.8 million and \$4.4 million net unrealized gain recognized by the Sponsor's ownership of Seastar Medical Holding Corporation (formerly LMAO) is attributed to the Non-Controlling Interest for the years ended December 31, 2023 and 2022, respectively.

### Net Loss Attributable to LM Funding America, Inc.

During the year ended December 31, 2023, the Company generated a net loss attributable to LM Funding America, Inc. of approximately \$15.9 million as compared to net loss attributable to LM Funding America, Inc. of approximately \$29.2 million for the year ended December 31, 2022, for the reasons mentioned above.

## LIQUIDITY AND CAPITAL RESOURCES

### General

As of December 31, 2023, we had \$2.4 million of cash and cash equivalents and \$3.4 million of digital assets (95.1 BTC with average cost of approximately \$36 thousand) compared with \$4.2 million of cash and cash equivalents and \$0.9 million of digital assets (54.9 BTC with average cost of approximately \$16 thousand) at December 31, 2022. The Company also had \$18 thousand of marketable securities as of December 31, 2023 compared with \$4 thousand at December 31, 2022. The decrease in cash for the year ended December 31, 2023 is due primarily to the use of \$1.6 million for the purchase of Bitcoin mining machines offset in part by the receipt of \$2.7 million of loan repayments from Seastar Medical Holding Corporation.

Our working capital needs may increase in the future as we continue to expand and enhance our mining operations. Our ability to raise additional funds for working capital through equity or debt financings or other sources may depend on the financial success of our then current business and successful implementation of our key strategic initiatives, financial, economic and market conditions and other factors, some of which are beyond our control. No assurance can be given that we will be successful in raising the required capital at a reasonable cost and at the required times, or at all. Further equity financings may have a dilutive effect on shareholders and any debt financing, if available, may require restrictions to be placed on our future financing and operating activities. If we require additional capital and are unsuccessful in raising that capital, we may not be able to continue our business operations in the cryptocurrency mining industry which could adversely impact our business, financial condition and results of operations.

As of December 31, 2023 and December 31, 2022, our liquidity was comprised of:

	December 31, 2023		December 31, 2022	
Cash and cash equivalents	\$	2,401,831	\$	4,238,006
Bitcoin		3,416,256		888,026
Marketable securities		17,860		4,290
End of Period	\$	<u>5,835,947</u>	\$	<u>5,130,322</u>

The Company's Bitcoin balance as of December 31, 2023, and 2022, was as follows:

	December 31, 2023	December 31, 2022
Bitcoin	\$ 3,406,096	\$ 888,026
Tether	10,160	-
Total digital assets	\$ 3,416,256	\$ 888,026

#### Bitcoin

	December 31, 2023	December 31, 2022
Beginning of Year	\$ 888,026	\$ -
Purchase of Bitcoin	35,157	988,343
Production of Bitcoin	12,289,131	945,560
Impairment loss on mined Bitcoin	(965,967)	(79,794)
Impairment loss on purchased Bitcoin	-	(467,406)
Carrying amount of Bitcoin sold	(8,840,251)	(498,677)
End of Period	\$ 3,406,096	\$ 888,026

#### GUSD

	December 31, 2023	December 31, 2022
Beginning of Year	\$ -	\$ -
Purchase of GUSD	-	500,000
GUSD Earned on digital assets	-	5,658
Sale of GUSD	-	(505,658)
End of Period	\$ -	\$ -

	December 31, 2023	December 31, 2022
Bitcoin Balance	95.1	54.9

	December 31, 2023	December 31, 2022
Beginning of Year	54.9	-
Production of Bitcoin	423.4	53.4
Purchase of Bitcoin	2.0	31.6
Sale of Bitcoin	(385.0)	(30.1)
Fees	(0.2)	-
End of Period	95.1	54.9

The Company's cash flow summary for the years ended December 31, 2023 and 2022 are as follows:

	Years Ended December 31,	
	2023	2022
Cash Flows used in Operating Activities	\$ (3,404,681)	\$ (9,136,039)
Cash Flows provided by (used in) Investing Activities	2,299,537	(18,886,107)
Cash Flows used in Financing Activities	(731,031)	(299,033)
Net Decrease in Cash	(1,836,175)	(28,321,179)
Cash - Beginning of Year	4,238,006	32,559,185
Cash - End of Period	\$ 2,401,831	\$ 4,238,006

### Recent Capital Raising Transactions

The Company did not receive cash from equity financing transactions during the year ended December 31, 2023 or 2022.

### Contractual Obligations

The Company has digital mining hosting contracts that expire between May 2024 and December 2024. These contracts currently require total monthly payments of approximately \$700 thousand to \$800 thousand monthly.

### Cash from Operations

Net cash used in operations was approximately \$3.4 million during the year ended December 31, 2023 compared with net cash used in operations of \$9.1 million during the year ended December 31, 2022. During the year ended December 31, 2022, the Company paid \$3.2 million as a deposit for hosting services.

### Cash from Investing Activities

Net cash provided by investing activities was \$2.3 million during the year ended December 31, 2023 as compared to net cash used in investing activities of \$18.9 million during the year ended December 31, 2022. During the year ended December 31, 2023, the Company invested \$1.6 million in deposits for mining equipment but received \$2.7 million from a notes receivable for Seastar Medical Holding Corporation and \$1.8 million from the sale of Symbiont assets. During the year ended December 31, 2022, the Company invested \$14.7 million in deposits for mining equipment and \$3.7 million in a notes receivable for Seastar Medical Holding Corporation.

### Cash from Financing Activities

Net cash used in financing activities was \$0.7 million during the year ended December 31, 2023 as compared to net cash used in financing activities of \$0.3 million for the year ended December 31, 2022.

### Outstanding Debt

Debt of the Company consisted of the following:

	December 31, 2023	December 31, 2022
Financing agreement with Imperial PFS that is unsecured. Down payment of \$78,000 was required upfront and equal installment payments of \$45,672 to be made over a 10 month period. The note matured on August 1, 2023. Annualized interest is 7.35%.	\$ -	\$ 365,379
Financing agreement with Imperial PFS that is unsecured. Down payment of \$15,000 was required upfront and equal installment payments of \$13,799 to be made over an 8 month period. The note matured on August 1, 2023. Annualized interest is 7.35%.	-	110,396
Financing agreement with Imperial PFS that is unsecured. Down payment of \$3,438 was required upfront and equal installment payments of \$3,658 to be made over a 11 month period. The note matures on July 1, 2024. Annualized interest is 12.05%.	21,945	-
Financing agreement with Imperial PFS that is unsecured. Down payment of \$36,544 was required upfront and equal installment payments of \$41,879 to be made over an 10 month period. The note matures on August 1, 2024. Annualized interest is 9.6%.	335,022	-
Financing agreement with Imperial PFS that is unsecured. Down payment of \$30,000 was required upfront and equal installment payments of \$35,103 to be made over a 6 month period. The note matures on June 1, 2024. Annualized interest is 12.05%.	210,619	-
	<u>\$ 567,586</u>	<u>\$ 475,775</u>

Minimum required principal payments on the Company's debt as of December 31, 2023 are as follows :

	Maturity	Amount
2024		\$ 567,586
		<u>\$ 567,586</u>

During the years ended December 31, 2023 and 2022 the Company paid \$624 thousand and \$299 thousand in principal and financing repayments, respectively.

#### Non-GAAP Financial Measures

Our reported results are presented in accordance with U.S. generally accepted accounting principles ("GAAP"). We also disclose Earnings before Interest, Tax, Depreciation and Amortization ("EBITDA") and Core Earnings before Interest, Tax, Depreciation and Amortization ("Core EBITDA") which adjusts for unrealized loss on investment and equity securities, unrealized gain on convertible debt securities, impairment loss on mined digital assets, impairment of intangible long-lived assets, impairment of prepaid hosting deposits, impairment of mining machine deposits and gain on adjustment of note receivable allowance, non-cash lease expenses, and stock compensation expense and option expense, all of which are non-GAAP financial measures. We believe these non-GAAP financial measures are useful to investors because they are widely accepted industry measures used by analysts and investors to compare the operating performance of Bitcoin miners.

The following tables reconcile net loss, which we believe is the most comparable GAAP measure, to EBITDA and Core EBITDA:

	Years Ended December 31,	
	2023	2022
Net income (loss)	\$ (18,875,367)	\$ (27,883,287)
Income tax expense	60,571	1,438,066
Interest expense	-	4,416
Depreciation and amortization	4,983,480	478,020
Income (loss) before interest, taxes & depreciation	\$ (13,831,316)	\$ (25,962,785)
Unrealized loss (gain) on investment and equity securities	9,771,050	(4,423,985)
Realized gain on convertible debt securities	-	(287,778)
Impairment loss on prepaid mining machine deposits	36,691	3,150,000
Impairment loss on mined digital assets	965,967	79,794
Impairment loss on digital assets	-	467,406
Impairment loss on Symbiont assets	750,678	1,052,542
Gain on adjustment of note receivable allowance	(1,052,542)	-
Impairment loss on prepaid hosting deposits	184,236	1,790,712
Stock compensation and option expense	2,939,436	17,670,309
Core income (loss) before interest, taxes & depreciation	<u>\$ (235,800)</u>	<u>\$ (6,463,785)</u>

#### Critical Accounting Estimates and Policies

Our financial statements are prepared in accordance with generally accepted accounting principles in the United States, or GAAP. The preparation of the consolidated financial statements in conformity with GAAP requires our management to make a number of estimates and assumptions relating to the reported amounts of assets and liabilities, the disclosure or inclusion of contingent assets and liabilities at the date of the consolidated financial statements, and the reported amounts of revenue and expenses during the period. Our critical accounting policies include revenue recognition, digital assets, and policies related to long-lived assets. Refer to Note 1 - Significant Accounting Policies to our financial statements for a complete discussion of the significant accounting policies and methods used in the preparation of our financial statements. We consider our critical accounting estimates to be those related to long-lived asset impairment assessments.

##### Long-Lived Assets Impairment Assessments

The Company assesses whether there has been an impairment of long-lived assets when a triggering event occurs, such as significant adverse changes in the business climate, current-period operating or cash flow losses, significant declines in forecasted operations, or a current expectation that an asset group will be disposed of before the end of its useful life. The assessment involves comparing undiscounted expected future cash flows to the carrying value of the long-lived asset. When the undiscounted cash flow analysis indicates a long-lived asset is not recoverable, the amount of the impairment loss is determined by measuring the excess of the carrying amount of the long-lived asset over its estimated fair value. The Company believes accounting estimates related to long-lived asset

impairments are critical estimates, as they are highly susceptible to change and the impact of an impairment on reported assets and earnings could be material. Management is required to make assumptions based on expectations regarding results of operations for future periods and expected market conditions in such periods, including future fair market value of Bitcoin and network difficulty. Cryptocurrency markets can experience significant volatility and uncertainty. The Company's assumptions relating to future results of operations are based on a combination of historical experience, economic analysis and observable market activity. The Company's expectations regarding the holding periods of assets are based on internal budgets and projections, which consider external factors such as market conditions and advances in technology, as of the end of each reporting period. During the years ended December 31, 2023 and December 31, 2022 the Company did not record impairment expense for long-lived assets.

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

We do not have any off-balance sheet arrangements.

#### **Item 7A. Quantitative and Qualitative Disclosures About Market Risk**

Not applicable

#### **Item 8. Financial Statements and Supplementary Data.**

The Financial Statements of the Company, the Notes thereto and the Report of Independent Registered Public Accounting Firm thereon required by this Item 8 begin on page F-1 of this Annual Report on Form 10-K located immediately following the signature page.

#### **Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.**

None

#### **Item 9A. Controls and Procedures.**

##### ***Evaluation of Disclosure Controls and Procedures***

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures pursuant to Rule 13a-15 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as of the end of the period covered by this Annual Report. In designing and evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. In addition, the design of disclosure controls and procedures must reflect the fact that there are resource constraints and that management is required to apply its judgment in evaluating the benefits of possible controls and procedures relative to their costs.

Based on management's evaluation (in accordance with Exchange Act Rule 13a-15(b)), our Chief Executive Officer and Chief Financial Officer concluded that, as of December 31, 2023, the Company's disclosure controls and procedures were effective to provide reasonable assurance that the information required to be disclosed by us in the reports that we file or submit under the Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to management as appropriate to allow timely decisions regarding required disclosure.

##### ***Management's Annual Report on Internal Control Over Financial Reporting.***

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as defined in Exchange Act Rule 13a-15(f).

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, conducted an evaluation of the effectiveness of our internal control over financial reporting as of December 31, 2023 based on the criteria set forth in Internal Control-Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on this assessment, management has concluded that we did maintain effective internal control over financial reporting as of December 31, 2023.

This Annual Report does not include an attestation report by MaloneBailey LLP, our independent registered public accounting firm, regarding internal control over financial reporting. As a smaller reporting company, our management's report was not subject to attestation by our registered public accounting firm pursuant to rules of the SEC that permit us to provide only management's report in this Annual Report.



**Changes in Internal Control Over Financial Reporting.****Remediation of Previously Reported Material Weakness**

As previously disclosed in Part II Item 4A Controls and Procedures in our Annual Report on Form 10-K for the fiscal year ended December 31, 2022, we identified a material weakness associated with segregation of duties, specifically, the Company did not effectively segregate certain accounting duties nor have a proper multi-level review process due to the small size of its accounting staff.

During 2023, we implemented our previously disclosed remediation plan, which included completing the following remediation actions:

- appointment of additional qualified staff and use of outside experts;
- increasing the size of our accounting staff by 33%;
- documentation of internal control procedures
- implementation of new controls and monitoring of controls to ensure compliance of such controls; and
- expansion of the management and governance over IT system controls.

During the fourth quarter ended December 31, 2023, we completed the necessary validation and testing to conclude that the material weakness was remediated as of December 31, 2023.

Except for the material weakness remediation described above, there were no changes in our internal control over financial reporting that occurred during the three months ended December 31, 2023, that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

**Item 9B. Other Information.**

During the quarter ended December 31, 2023, none of the Company's directors or executive officers adopted or terminated any Rule 10b5-1 trading arrangement or non-Rule 10b5-1 trading arrangement, as defined in Item 408 of Regulation S-K.

**Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections.**

Not applicable.

**PART III****Item 10. Directors, Executive Officers and Corporate Governance.**

The information required by this Item will be included in and is hereby incorporated by reference from our definitive proxy statement relating to our 2024 annual meeting of stockholders or an amendment to this Form 10-K, which we intend to file within 120 days after the end of our fiscal year ended December 31, 2023.

**Item 11. Executive Compensation.**

The information required by this Item will be included in and is hereby incorporated by reference from our definitive proxy statement relating to our 2024 annual meeting of stockholders or an amendment to this Form 10-K, which we intend to file within 120 days after the end of our fiscal year ended December 31, 2023.

**Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.**

The information required by this Item will be included in and is hereby incorporated by reference from our definitive proxy statement relating to our 2024 annual meeting of stockholders or an amendment to this Form 10-K, which we intend to file within 120 days after the end of our fiscal year ended December 31, 2023.

**Item 13. Certain Relationships and Related Transactions, and Director Independence.**

The information required by this Item will be included in and is hereby incorporated by reference from our definitive proxy statement relating to our 2024 annual meeting of stockholders or an amendment to this Form 10-K, which we intend to file within 120 days after the end of our fiscal year ended December 31, 2023.

**Item 14. Principal Accounting Fees and Services.**

The information required by this Item will be included in and is hereby incorporated by reference from our definitive proxy statement relating to our 2024 annual meeting of stockholders or an amendment to this Form 10-K, which we intend to file within 120 days after the end of our fiscal year ended December 31, 2023.

**PART IV**

**Item 15. Exhibits, Financial Statement Schedules**

(a) The following documents are filed as a part of this report:

1. *Financial Statements*. See the Index to Consolidated Financial Statements on page F-1.
2. *Exhibits*. See Item 15(b) below.

(b) *Exhibits*. The exhibits listed on the Exhibit Index, which appears at the end of this report, are filed as part of, or are incorporated by reference into, this report.

(c) *Financial Statement Schedule*. See Item 15(a)(1) above.

**Item 16. Form 10-K Summary.**

None.

## INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

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## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Shareholders and Board of Directors of  
LM Funding America, Inc.

### ***Opinion on the Financial Statements***

We have audited the accompanying consolidated balance sheets of LM Funding American, Inc. and its subsidiaries (collectively, the "Company") as of December 31, 2023 and 2022, and the related consolidated statements of operations, change in stockholders' equity, and cash flows for the years then ended, 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, 2023 and 2022, and the results of their operations and their 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 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 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.

### ***Critical Audit Matters***

The critical audit matter communicated below is a matter arising from the current period audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matter does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

#### *Evaluation of the Accounting for and Disclosure of Bitcoin Mining Revenue Recognized*

As disclosed in Note 1 to the financial statements, the Company recognizes revenue in accordance with Topic 606, Revenue from Contracts with Customers. The Company provides computing power to its mining pools and in exchange for providing such computing power, the Company is entitled to a fractional share of the fixed bitcoin awards earned, plus a fractional share of the transaction fee reward, less net digital asset fees due to the mining pool operator over the measurement period. The Company's fractional share is based on the proportion of computing power the Company contributed to the mining pool operator to the total computing power contributed by all mining pool participants in solving the current algorithm. During the year ended December 31, 2023, the Company recognized net bitcoin mining revenue of approximately \$12.3 million. The Company's management has exercised significant judgment in their determination of how existing GAAP should be applied to the accounting for and disclosure of bitcoin mining revenue recognized.

The primary procedures we performed to address this critical audit matter included the following:

- Evaluated management's rationale for the application of Topic 606 to account for bitcoin awards earned;
- Evaluated management's disclosures of its bitcoin activities in the financial statement footnotes;
- Evaluated and tested management's rationale and supporting documentation associated with the valuation of bitcoin awards earned;
- Independently confirmed certain financial data and wallet records directly with the mining pools;

- Compared the Company's wallet records of bitcoin mining revenue received to publicly available blockchain records; and
- Undertook an analytical review of total bitcoin mining revenue expected to be recognized by the Company by assessing the total hash power contributed onto the network by the Company against total block rewards and transaction fees issued over the year.

/s/ MaloneBailey, LLP  
www.malonebailey.com  
We have served as the Company's auditor since 2018.  
Houston, Texas  
April 1, 2024

**LM FUNDING AMERICA, INC. AND SUBSIDIARIES**  
**CONSOLIDATED BALANCE SHEETS**

	December 31, 2023	December 31, 2022
<b>Assets</b>		
Cash	\$ 2,401,831	\$ 4,238,006
Digital Assets (Note 2)	3,416,256	888,026
Finance receivables	19,221	26,802
Marketable securities (Note 5)	17,860	4,290
Notes receivable from Seastar Medical Holding Corporation (Note 5)	-	3,807,749
Receivable from sale of Symbiont assets	200,000	-
Prepaid expenses and other assets	4,067,212	1,233,322
Income tax receivable	31,187	293,466
Current assets	10,153,567	10,491,661
Fixed assets, net (Note 3)	24,519,610	27,272,374
Deposits on mining equipment (Note 4)	20,837	525,219
Hosting services deposits (Note 4)	-	2,200,452
Notes receivable from Seastar Medical Holding Corporation (Note 5)	1,440,498	-
Long-term investments - debt security (Note 5)	-	2,402,542
Less: Allowance for losses on debt security (Note 5)	-	(1,052,542)
Long-term investments - debt security, net (Note 5)	-	1,350,000
Long-term investments - equity securities (Note 5)	156,992	464,778
Investment in Seastar Medical Holding Corporation (Note 5)	1,145,486	10,608,750
Operating lease - right of use assets (Note 7)	189,009	265,658
Other assets	86,798	10,726
Long-term assets	27,559,230	42,697,957
Total assets	<u>\$ 37,712,797</u>	<u>\$ 53,189,618</u>
<b>Liabilities and stockholders' equity</b>		
Accounts payable and accrued expenses	2,064,909	1,570,906
Note payable - short-term (Note 6)	567,586	475,775
Due to related parties (Note 9)	22,845	75,488
Current portion of lease liability (Note 7)	110,384	90,823
Total current liabilities	2,765,724	2,212,992
Lease liability - net of current portion (Note 7)	85,775	179,397
Long-term liabilities	85,775	179,397
Total liabilities	2,851,499	2,392,389
Stockholders' equity (Note 10)		
Preferred stock, par value \$.001; 150,000,000 shares authorized; no shares issued and outstanding as of December 31, 2023 and December 31, 2022	-	-
Common stock, par value \$.001; 350,000,000 shares authorized; 2,492,964 shares issued and outstanding as of December 31, 2023 and 2,232,964 as of December 31, 2022	2,493	2,233
Additional paid-in capital	95,145,376	92,206,200
Accumulated deficit	(58,961,461)	(43,017,207)
Total LM Funding America stockholders' equity	36,186,408	49,191,226
Non-controlling interest	(1,325,110)	1,606,003
Total stockholders' equity	34,861,298	50,797,229
Total liabilities and stockholders' equity	<u>\$ 37,712,797</u>	<u>\$ 53,189,618</u>

The accompanying notes are an integral part of these consolidated financial statements.

**LM FUNDING AMERICA, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**

	Years Ended December 31,	
	2023	2022
Revenues:		
Digital mining revenues	\$ 12,289,131	\$ 945,560
Specialty finance revenue	550,445	626,773
Rental revenue	144,514	161,618
<b>Total revenues</b>	<b>12,984,090</b>	<b>1,733,951</b>
Operating costs and expenses:		
Digital mining cost of revenues (exclusive of depreciation and amortization shown below)	9,406,940	1,033,226
Staff costs and payroll	5,858,736	19,422,723
Professional fees	1,863,038	3,158,446
Settlement costs with associations	10,000	160
Selling, general and administrative	851,806	635,268
Real estate management and disposal	146,716	110,465
Depreciation and amortization	4,983,480	478,020
Collection costs	29,875	(12,213)
Impairment loss on mined digital assets	965,967	79,794
Realized gain on sale of mined digital assets	(2,070,508)	-
Other operating costs	999,959	1,504,047
<b>Total operating costs and expenses</b>	<b>23,046,009</b>	<b>26,409,936</b>
<b>Operating loss</b>	<b>(10,061,919)</b>	<b>(24,675,985)</b>
Realized gain (loss) on securities	4,420	(349,920)
Realized gain on convertible debt securities	-	287,778
Unrealized gain (loss) on marketable securities	13,570	(56,830)
Impairment loss on prepaid machine deposits	(36,691)	(3,150,000)
Impairment loss on prepaid hosting deposits	(184,236)	(1,790,712)
Impairment loss on Symbiont assets	(750,678)	(1,052,542)
Unrealized gain (loss) on investment and equity securities	(9,771,050)	4,423,985
Impairment loss on digital assets	-	(467,406)
Realized gain on sale of purchased digital assets	1,917	20,254
Loss on disposal of assets	(9,389)	(38,054)
Digital assets other income	-	5,658
Other income - coupon sales	639,472	-
Gain on adjustment of note receivable allowance	1,052,542	-
Other income - finance revenue	37,660	-
Dividend income	-	3,875
Interest income, net	249,586	394,678
<b>Loss before income taxes</b>	<b>(18,814,796)</b>	<b>(26,445,221)</b>
Income tax expense	(60,571)	(1,438,066)
<b>Net Loss</b>	<b>\$ (18,875,367)</b>	<b>\$ (27,883,287)</b>
Less: loss (income) attributable to non-controlling interest	2,931,113	(1,356,914)
<b>Net loss attributable to LM Funding America Inc.</b>	<b>\$ (15,944,254)</b>	<b>\$ (29,240,201)</b>
Basic loss per common share	\$ (6.98)	\$ (13.10)
Diluted loss per common share	\$ (6.98)	\$ (13.10)
Weighted average number of common shares outstanding		
Basic	2,283,836	2,231,681
Diluted	2,283,836	2,231,681

The accompanying notes are an integral part of these consolidated financial statements.

**LM FUNDING AMERICA, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY**  
**FOR THE YEARS ENDED DECMEBER 31, 2023 AND 2022**

**Common Stock**

	Shares	Amount	Additional paid-in capital	Accumulated Deficit	Non- Controlling Interest	Total Equity
<b>Balance - December 31, 2021</b>	<b>2,220,640</b>	<b>\$ 2,221</b>	<b>\$ 74,535,903</b>	<b>\$ (13,777,006)</b>	<b>\$ 249,089</b>	<b>\$ 61,010,207</b>
Stock issued for services	12,324	12	(12)	-	-	-
Stock compensation	-	-	1,098,331	-	-	1,098,331
Stock option expense	-	-	16,571,978	-	-	16,571,978
Net income (loss)	-	-	-	(29,240,201)	1,356,914	(27,883,287)
<b>Balance - December 31, 2022</b>	<b><u>2,232,964</u></b>	<b><u>\$ 2,233</u></b>	<b><u>\$ 92,206,200</u></b>	<b><u>\$ (43,017,207)</u></b>	<b><u>\$ 1,606,003</u></b>	<b><u>\$ 50,797,229</u></b>
Stock option expense	-	-	1,843,731	-	-	1,843,731
Stock compensation	260,000	260	1,095,445	-	-	1,095,705
Net loss	-	-	-	(15,944,254)	(2,931,113)	(18,875,367)
<b>Balance - December 31, 2023</b>	<b><u>2,492,964</u></b>	<b><u>\$ 2,493</u></b>	<b><u>\$ 95,145,376</u></b>	<b><u>\$ (58,961,461)</u></b>	<b><u>\$ (1,325,110)</u></b>	<b><u>\$ 34,861,298</u></b>

The accompanying notes are an integral part of these consolidated financial statements.



**LM FUNDING AMERICA, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**

	Years ended December 31,	
	2023	2022
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		
Net loss	\$ (18,875,367 )	\$ (27,883,287 )
<b>Adjustments to reconcile net loss to net cash used in operating activities</b>		
Depreciation and amortization	4,983,480	478,020
Noncash lease expense	98,536	95,098
Stock compensation	1,095,705	1,098,331
Stock option expense	1,843,731	16,571,978
Accrued investment income	(159,692 )	(392,412 )
Accrued recovery of legal fees	-	(55,364 )
Impairment loss on digital assets	965,967	547,200
Impairment loss on mining machine deposits	36,691	3,150,000
Impairment loss on hosting deposits	184,236	1,790,712
Impairment loss on Symbiont assets	750,678	-
Unrealized loss (gain) on marketable securities	(13,570 )	56,830
Unrealized loss (gain) on investment and equity securities	9,771,050	(4,423,985)
Loss on disposal of fixed assets	9,389	38,054
Realized loss (gain) on securities	(4,420 )	349,920
Realized gain on convertible note receivable	-	(287,778 )
Realized gain on sale of digital assets	(2,072,425 )	(20,254 )
Proceeds from securities	744,036	2,565,893
Convertible debt and interest converted into marketable securities	-	844,882
Investments in marketable securities	(739,616 )	(844,882 )
(Reversal of) allowance loss on debt security	(1,052,542 )	1,052,542
<b>Change in operating assets and liabilities:</b>		
Prepaid expenses and other assets	189,407	651,472
Hosting deposits	(36,691 )	(3,202,764 )
Repayments to related party	(52,643 )	(45,732 )
Accounts payable and accrued expenses	177,478	393,260
Mining of digital assets	(12,289,131 )	(945,560 )
Proceeds from sale of digital assets	10,874,701	-
Lease liability payments	(95,948 )	(98,569 )
Income tax receivable	262,279	(293,466 )
Deferred taxes and taxes payable	-	(326,178 )
Net cash used in operating activities	(3,404,681 )	(9,136,039 )
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>		
Net collections of finance receivables - original product	(6,428 )	13,993
Net collections of finance receivables - special product	14,009	(12,602 )
Capital expenditures	(1,625,284 )	(15,382 )
Investment in notes receivable - Seastar Medical Holding Corporation	(125,000 )	(3,753,090 )
Collection of notes receivable	2,651,943	-
Investment in digital assets	(35,157 )	(988,343 )
Proceeds from sale of purchased digital assets	27,815	518,931
Financing activities for Symbiont asset acquisition	(402,361 )	-
Symbiont asset sale	1,800,000	-
Deposits for mining equipment	-	(14,649,614 )
Net cash from (used in) investing activities	2,299,537	(18,886,107 )
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>		
Loan principal and insurance financing repayments	(624,481 )	(299,033 )
Issue costs from the issuance of common stock	(106,550 )	-
Net cash used in financing activities	(731,031 )	(299,033 )
NET DECREASE IN CASH	(1,836,175 )	(28,321,179 )
CASH - BEGINNING OF PERIOD	4,238,006	32,559,185
<b>CASH - END OF PERIOD</b>	<b>\$ 2,401,831</b>	<b>\$ 4,238,006</b>
<b>SUPPLEMENTAL DISCLOSURES OF NON-CASH INVESTING AND FINANCING ACTIVITIES</b>		
Insurance financing	\$ 716,292	\$ 660,120
ROU assets and operating lease obligation recognized	\$ 21,887	\$ 300,787
Reclassification of mining equipment deposit to fixed assets, net	\$ 1,177,226	\$ 26,961,095
Capital expenditures in accrued liabilities	\$ 1,035,374	\$ 718,416
Reclassification of Reverse stock split	\$ 10,859	\$ -
<b>SUPPLEMENTAL DISCLOSURES OF CASHFLOW INFORMATION</b>		
Cash paid for taxes	\$ -	\$ 2,057,710
Cash paid for interest	\$ -	\$ -

The accompanying notes are an integral part of these consolidated financial statements.



**LM FUNDING AMERICA, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEARS ENDED DECEMBER 31, 2023 AND 2022**

**Note 1. Summary of Significant Accounting Policies**

**Nature of Operations**

LM Funding America, Inc. ("we", "our", "LMFA" or the "Company") was formed as a Delaware corporation on April 20, 2015.

LMFA is the sole member of several entities including LM Funding, LLC, which was organized in January 2008, US Digital Mining and Hosting Co. ("US Digital"), which was created on September 10, 2021; LMFA Financing LLC, created on November 21, 2020, and LMFAO Sponsor LLC, created on October 29, 2020. US Digital has created various 100% owned subsidiaries to engage in business in various states.

LMFAO Sponsor LLC created a majority owned subsidiary LMF Acquisition Opportunities Inc. on October 29, 2020. LMF Acquisition Opportunities Inc was merged with Seastar Medical Holding Corporation on October 28, 2022.

The Company also from time to time organizes other subsidiaries to serve a specific purpose or hold a specific asset.

**Lines of Business**

On September 15, 2021, the Company announced its plan to operate in the Bitcoin mining ecosystem, and we commenced Bitcoin mining operations in late September 2022. This business operation deploys our computing power to mine Bitcoin on the Bitcoin network. We conduct this business through our wholly owned subsidiary, US Digital, a Florida limited liability company, which we formed in 2021 to develop and operate our cryptocurrency mining business.

With respect to our specialty finance business, the Company has historically engaged in the business of providing funding to nonprofit community associations primarily located in the state of Florida. We offer incorporated nonprofit community associations, which we refer to as "Associations," a variety of financial products customized to each Association's financial needs. Our original product offering consists of providing funding to Associations by purchasing their rights under delinquent accounts that are selected by the Associations arising from unpaid Association assessments. Historically, we provided funding against such delinquent accounts, which we refer to as "Accounts," in exchange for a portion of the proceeds collected by the Associations from the account debtors on the Accounts. In addition to our original product offering, we also purchase Accounts on varying terms tailored to suit each Association's financial needs, including under our New Neighbor Guaranty™ program.

**Cryptocurrency Mining Business**

Bitcoin was introduced in 2008 with the goal of serving as a digital means of exchanging and storing value. Bitcoin is a form of digital currency that depends upon a consensus-based network and a public ledger called a "blockchain", which contains a record of every Bitcoin transaction ever processed. The Bitcoin network is the first decentralized peer-to-peer payment network, powered by users participating in the consensus protocol, with no central authority or middlemen, that has wide network participation. The authenticity of each Bitcoin transaction is protected through digital signatures that correspond with addresses of users that send and receive Bitcoin. Users have full control over remitting Bitcoin from their own sending addresses. All transactions on the Bitcoin blockchain are transparent, allowing those running the appropriate software to confirm the validity of each transaction. To be recorded on the blockchain, each Bitcoin transaction is validated through a proof-of-work consensus method, which entails solving complex mathematical problems to validate transactions and post them on the blockchain. This process is called mining. Miners are rewarded with Bitcoins, both in the form of newly-created Bitcoins and transaction fees in Bitcoin, for successfully solving the mathematical problems and providing computing power to the network.

Factors such as access to computer processing capacity, interconnectivity, electricity cost, environmental factors (such as cooling capacity) and location play important roles in mining. In Bitcoin mining, "hashrate" is a measure of the computing and processing power and speed by which a mining computer mines and processes transactions on the Bitcoin network. We expect to continue increasing our computing power through 2024 and beyond as we expand the number of active mining machines. A company's computing power measured in hashrate is generally considered to be one of the most important metrics for evaluating Bitcoin mining companies.

We obtain Bitcoin as a result of our mining operations, and we sell Bitcoin from time to time, to support our operations and strategic growth. We plan to convert our Bitcoin to U.S. dollars. We may engage in regular trading of Bitcoin or engage in hedging activities related to our holding of Bitcoin. However, our decisions to hold or sell Bitcoin at any given time may be impacted by the Bitcoin market, which has been historically characterized by significant volatility. Currently, we do not use a formula or specific methodology to determine whether or when we will sell Bitcoin that we hold, or the number of Bitcoins we will sell. Rather, decisions to hold or sell Bitcoins are currently determined by management by monitoring the market in real time.

### **Specialty Finance Company**

In our specialty finance business, we purchase an Association's right to receive a portion of the Association's collected proceeds from owners that are not paying their assessments. After taking assignment of an Association's right to receive a portion of the Association's proceeds from the collection of delinquent assessments, we engage law firms to perform collection work on a deferred billing basis wherein the law firms receive payment upon collection from the account debtors or a predetermined contracted amount if payment from account debtors is less than legal fees and costs owed. Under this business model, we typically fund an amount equal to or less than the statutory minimum an Association could recover on a delinquent account for each Account, which we refer to as the "Super Lien Amount". Upon collection of an Account, the law firm working on the Account, on behalf of the Association, generally distributes to us the funded amount, interest, and administrative late fees, with the law firm retaining legal fees and costs collected, and the Association retaining the balance of the collection. In connection with this line of business, we have developed proprietary software for servicing Accounts, which we believe enables law firms to service Accounts efficiently and profitably.

Under our New Neighbor Guaranty program, an Association will generally assign substantially all of its outstanding indebtedness and accruals on its delinquent units to us in exchange for payment by us of monthly dues on each delinquent unit. This simultaneously eliminates a substantial portion of the Association's balance sheet bad debts and assists the Association to meet its budget by receiving guaranteed monthly payments on its delinquent units and relieving the Association from paying legal fees and costs to collect its bad debts. We believe that the combined features of the program enhance the value of the underlying real estate in an Association and the value of an Association's delinquent receivables.

Because we acquire and collect on the delinquent receivables of Associations, the Account debtors are third parties about whom we have little or no information. Therefore, we cannot predict when any given Account will be paid off or how much it will yield. In assessing the risk of purchasing Accounts, we review the property values of the underlying units, the governing documents of the relevant Association, and the total number of delinquent receivables held by the Association.

### **Principles of Consolidation**

The consolidated financial statements include the accounts of LMFA and its wholly-owned subsidiaries: LM Funding, LLC; LMF October 2010 Fund, LLC; REO Management Holdings, LLC (including all 100% owned subsidiary limited liability companies); LM Funding of Colorado, LLC; LM Funding of Washington, LLC; LM Funding of Illinois, LLC; US Digital Mining and Hosting Co., LLC (includes all 100% owned subsidiary limited liability companies) and LMF SPE #2, LLC and various single purpose limited liability corporations owned by REO Management Holdings, LLC which own various properties. It also includes LMFA Sponsor LLC (a 69.5% owned subsidiary). All significant intercompany balances have been eliminated in consolidation.

### **Basis of Presentation**

The consolidated financial statements have been prepared pursuant to the rules and regulations of the United States Securities and Exchange Commission ("SEC"). The Company prepares its consolidated financial statements in conformity with generally accepted accounting principles in the United States ("GAAP").

### **Reclassification**

Certain prior period immaterial amounts have been reclassified to conform to the current period presentation. These reclassifications had no effect on the reported results of operations.

### **Liquidity**

The accompanying consolidated financial statements of the Company have been prepared assuming the Company will continue as a going concern. The going concern basis of presentation assumes that the Company will continue in operation one year after the date these financial statements are issued and will be able to realize its assets and discharge its liabilities and commitments in the normal course of business. The evaluation of going concern under the accounting guidance requires significant judgment which involves the Company to consider that it has historically incurred losses in recent years as it has prepared to grow its business through expansion and acquisition opportunities. The Company must also consider its current liquidity as well as future market and economic conditions that may be deemed outside the control of the Company as it relates to obtaining financing and generating future profits. As of December 31, 2023, the Company had \$2.4 million available cash on-hand and bitcoin with a fair market value of \$3.4 million. After considering its current liquidity and future market and economic conditions, the Company has concluded there is no substantial doubt about the Company's ability to continue as a going concern.

## **Use of Estimates**

The preparation of consolidated 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 consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Estimates include the evaluation of probable losses on balances due from a related party, the realization of deferred tax assets, the evaluation of contingent losses related to litigation and reserves on notes receivables. We consider our critical accounting estimates to be those related to long-lived asset impairment assessments. Our estimates may change, however, as new events occur and additional information is obtained, and any such changes will be recognized in the consolidated financial statements.

## **Segment and Reporting Unit Information**

Operating segments are defined as components of an entity for which discrete financial information is available that is regularly reviewed by the Chief Operating Decision Maker ("CODM") in deciding how to allocate resources to an individual segment and in assessing performance. The Chief Executive Officer and Chief Financial Officer of the Company are determined to comprise the CODM, as a group. The Company has two operating segments as of December 31, 2023, which we refer to as Specialty Finance and Mining Operations. Our corporate oversight function and other components that may earn revenues that are only incidental to the activities of the Company are aggregated and included in the "All Other" category. See Note 11, "Segment Information".

## **Cash**

The Company maintains cash balances at several financial institutions that are insured under the Federal Deposit Insurance Corporation's ("FDIC") Transition Account Guarantee Program. Balances with the financial institutions may exceed federally insured limits. We have approximately \$2.2 million of cash in various institutions that exceed the FDIC or SIPC insurance coverage limit of \$250,000.

## **Digital Assets**

Bitcoin are included in current assets in the consolidated balance sheets due to the Company's ability to sell them in a highly liquid marketplace and its intent to liquidate its bitcoin to support operations when needed. Bitcoin are accounted for under the Company's revenue recognition policy detailed in Note 1 – Summary of Significant Accounting Policies. Bitcoin are classified as indefinite-lived intangible assets in accordance with ASC 350, Intangibles – Goodwill and Other, and are recorded at cost less impairment.

We have ownership of and control over our digital assets and use cold storage wallets and third-party custodial services to secure them. Digital assets that are purchased are initially recorded at cost and bitcoin that is earned is measured at fair value on the date earned at the daily closing price, which is not materially different from the fair value at contract inception, which is the daily opening price (refer to Revenue Recognition policy). Digital assets are measured on the consolidated balance sheet at cost, net of any impairment losses incurred since acquisition. When applicable, we account for stablecoin as financial assets in accordance with ASC 310, Receivables. The stablecoin are recorded at cost less impairment, which approximates their fair value.

We determine the fair value of our digital assets that are accounted for as intangible assets in accordance with ASC 820, *Fair Value Measurement*, based on quoted prices from our principal market for such assets (Level 1 inputs). We perform an analysis each month to identify whether events or changes in circumstances indicate that it is more likely than not that our digital assets are impaired. If the current carrying value of a digital asset exceeds the fair value so determined, an impairment loss has occurred with respect to those digital assets in the amount equal to the difference between their carrying values and the fair value. The fair value of digital assets is determined on a nonrecurring basis based on the lowest intraday quoted price as reported in the digital assets' principal market.

The impaired digital assets are written down to their fair value at the time of impairment and this new cost basis will not be adjusted upward for any subsequent increase in fair value. When applicable, any impairment loss on digital assets held for investment would be recognized during the period incurred within "Impairment loss on digital assets" in other income/expense in the consolidated statements of operations. Impairment loss on mined digital assets would be recognized during the period incurred within "Impairment loss on mined digital assets" in operating costs and expenses in the consolidated statements of operations.

Gains are not recorded until realized upon sale, at which point they are presented separately from any impairment losses. Any realized gain or loss from the sale of digital assets that were purchased as an investment is recorded in other income (loss), while any realized gain or loss from the sale of digital assets that were earned through mining operations would be recognized within operating costs and expenses. The Company accounts for its gains or losses in accordance with the first in first out ("FIFO") method of accounting.

Digital assets earned by the Company through its mining activities, proceeds from the sale of mined digital assets, realized gain (loss) from the sale of digital assets and the loss on impairment of digital assets are included within operating activities on the consolidated statements of cash flows, where applicable. Purchases of digital assets and proceeds from the sale of purchased digital assets and included within investing activities in the consolidated statements of cash flows.

On December 13, 2023, the FASB issued ASU 2023-08, which addresses the accounting and disclosure requirements for certain crypto assets. The standard will be adopted by the Company effective January 1, 2024. Refer to Recently issued accounting pronouncements in this Annual Report on Form 10-K for a description of the expected effect on the Company's consolidated financial position and results from operations upon adoption of the standard.

#### **Investment in Securities**

Investment in Securities includes investments in common stocks and convertible notes receivables. Investments in securities are reported at fair value with changes in unrecognized gains or losses included in other income on the income statement. The Symbiont convertible note receivable is reported at amortized costs less impairment.

#### **Investments in Unconsolidated Entities**

We account for investments in less than 50% owned and more than 20% owned entities using the equity method of accounting. Because we have elected the fair value option for these securities, unrealized holding gains and losses during the period are included in other income within the Consolidated Statements of Operation.

#### **Finance Receivables**

Finance receivables are recorded at the amount funded or cost (by unit). The Company evaluates its finance receivables at each period end for losses that are considered probable and can be reasonably estimated in accordance with ASC 450-20. As discussed above, recoverability of funded amounts under the Company's original product is generally assured because of the protection of the Super Lien Amount. However, the Company did have an accrual at December 31, 2023 and 2022, respectively for an allowance for credit losses for this program of approximately \$44 thousand and \$48 thousand.

Under the *New Neighbor Guaranty* program (special product), the Company funds amounts in excess of the Super Lien Amount. When evaluating the carrying value of its finance receivables, the Company looks at the likelihood of future cash flows based on historical payoffs, the fair value of the underlying real estate, the general condition of the Association in which the unit exists, and the general economic real estate environment in the local area. The Company estimated an allowance for credit losses for this program of approximately \$8 thousand and \$9 thousand as of December 31, 2023 and December 31, 2022, respectively under ASC 450-20 related to its New Neighbor Guaranty program.

The Company will charge any receivable against the allowance for credit losses when management believes the uncollectability of the receivable is confirmed. The Company considers writing off a receivable when (i) a first mortgage holder who names the association in a foreclosure suit takes title and satisfies an estoppel letter for amounts owed which are less than amounts the Company funded to the association; (ii) a tax deed is issued with insufficient excess proceeds to pay amounts the Company funded to the Association; (iii) an association settles an account for less than amounts the Company funded to the Association or (iv) the Association terminates its relationship with the Company's designated legal counsel. Upon the occurrence of any of these events, the Company evaluates the potential recovery via a deficiency judgment against the prior owner and the ability to collect upon the deficiency judgment within the statute of limitations period or whether the deficiency judgment can be sold. If the Company determines that collection through a deficiency judgment or sale of a deficiency judgment is not feasible, the Company writes off the unrecoverable receivable amount. Any losses greater than the recorded allowance will be recognized as expenses. Under the Company's revenue recognition policies, all finance receivables (original product and special product) are classified as nonaccrual.

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

FASB ASC 825-10, Financial Instruments, requires disclosure of fair value information about financial instruments, whether or not recognized in the balance sheet.

#### **Fixed Assets**

The Company capitalizes all acquisitions of fixed assets in excess of \$500. Fixed assets are stated at cost, net of accumulated depreciation. State and local use tax for equipment shipped from overseas is generally accrued on a quarterly basis at the time equipment is placed in service and is paid to the state in which the equipment is being utilized. Depreciation is computed using the straight-line method over the estimated useful lives of the assets and commences once the assets are ready for their intended use. Fixed assets are comprised of furniture, computer, office equipment, buildings and mining machines with assigned useful lives of 3 to 30 years.

The Company classifies mining machine deposit payments within "Deposits on mining equipment" in the consolidated balance sheets. As mining machines are received, the respective cost of the mining machines plus the related shipping and customs fees are reclassified from "Deposits on mining equipment" to "Fixed assets, net" in the consolidated balance sheet. Refer to Note 4. In addition, as part of its periodic review of its fixed asset groups during the fourth quarter of 2023, the Company changed the estimated useful life for its mining machines from 5 years to 4 years. The change is accounted for on a prospective basis.

The Company operates in an emerging industry for which limited data is available to make estimates of the useful economic lives of mining machines. To the extent that any of the assumptions underlying management's estimate of useful life of its mining machines are subject to revision in a future reporting period, either as a result of changes in circumstances or through the availability of greater quantities of data, then the estimated useful life could change and have a prospective impact on depreciation expense and the carrying amounts of these assets.

#### **Equipment Purchases**

During 2021, we purchased an aggregate of 5,046 Bitcoin S19J Pro Antminer cryptocurrency mining machines for an aggregate purchase price of \$24.4 million (the "Mining Machines") from Bitmain after certain credits. We received all of the Mining Machines purchased during 2021 from August 2022 through November 2022.

During the year ended December 31, 2022, the Company purchased an additional 400 Bitcoin Miner S19J Pro machines from Bitmain for an aggregate purchase price of approximately \$1.3 million which were delivered in December 2022.

Additionally, during the year ended December 31, 2022, the Company purchased 200 Bitcoin S19 XP Antminer cryptocurrency mining machines ("XP Machines") from Bitmain for an aggregate purchase price of approximately \$1.3 million. which were delivered in January 2023. We used various Bitmain credits and coupons totaling approximately \$1.0 million to pay for the machines and we paid the remaining \$0.3 million non-refundable payment in cash.

We purchased an additional 65 S19 XP machines on December 20, 2022 and another 125 S19 XP machines on January 15, 2023 from Bitmain for an aggregate purchase price of approximately \$1.1 million. We used various Bitmain credits and coupons totaling approximately \$0.6 million to pay for the 65 S19 XP machines that were ordered in December 2022, and in January 2023 we paid the remaining \$0.5 million non-refundable payment relating to the 125 S19 XP machines in cash. All 190 XP machines were delivered in April 2023. We also paid \$0.3 million to acquire an additional 101 S19 XP machines from Bitmain which were delivered in May 2023.

Since the inception of our contracts with Bitmain, we have paid an aggregate of approximately \$29.0 million to Bitmain and related vendors relating to the purchase of these machines through December 31, 2023.

As of March 8, 2024, we had approximately 5,900 active machines with hashing capacity of approximately 0.61 EH/s.

#### **Right to Use Assets**

The Company capitalizes all leased assets pursuant to ASU 2016-02, "Leases (Topic 842)," which requires lessees to recognize right-of-use assets and lease liability, initially measured at present value of the lease payments, on its balance sheet for leases with terms longer than 12 months and classified as either financing or operating leases. As of December 31, 2023 and 2022, right to use assets, net of accumulated amortization, was approximately \$189 thousand and \$266 thousand.

#### **Impairment of Long-Lived Assets**

Management reviews long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to undiscounted future cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment amount is measured by the amount by which the carrying amount of the assets exceeds the fair value of the assets. There was no impairment of long-lived assets for the years ended December 31, 2023 and 2022.

#### **Revenue Recognition - Digital Mining**

We recognize revenue in accordance with generally accepted accounting principles as outlined in the Financial Accounting Standard Board's ("FASB") Accounting Standards Codification ("ASC") 606, Revenue From Contracts with Customers, which requires that five steps be followed in evaluating revenue recognition: (i) identify the contract with the customer; (ii) identify the performance obligations in the contract; (iii) determine the transaction price; (iv) allocate the transaction price; and (v) recognize revenue when or as the entity satisfied a performance obligation.

Our accounting policy on revenue recognition for our bitcoin mining segment is provided below.

Step 1: The Company enters into a contract with a bitcoin mining pool operator (i.e., the customer) to provide computing power to the mining pools. The contracts are terminable at any time by either party and the Company's enforceable right to compensation only begins when the Company starts providing computing power to the mining pool operator (which occurs daily at midnight Universal Time Coordinated (UTC)). When participating in ratable share pools, in exchange for providing computing power the Company is entitled to a fractional share of the Bitcoin award the mining pool operator receives for successfully adding a block to the blockchain, plus a fractional share of the transaction fees attached to that blockchain. The Company's fractional share is based on the proportion of computing power the Company contributed to the mining pool operator to the total computing power contributed by all mining pool participants in solving the current algorithm.

When participating in a Full Pay Per Share ("FPPS") mining pool, in exchange for providing computing power to the pool the Company is entitled to compensation, calculated on a daily basis, at an amount that approximates the total Bitcoin that could have been mined using the Company's computing power, calculated on a look-back basis across previous blocks using the pools hash rate index. Applying the criteria per ASC 606-10-25-1, the contract arises at the point that the Company provides computing power to the mining pool operator, which is beginning contract day at midnight UTC (contract inception), because customer consumption is in tandem with daily earnings of delivery of the computing power.

Step 2: In order to identify the performance obligations in a contract with a customer, a company must assess the promised goods or services in the contract and identify each promised good or service that is distinct. A performance obligation meets ASC 606's definition of a "distinct" good or service (or bundle of goods or services) if both of the following criteria are met:

- The customer can benefit from the good or service either on its own or together with other resources that are readily available to the customer (i.e., the good or service is capable of being distinct); and
- The entity's promise to transfer the good or service to the customer is separately identifiable from other promises in the contract (i.e., the promise to transfer the good or service is distinct within the context of the contract).

Based on these criteria, the Company has a single performance obligation in providing computing power services (i.e., hashrate) to the mining pool operator (i.e., customer). The performance obligation of computing power services is fulfilled daily over-time, as opposed to a point in time, because the Company provides the hashrate throughout the day and the customer simultaneously obtains control of it and uses the asset to produce bitcoin. The Company has full control of the mining equipment utilized in the mining pool and if the Company determines it will increase or decrease the processing power of its machines and/or fleet (i.e., for repairs or when power costs are excessive) the computing power provided to the customer will be reduced.

Step 3: The transaction consideration the Company earns is non-cash digital consideration in the form of bitcoin, which the Company measures at fair value on the date earned at the daily closing price, which is not materially different from the fair value at contract inception, which is the daily opening price.

The transaction consideration the Company earns is all variable since it is dependent on the daily computing power provided by the Company under the FPPS model and total bitcoin earned by the under the ratable share model. The Company's bitcoins earned through the contractual payout formula is not known until the Company's computational hashrate contributed over the daily measurement period is fulfilled over-time daily between midnight-to-midnight UTC time. The Company's proportionate amount of the global network transaction fee rewards earned are calculated at the end of each transactional day (midnight to midnight). There are no other forms of variable considerations, such as discounts, rebates, refunds, credits, price concessions, incentives, performance bonuses, penalties, or other similar items.

The Company does not constrain this variable consideration because it is probable that a significant reversal in the amount of revenue recognized from the contract will not occur when the uncertainty is subsequently resolved and recognizes the noncash consideration on the same day that control is transferred, which is the same day as contract inception.

Step 4: The transaction price is allocated to the single performance obligation upon verification for the provision of computing power to the mining pool operator, and total Bitcoin rewards earned by the pool, when applicable under a ratable share model. There is a single performance obligation (i.e., computing power or (hashrate) for the contract; therefore, all consideration from the mining pool operator is allocated to this single performance obligation.

Step 5: The Company's performance is complete in transferring the hashrate service over-time (midnight to midnight) to the customer and the customer obtains control of that asset.

In exchange for providing computing power, the Company is entitled to a pro-rata share of the fixed bitcoin awards earned over the measurement period, plus a pro-rata fractional share of the global transaction fee rewards for the respective measurement period, less net digital asset fees due to the mining pool operator over the measurement period, as applicable. The transaction consideration the Company receives is non-cash consideration, in the form of bitcoin. The Company measures the bitcoin at fair value on the date earned using the closing price of bitcoin on the date earned (midnight UTC), which is not materially different from the fair value at contract inception, which is the daily opening price.

There are no deferred revenues or other liability obligations recorded by the Company since there are no payments in advance of the performance. At the end of the 24 hour "midnight-to-midnight" period, there are no remaining performance obligations.

Bitcoin earned by the Company through its mining activities are included within operating activities on the accompanying consolidated statements of cash flows. The sale of bitcoin are included within operating activities as the Company sells its bitcoin to fund operations in the normal course of business. The Company will evaluate time periods when the Company holds bitcoin for a longer period of time and sale so such would be recorded as investing activities. For the fiscal years ended December 31, 2023 and 2022, all cash proceeds received from sale of bitcoin were classified as operating cash flows in the accompanying consolidated statements of cash flows.



### **Cost of Revenues - Digital Assets**

The Company includes energy costs and external co-location mining hosting fees in cost of revenues. Depreciation of mining machines is included within "Depreciation and amortization" in the Consolidated Statements of Operations.

### **Revenue Recognition - Specialty Finance**

Accounting Standards Codification ("ASC") 606 of the Financial Accounting Standards Board ("FASB") states an entity needs to conclude at the inception of the contract that collectability of the consideration to which it will be entitled in exchange for the goods and services that will be transferred to the customer is probable. That is, in some circumstances, an entity may not need to assess its ability to collect all of the consideration in the contract. The Company provides funding to Associations by purchasing their rights under delinquent accounts from unpaid assessments due from property owners. Collections on the Accounts may vary greatly in both the timing and amount ultimately recovered compared with the total revenues earned on the Accounts because of a variety of economic and social factors affecting the real estate environment in general.

The Company's contracts with its specialty finance customers have very specific performance obligations. The Company has determined that the known amount of cash to be realized or realizable on its revenue generating activities cannot be reasonably estimate and as such, classifies its finance receivables as nonaccrual and recognizes revenues in the accompanying statements of income on the cash basis or cost recovery method in accordance with ASC 310-10, *Receivables*. The Company's operations also consist of rental revenue earned from tenants under leasing arrangements which provide for rent income. The leases have been accounted for as operating leases. For operating leases, revenue is recorded based on cash rental payments was collected during the period. The Company analyzed its remaining revenue streams and concluded there were no changes in revenue recognition with the adoption of the new standard.

Under ASC 606, the Company applies the cash basis method to its original product and the cost recovery method to its special product as follows:

*Finance Receivables—Original Product:* Under the Company's original product, delinquent assessments are funded only up to the Super Lien Amount as discussed above. Recoverability of funded amounts is generally assured because of the protection of the Super Lien Amount. As such, payments by unit owners on the Company's original product are recorded to income when received in accordance with the provisions of the Florida Statute (718.116(3)) and the provisions of the purchase agreements entered into between the Company and Associations. Those provisions require that all payments be applied in the following order: first to interest, then to late fees, then to costs of collection, then to legal fees expended by the Company and then to assessments owed. In accordance with the cash basis method of recognizing revenue and the provisions of the statute, the Company records revenues for interest and late fees when cash is received. In the event the Company determines the ultimate collectability of amounts funded under its original product are in doubt, payments are applied to first reduce the funded or principal amount.

*Finance Receivables—Special Product (New Neighbor Guaranty program):* During 2012, the Company began offering associations an alternative product under the *New Neighbor Guaranty* program whereby the Company will fund amounts in excess of the Super Lien Amount. Under this special product, the Company purchases substantially all of the delinquent assessments owed to the association, in addition to all accrued interest and late fees, in exchange for payment by the Company of (i) a negotiated amount or (ii) on a going forward basis, all monthly assessments due for a period up to 48 months. Under these arrangements, the Company considers the collection of amounts funded is not assured and under the cost recovery method, cash collected is applied to first reduce the carrying value of the funded or principal amount with any remaining proceeds applied next to interest, late fees, legal fees, collection costs and any amounts due to the Association. Any excess proceeds still remaining are recognized as revenues. If the future proceeds collected are lower than the Company's funded or principal amount, then a loss is recognized.

*Net Commission Revenue:* The Company acts as an agent in providing health travel insurance policies. As a result, the Company revenue is recorded at net. The Company has determined that the known amount of cash to be realized or realizable on its revenue generating activities can be reasonably estimated and as such, classifies its receivables as accrual and recognizes revenues in the accompanying statements of income on the accrual basis. If a policy is not effective as of the end of a period, then the associated revenue and underwriting costs are deferred until the effective date. The majority of the commission revenue is underwritten by two policy underwriters who pays the Company commissions.

### **Hosting Contracts**

The Company, through its wholly-owned subsidiary, US Digital, entered into a hosting agreement (the "Core Hosting Agreement") with Core Scientific Inc. ("Core") pursuant to which Core agreed to host approximately 4,870 of the Company's Bitcoin Miner S19J Pro or XP machines at a secure location and provide power, maintenance and other services specified in the contract with a term of one year, with automatic renewals unless we or Core notifies the other in writing not less than ninety (90) calendar days before such renewal of its desire for the order not to renew unless terminated sooner pursuant to the terms of the Core Hosting Agreement. These agreements mature in different tranches starting in May 2024 for approximately 4,380 machines and December 2024 for approximately 500 machines.

As required under the Core Hosting Agreement, the Company has paid approximately \$2.2 million as of December 31, 2023 as a deposit. As of March 8, 2024, Core has energized approximately 4,870 of our machines located at their sites with a hashing capacity of approximately 0.50 EH/s on a daily basis. In December 2022, Core filed for Chapter 11 bankruptcy in the U.S. Bankruptcy Court for the Southern District of Texas and exited bankruptcy in January 2024. Core's bankruptcy filing did not negatively impact our mining ability at their sites.

On January 26, 2023, the Company entered into a hosting agreement (the "Phoenix Hosting Agreement") with Phoenix Industries Inc. ("Phoenix") pursuant to which Phoenix agreed to host 228 of the Company's Bitcoin Miner S19J Pro machines at a secure location and provide power, maintenance and other services specified in the contract with a term of two years. This Phoenix Hosting Agreement would renew automatically for an additional two years if the Company were to provide written notice to Phoenix of our desire of renewal at least sixty (60) days in advance of the conclusion of the initial term of two years, unless terminated sooner pursuant to the terms of the Phoenix Hosting Agreement. As required under the Phoenix Hosting Agreement, the Company paid approximately \$36 thousand as a deposit in January 2023. The Company and Phoenix mutually terminated this agreement effective April 18, 2023 and the Company's S19J Pro machines were returned to the Company in May 2023. The Company fully impaired the \$36 thousand deposit during the year ended December 31, 2023.

On March 9, 2023, the Company entered into a hosting agreement (the "Longbow Hosting Agreement") with Longbow Host Co LLC ("Longbow") pursuant to which Longbow agreed to host 500 of the Company's Bitcoin Miner S19J Pro machines at a secure location and provide power, maintenance and other services specified in the contract with a term of two years. Upon written request from the Company at least ninety (90) days prior to the conclusion of the then current term and approval by Longbow, the term shall renew for successive one year periods with a three percent (3%) increase as of the commencement of each renewal term unless terminated sooner pursuant to the terms of the Longbow Hosting Agreement. As required under the Longbow Hosting Agreement, the Company paid approximately \$157 thousand as a refundable deposit in March 2023. The Company had 500 machines installed at the Longbow site as of June 30, 2023. The Company terminated this agreement on August 1, 2023 and expensed 50% of the \$157 thousand deposit during the year ended December 31, 2023 and applied the remainder to outstanding invoices. The machines were returned to the Company in September 2023.

On May 5, 2023, the Company entered into a hosting agreement (the "GIGA Hosting Agreement") with GIGA Energy Inc. ("GIGA") pursuant to which GIGA agreed to host 1,080 of the Company's Bitcoin Miner S19J Pro machines at a secure location and provide power, maintenance and other services specified in the contract with a term of one year. As required under the GIGA Hosting Agreement, the Company paid approximately \$173 thousand as a pre-payment in May 2023, which was applied to subsequent invoices. The Company also paid a refundable deposit of \$173 thousand in August 2023 of which \$56 thousand was applied to subsequent invoices. The Company had 1,075 active machines installed at the GIGA site as of December 31, 2023.

#### **Coupon Sales**

From time to time the Company receives coupons from Bitmain to incentivize purchases of equipment. Coupons have a stated face value in dollars and can be applied against future invoices for purchased machines. Coupons are transferable and there are not restrictions on the sale to third parties. Occasionally, the Company sells coupons to third parties in exchange for cash consideration or digital assets. As there is currently no active market for the buying and selling of Bitmain coupons, the Company has determined that the fair value of coupons received is nil at the time of receipt therefore revenue associated with the sale of such coupons is not recognized until the sale transaction has been completed and consideration has been received from the third party. During the year ended December 31, 2023, the Company sold Bitmain coupons for approximately \$639 thousand, which was recognized as other income within "Other income - coupon sales" in the Consolidated Statements of Operations. The coupons sold during the year ended December 31, 2023 were exchanged for digital assets (Tether) which had a fair value of approximately \$10 thousand at the time of receipt.

#### **Stock-Based Compensation**

The Company records all equity-based incentive grants to employees and non-employee members of the Company's Board of Directors in operating expenses in the Company's Consolidated Statements of Operations based on their fair values determined on the date of grant. Stock-based compensation expense, reduced for estimated forfeitures, is recognized over the requisite service period of the award, which is generally the vesting term of the outstanding equity awards. The expense attribution method is straight-line or accelerated graded-vesting depending on the nature of the award.

#### **Income Taxes**

Income taxes are provided for the tax effects of transactions reported in the consolidated financial statements and consist of taxes currently due plus deferred taxes resulting primarily from the tax effects of temporary differences between financial and income tax reporting. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled.

Under ASC 740-10-30-5, *Income Taxes*, deferred tax assets should be reduced by a valuation allowance if, based on the weight of available evidence, it is more-likely-than-not (i.e., a likelihood of more than 50%) that some portion or all of the deferred tax assets

will not be realized. The Company considers all positive and negative evidence available in determining the potential realization of deferred tax assets including, primarily, the recent history of taxable earnings or losses. Based on operating losses reported by the Company during 2023, 2022, 2020 and 2019, the Company concluded there was not sufficient positive evidence to overcome this recent operating history. As a result, the Company believes that a valuation allowance is necessary based on the more-likely-than-not threshold noted above. During the year ended December 31, 2023, the Company increased the valuation allowance to approximately \$14.1 million to reflect a change in deferred tax assets. During the year ended December 31, 2022, the Company increased the valuation allowance to \$8.5 million to reflect a change in deferred tax assets.

Prior to the Company's initial public offering in October 2015, the taxable earnings of the Predecessor were included in the tax returns of its members (separate limited liability companies) and taxed depending on personal tax situations. In connection with the Company's initial public offering, the members contributed ownership interests to the Company (a newly form C-Corporation) and all earnings subsequent to that date (October 23, 2015) are subject to taxes and reflected in the Company's consolidated financial statements.

#### **Income (loss) Per Share**

Basic income (loss) per share is calculated as net income (loss) to common stockholders divided by the weighted average number of common shares outstanding during the period (as adjusted to give effect to the Reverse Stock Split).

The Company has restated all share amounts to reflect the Reverse Stock Split.

The Company issued approximately 260 thousand and nil restricted shares during the year ended December 31, 2023 and 2022. The weighted average shares used in calculating loss per share for the year ended December 31, 2023 includes 173,333 restricted shares that were fully vested as of December 31, 2023 based on their respective vesting date and excludes 86,667 restricted shares that were legally issued but not vested as of December 31, 2023. The Company issued nil and 12,324 of common stock at various times during 2023 and 2022, respectively. The Company has weighted average these new shares in calculating income (loss) per share for the relevant period.

Diluted income (loss) per share for the period equals basic loss per share as the effect of any convertible notes, stock based compensation awards, cancellation of such awards or stock warrants would be anti-dilutive.

The anti-dilutive stock based compensation awards and convertible notes consisted of:

	As of December 31,	
	2023	2022
Stock Options	599,597	186,877
Stock Warrants	1,274,807	1,279,573
Restricted Shares	86,667	-

#### **Contingencies**

The Company accrues for contingent obligations, including estimated legal costs, when the obligation is probable and the amount is reasonably estimable. As facts concerning contingencies become known, the Company reassesses its position and makes appropriate adjustments to the consolidated financial statements. Estimates that are particularly sensitive to future changes include those related to tax, legal and other regulatory matters.

#### **Related Party**

ASC 850 - Related Party Disclosures requires disclosure of related party transactions and certain common control relationships. The Company discloses related party transactions and such transactions are approved by the Company's Board of Directors. See Note 9.

#### **Risks and Uncertainties**

Funding amounts are secured by a priority lien position provided under Florida law (see discussion above regarding Florida Statute 718.116). However, in the event the first mortgage holder takes title to the property, the amount payable by the mortgagee to satisfy the priority lien is capped under this same statute and would generally only be sufficient to reimburse the Company for funding amounts noted above for delinquent assessments. Amounts paid by the mortgagee would not generally reimburse the Company for interest, administrative late fees and collection costs. Even though the Company does not recognize these charges as revenues until collected, its business model and long-term viability is dependent on its ability to collect these charges. In the event a delinquent unit owner files for bankruptcy protection, the Company may at its option be reimbursed by the Association for the amounts funded (i.e., purchase price) and all collection rights are re-assigned to the Association.

### **Non-cash Financing and Investing Activities**

*Financing of Insurance Premium* – the Company financed the purchase of various insurance policies during the year ended December 31, 2023 and 2022 in the amount of approximately \$716 thousand and \$660 thousand, respectively, using a finance agreement.

*ROU assets and operating lease obligation recognized* - Due to the extension of its office building operating lease during the year ended December 31, 2023, the Company remeasured its lease liability and ROU asset associated with the lease. The Company accounted for the lease extension as a lease modification under ASC 842. At the effective date of modification, the Company recorded an adjustment to the right-of-use asset and lease liability in the amount of approximately \$301 thousand.

*Reclassification of mining equipment deposit to fixed assets, net* - During the year ended December 31, 2023 and 2022 as mining machines were received, the Company reclassified approximately \$1.2 million and \$26.9 million of mining machine costs plus related shipping and customs fees from "Deposits on mining equipment" to "Fixed assets, net" in the consolidated balance sheets.

*Amount of capital expenditures in accounts payable and accrued expenditures* - During the year ended December 31, 2023 and 2022, approximately \$1.0 million and \$718 thousand of accrued expenditures were capitalized as fixed assets, respectively.

*Reclassification of Reverse stock split* - During the year ended December 31, 2023 and 2022, approximately \$11 thousand and nil was reclassified from common stock to additional paid in capital, respectively, as a result of the reverse stock split.

### **Recently adopted accounting pronouncements**

There were no new accounting pronouncements adopted during the year ended December 31, 2023 or 2022 that were determined to have a material effect on the Company's financial position, results of operations or cash flows.

### **Recently issued accounting pronouncements**

The Company considers the applicability and impact of all Accounting Standards Updates ("ASUs") issued by the Financial Accounting Standards Board ("FASB"). ASUs issued by FASB, but which are not yet effective, were assessed and determined to be either not applicable to the Company or to have an insignificant impact on the consolidated financial statements.

On December 13, 2023, the FASB issued ASU 2023-08, which addresses the accounting and disclosure requirements for certain crypto assets. The new guidance requires entities to subsequently measure certain crypto assets at fair value, with changes in fair value recorded in net income in each reporting period. In addition, entities are required to provide additional disclosures about the holdings of certain crypto assets. For all entities, the ASU's amendments are effective for fiscal years beginning after December 15, 2024, including interim periods within those years. Early adoption is permitted. If an entity adopts the amendments in an interim period, it must adopt them as of the beginning of the fiscal year that includes that interim period. The Company will early adopt the standard as of January 1, 2024 which will result in an adjustment to increase opening retained earnings and digital assets by approximately \$600 thousand.

On December 14, 2023, the FASB issued ASU 2023-09, Improvements to Income Tax Disclosures, which requires more detailed income tax disclosures. The standard is effective for fiscal years beginning after December 15, 2024, with early adoption permitted. The Company is currently evaluating the impact of adoption of the standard.

On November 27, 2023, the FASB issued ASU 2023-07, which addresses improvements to reportable segment disclosures. The guidance is effective for annual periods beginning after December 15, 2023, and interim periods beginning after December 15, 2024, applied retrospectively with early adoption permitted. The Company is currently evaluating the impact of adoption of the standard.

**Note 2. Digital Assets**

Digital assets (Bitcoin and Tether) consisted of the following:

	December 31, 2023	December 31, 2022
Bitcoin	\$ 3,406,096	\$ 888,026
Tether	10,160	-
Total digital assets	\$ <u>3,416,256</u>	\$ <u>888,026</u>

**Bitcoin**

	December 31, 2023	December 31, 2022
Beginning of Year	\$ 888,026	\$ -
Purchase of Bitcoin	35,157	988,343
Production of Bitcoin	12,289,131	945,560
Impairment loss on mined Bitcoin	(965,967)	(79,794)
Impairment loss on purchased Bitcoin	-	(467,406)
Carrying amount of Bitcoin sold	(8,840,251)	(498,677)
End of Period	\$ <u>3,406,096</u>	\$ <u>888,026</u>

Digital asset (Bitcoin) activity consisted of the following:

	December 31, 2023	December 31, 2022
Bitcoin Balance	95.1	54.9
	December 31, 2023	December 31, 2022
Beginning of Year	54.9	-
Production of Bitcoin	423.4	53.4
Purchase of Bitcoin	2.0	31.6
Sale of Bitcoin	(385.0)	(30.1)
Fees	(0.2)	-
End of Period	<u>95.1</u>	<u>54.9</u>

Digital asset activity (GUSD) consisted of the following:

	December 31, 2023	December 31, 2022
Beginning of Year	\$ -	\$ -
Purchase of GUSD	-	500,000
GUSD Earned on digital assets	-	5,658
Sale of GUSD	-	(505,658)
End of Period	\$ <u>-</u>	\$ <u>-</u>

During the year ended December 31, 2023 the Company sold earned Bitcoin for proceeds of approximately \$10.9 million which resulted in a realized gain of approximately \$2.1 million. The realized gain was included within "Realized gain on digital assets" in the consolidated statements of operations. During the year ended December 31, 2022, the Company did not sell any earned Bitcoin. During the years ended December 31, 2023 and 2022, the Company sold purchased Bitcoin for proceeds of approximately \$28 thousand and \$519 thousand, which resulted in a realized gain of approximately \$2 thousand and \$20 thousand. The realized gain was included within "Realized gain on sale of purchased digital assets" in the consolidated statements of operations.

**Note 3. Fixed Assets and Intangible Assets, net**

The components of fixed assets as of December 31, 2023 and 2022 are as follows:

	Useful Life (Years)	December 31, 2023	December 31, 2022
Mining machines	4	\$ 29,799,782	\$ 27,637,041
Real estate assets owned	30	80,057	80,057
Furniture, computer and office equipment	3-5	230,063	216,312
Gross fixed assets		30,109,902	27,933,410
Less: accumulated depreciation		(5,590,292)	(661,036)
Fixed assets, net		\$ 24,519,610	\$ 27,272,374

As of December 31, 2023, approximately 5,900 mining machines have been received and were placed into service at hosting locations. The Company's depreciation expense recognized for the years ended December 31, 2023 and 2022 was approximately \$4.9 million and \$478 thousand, respectively.

During the years ended December 31, 2023 and 2022 approximately \$9 thousand and \$38 thousand, respectively, of loss related to the write-off of mining machines was recorded within "Loss on disposal of assets" in the consolidated statements of operation. There was no impairment loss recorded on fixed assets during the years ended December 31, 2023 or 2022.

Intangible assets activity for the years ended December 31, 2023 and 2022 is as follows:

	December 31, 2023	December 31, 2022
Beginning balance	\$ -	\$ -
Symbiont intangible assets additions	2,804,902	-
Impairment loss on Symbiont assets	(750,678)	-
Accumulated amortization	(54,224)	-
Sale of asset	(2,000,000)	-
Total intangible assets, net	\$ -	\$ -

On June 2, 2023, the United States Bankruptcy Court for the Southern District of New York entered an order (the "Symbiont Bankruptcy Order") approving the sale of substantially all of the assets of Symbiont.io, LLC, as debtor in possession ("Symbiont"), to LM Funding America, Inc. (the "Company") pursuant to a form of Asset Purchase Agreement attached to the Symbiont Bankruptcy Sale Order (the "Asset Purchase Agreement") free and clear of all liens, claims and encumbrances. The Company and Symbiont signed the Asset Purchase Agreement on June 5, 2023, and the purchase and sale of the Symbiont assets pursuant to the Asset Purchase Agreement closed on June 5, 2023.

Pursuant to the Asset Purchase Agreement, the Company purchased substantially all of the assets of Symbiont for a purchase price of \$2.6 million, which was paid by means of a credit bid of the full amount of the note payable owed by Symbiont to the Company. The \$2.6 million comprises of \$2.0 million of principal, \$425 thousand of accrued interest, and \$164 thousand of legal fees. The Company did not assume any liabilities of Symbiont in the transaction. The Company incurred an additional \$238 thousand of expenses acquiring these assets which was accounted for as an asset acquisition.

The Company capitalized \$2.8 million for the Symbiont assets (the "Symbiont Assets") which consist principally of intellectual property, customer contracts, customer base and software code relating to Symbiont's financial services blockchain enterprise platform. During the third quarter of 2023 management received offers related to the sale of the Symbiont assets which was considered a triggering event for potential impairment. Based on the assessment performed, management concluded an impairment of approximately \$0.8 million on the Symbiont assets was necessary.

On December 26, 2023, the Company entered into an Asset Purchase Agreement ("APA") with Platonic Holdings Inc. ("Platonic") pursuant to which the Company agreed to sell to Platonic the technology assets of Symbiont.io, LLC that the Company previously acquired on June 5, 2023. The sale of the Symbiont Assets closed on December 27, 2023. The sales price for the Symbiont Assets was \$2.0 million, of which \$200 thousand is being held in a customary indemnity escrow until December 26, 2024. The APA also contains customary representations, warranties, indemnification provisions and covenants. The amounts held in escrow are recorded within "Receivable from sale of Symbiont assets" on the consolidated balance sheets.

The Company recognized \$54 thousand and nil of amortization expense during the year ended December 31, 2023 and 2022.

#### Note 4. Deposit on Mining Equipment and Hosting Services

As further described in Note 1, the Company has entered into a series of mining machine purchase agreements, hosting and colocation service agreements in association with our cryptocurrency mining operations which required deposits to be paid in advance of the respective asset or service being received.

As further described in Note 7, as of December 31, 2022 management determined that approximately \$3.15 million of deposits previously paid to Uptime Armory LLC were not probable of recovery and the deposits were impaired. During the year ended December 31, 2023 and 2022, nil and approximately \$3.15 million, respectively, were recorded as "Impairment loss on prepaid mining machine deposits" in the consolidated statements of operations. As of December 31, 2023 and 2022, the Company has a total of approximately \$20 thousand and \$500 thousand, respectively, classified as "Deposits on mining equipment".

The Company classifies hosting deposit payments within "Hosting services deposits" in the consolidated balance sheets. As further described in Note 7, as of December 31, 2022 management determined that approximately \$0.8 million of deposits previously paid to Uptime Hosting LLC during 2021 and approximately \$1.0 million of deposits paid to Compute North LLC during the year ended December 31, 2022 were not probable of recovery and the deposits were impaired. During the years ended December 31, 2023 and 2022, nil and approximately \$1.8 million, respectively, were recorded as "Impairment loss on prepaid hosting deposits" within the consolidated statements of operations.

As of December 31, 2023 and 2022 the Company has a total of approximately \$3.1 million and nil in hosting deposits, respectively, classified as "Prepaid expenses and Other assets" as these assets are associated with hosting contracts that expire in 2024. As of December 31, 2023 and 2022 the Company has a total of approximately nil and \$2.2 million, respectively, classified as "Hosting services deposits" as a long-term assets due to expected timing of the recovery or application of deposits extending beyond twelve months from the reporting date.

#### Note 5. Investments

##### Marketable Securities

Our marketable equity securities are publicly traded stocks measured at fair value using quoted prices for identical assets in active markets and classified as Level 1 within the fair value hierarchy. Marketable equity securities as of December 31, 2023 and December 31, 2022 are as follows:

	Cost	Cost of Shares Sold	Gross Unrealized Gain (Loss)	Fair Value
Marketable equity securities, December 31, 2023	\$ 743,906	\$ (739,616)	\$ 13,570	\$ 17,860
Marketable equity securities, December 31, 2022	\$ 2,976,933	\$ (2,915,813)	\$ (56,830)	\$ 4,290

During the year ended December 31, 2023 and 2022, the Company sold nil shares and 8,759,094 shares, respectively, of Borqs shares for approximately nil and \$2.3 million, respectively. The Company realized a net loss of \$0 thousand and \$350 thousand related to the sale of marketable securities for the years ended December 31, 2023 and 2022, respectively. The net loss is included within "Realized gain (loss) on securities" within our consolidated statements of operations.

##### Short-term Investments – convertible debt securities

The Company entered into an agreement with BORQS Technologies Inc. ("Borqs") (Nasdaq: BRQS) in February 2021 under which the Company agreed to purchase Senior Secured Convertible Promissory Notes ("Notes") of Borqs up to an aggregate principal amount of \$5 million. The Company's purchase of the Notes was a part of a larger transaction in which an aggregate of \$20 million in Notes were sold by Borqs in a private transaction to several institutional and individual investors, including the Company. The Notes became due in February 2023, had an annual interest rate of 8%, were convertible into ordinary shares of Borqs at a 10% discount from the market price, and had 90% warrant coverage (with the warrants exercisable at 110% of the conversion price). The Company received 2,922,078 warrants which had a nominal value on the grant date. One-third of the Notes (\$1,666,667) were funded by the Company at the execution of definitive agreements for the transaction, and two-thirds of the Notes (\$3,333,333) were purchased and funded upon the satisfaction of certain conditions, including effectiveness of a registration statement that was deemed effective on May 3, 2021.



The Company sold 4,895,894 of Borqs shares during the first quarter of 2022 which resulted in a realized loss of \$395 thousand which is reflected in 'Realized gain (loss) on securities' in the Consolidated Statements of Operations for the year ended December 31, 2022. The remaining principal amount of the Notes plus accrued interest through the date of conversion (\$965,096) was converted into common shares of Borqs at a conversion price of \$0.25 per share or 3,863,200 shares. A gain of approximately \$288 thousand was recognized on the conversion of the convertible debt to common shares and is included within "Realized gain on convertible debt securities" in the Consolidated Statements of Operations for the year ended December 31, 2022. Subsequent to the conversion, the 3,863,200 shares were sold which resulted in a realized gain of \$45 thousand which is included within "Realized gain on securities" in the Consolidated Statements of Operations for the year ended December 31, 2022.

	December 31, 2023	December 31, 2022
Convertible note	\$ -	\$ -
End of period	<u>\$ -</u>	<u>\$ -</u>

  

	December 31, 2023	December 31, 2022
Beginning of year	\$ -	\$ 539,351
Accrued interest income on convertible debt security	-	17,753
Convertible debt and interest converted into marketable shares	-	(844,882)
Realized gain on conversion into marketable shares	-	287,778
End of period	<u>\$ -</u>	<u>\$ -</u>

**Notes receivable from Seastar Medical Holding Corporation.**

**LMFAO and SeaStar Medical**

On February 1, 2022, LMAO issued an unsecured promissory note to LMFAO Sponsor LLC ("Sponsor"), pursuant to which LMAO may borrow up to an aggregate principal amount of \$500,000 to be used for a portion of LMAO's expenses. As of September 30, 2022, LMAO had drawn down \$310,000 under the promissory note with LMFAO Sponsor LLC to pay for offering expenses. On July 28, 2022 (effective as of September 30, 2022), the aggregate principal limit was increased to \$1,750,000. The loan was non-interest bearing, unsecured and due at the earlier of the 24-month anniversary of LMAO's initial public offering or the closing of its initial business combination.

On April 21, 2022, LMAO entered into an Agreement and Plan of Merger (the "Merger Agreement") by and among LMAO, LMF Merger Sub, Inc., a Delaware corporation and direct, wholly owned subsidiary of LMAO ("Merger Sub"), and SeaStar Medical, Inc., a Delaware corporation ("SeaStar Medical").

On July 29, 2022, LMAO issued a press release announcing that its board of directors elected to extend the date by which LMAO has to consummate a business combination from July 29, 2022 to October 29, 2022 (the "Extension"), as permitted under LMAO's Amended and Restated Certificate of Incorporation. In connection with the Extension, LMFAO Sponsor deposited an aggregate of \$1,035,000 (representing \$0.10 per public share of LMAO) into LMAO's trust account on July 29, 2022. This deposit was made in respect of a non-interest bearing loan to LMAO (the "Extension Loan").

On October 28, 2022, LMAO through the Sponsor, consummated the previously announced business combination transaction (the "LMAO Business Combination") contemplated by the Merger Agreement. Pursuant to the Merger Agreement, upon the closing of the LMAO Business Combination, SeaStar Medical was merged with and into Merger Sub, with SeaStar Medical continuing as the surviving entity in the merger as a wholly-owned subsidiary of LMAO and with LMAO subsequently changing its name in connection with the merger to SeaStar Medical Holding Corporation ("SMHC").

In connection with the closing of the LMAO Business Combination, on October 28, 2022, Sponsor and SMHC amended, restated, and consolidated (i) the original Promissory Note, dated July 29, 2022, issued by LMAO to Sponsor in the principal amount of \$1,035,000 and (ii) the original Amended and Restated Promissory Note, effective June 30, 2022, issued by LMAO to Sponsor in the principal amount of \$1,750,000 (collectively, the "Original Sponsor Notes"), by entering into one consolidated amended and restated promissory note with an aggregate principal amount of \$2,785,000 (the "Amended Sponsor Note"). As of December 31, 2023, there was \$1,127 thousand of principal and \$13 thousand of accrued interest and as of December 31, 2022, there was \$2,785 thousand of principal and \$35 thousand of accrued interest on the Amended Sponsor Note included in Short-term investments – "Note receivable from Seastar Medical Holding Corporation." on the consolidated balance sheets.



On September 9, 2022, the Company entered into a Credit Agreement with SeaStar Medical pursuant to which the Company agreed to make advances to SeaStar Medical of up to \$700,000 for general corporate purposes at an interest rate equal to 15% per annum. All advances made to SeaStar Medical under the Credit Agreement ("Original LMFA Note") and accrued interest were due and payable to LMFA on the maturity date. The agreement was modified on October 28, 2022 to reduce the interest rate to 7% per annum and the maturity date of the loan to October 30, 2023 ("amended LMFA Note"). During the year ended December 31, 2022, \$700 thousand was loaned to Seastar Medical under the Credit Agreement. During the year ended December 31, 2023, repayments of approximately \$529 thousand of principal was received from Seastar and approximately \$125 thousand was loaned to Seastar Medical under the Credit Agreement. As of December 31, 2023 there was \$296 thousand of principal and \$3 thousand of accrued interest in Long-term investments – "Notes receivable from Seastar Medical Holding Corporation" and as of December 31, 2022 there was \$700 thousand of principal and \$19 thousand of accrued interest on the amended LMFA Note in Short-term investments – "Notes receivable from Seastar Medical Holding Corporation." on the consolidated balance sheets.

The Amended Sponsor Note and the Amended LMFA Note (collectively, the "Notes") extended the maturity date of the Original Sponsor Notes and Original LMFA Note, respectively, from the closing date of the Business Combination to October 30, 2023, subject to mandatory prepayments equal to a specified percentage of funds raised by SMHC prior to maturity. The Notes both bear interest at a per annum rate equal to seven percent (7%), simple interest, and pursuant to Security Agreements entered into by the parties (the "Security Agreements"), are secured by all of the assets of SMHC and SeaStar Medical (excluding certain intellectual property rights).

During 2023 the Company entered into a series of amendments to the Notes which extended the maturity date of the Notes to June 10, 2025 as part of agreements that allowed Seastar Medical to incur certain debt to accelerate the partial repayment of the Notes. Due to the extension of the maturity date, the Notes were included in long-term investments – "Notes receivable from Seastar Medical Holding Corporation" as of December 31, 2023 on the consolidated balance sheets.

On November 2, 2022 the Company advanced \$268 thousand to SeaStar Medical for working capital needs, which was repaid on January 18, 2023. As of December 31, 2023 and 2022 there was nil and \$268 thousand of the advance included in "Notes receivable from Seastar Medical Holding Corporation" on the consolidated balance sheets.

As of December 31, 2023 and 2022 there was also approximately nil and \$12 thousand in amounts payable from the Company to Seastar Medical included in "Due to related parties" on the consolidated balance sheets.

	December 31, 2023	December 31, 2022
Notes receivable from Seastar Medical Holding Corporation	\$ 1,440,498	\$ 3,807,749
End of period	<u>\$ 1,440,498</u>	<u>\$ 3,807,749</u>

  

	December 31, 2023	December 31, 2022
Beginning of year	\$ 3,807,749	\$ -
Investment in Seastar Medical Holding Corporation notes receivable	125,000	3,753,090
Repayment of Seastar Medical Holding Corporation notes receivable	(2,651,943)	-
Accrued interest income	159,692	54,659
End of period	<u>\$ 1,440,498</u>	<u>\$ 3,807,749</u>

### Long-term investments

#### Symbiont.IO

The Company entered into a secured promissory note and loan agreement with Symbiont.IO, Inc. ("Symbiont") on December 1, 2021 under which the Company agreed to lend Symbiont an aggregate principal amount of up to \$3.0 million, of which \$2.0 million was drawn. The outstanding principal amount under the note bears interest at a rate of 16% per annum. The outstanding principal, plus any accrued and unpaid interest, became due and payable on December 1, 2022. The Symbiont note is secured by a first priority perfected security interest in the assets of Symbiont.

Symbiont filed for bankruptcy on December 1, 2022. On January 13, 2023 Symbiont entered into a stipulation agreement with LMF confirming their intent and ability to pay all amounts owed to LMFA under the previously filed motion, in addition to interest and legal fees accrued through the payoff date of January 24, 2023. There was approximately \$0.3 million of cash collected since December 2022 into a Symbiont bank account which would provide the funds necessary to partially repay the amounts owed to the Company in full. We anticipated acquiring substantially all of the assets of Symbiont for \$2.4 million.

A \$1.1 million loss allowance was recorded against the Symbiont debt security which was included within "Credit loss on debt securities" in the consolidated statements of operation for the year ended December 31, 2023. The \$1.1 million loss allowance was subsequently reversed upon the purchase of the Symbiont assets for total consideration of \$2.8 million, which approximates the fair value of such assets.

As of December 31, 2021 due to the original terms for repayment of the Symbiont debt security, the amounts due from Symbiont were classified as Short-term investments - debt securities. As of a result of the bankruptcy filing of Symbiont, there is uncertainty around the expected duration of legal proceedings and timing of repayment of amounts due to the Company, therefore the Symbiont debt security was reclassified to "Long-term investments - debt security" as of December 31, 2022.

As of December 31, 2023 and December 31, 2022, there was nil and \$347 thousand of accrued interest on the Symbiont security and nil and \$55 of accrued reimbursement of legal fees incurred by the Company included in "Long-term investments - debt security" and "Short-term investments – debt security", respectively.

As part of the \$2.0 million loan to Symbiont in December 2021, the Company received 700,000 warrants. Each warrant was immediately exercisable at a purchase price of \$3.0642 per share of Common Stock, subject to adjustment in certain circumstances, with an expiration of December 1, 2026. The Company determined the warrants had a nominal value at inception and thereafter due to lack of marketability and subsequent bankruptcy.

The Symbiont debt security consisted of the following:

	December 31, 2023	December 31, 2022
Symbiont.IO Note Receivable	\$ -	\$ 1,350,000
End of period	<u>\$ -</u>	<u>\$ 1,350,000</u>
	December 31, 2023	December 31, 2022
Beginning of year	\$ 1,350,000	\$ 2,027,178
Accrued interest income on debt securities	-	320,000
Reclassification to intangible assets (Note 3)	(2,402,542)	-
Accrued recovery of legal fees	-	55,364
Allowance for losses on debt security	-	(1,052,542)
Reversal of allowance for losses on debt security	1,052,542	-
End of period	<u>\$ -</u>	<u>\$ 1,350,000</u>

#### **SeaStar Medical Holding Corporation - Warrants**

In connection with LMF Acquisition Opportunities Inc ("LMAO") initial public offering in January 2021, the Company's affiliate LMFA Sponsor LLC ("Sponsor") purchased an aggregate 5,738,000 private placement warrants from LMAO ("Private Placement Warrants") at a price of \$1.00 per whole warrant. Each Private Placement Warrant is exercisable for one share of LMAO's Class A common stock at a price of \$11.50 per share, and as such meets the definition of a derivative as outlined within ASC 815, *Derivatives and Hedging*.

On October 28, 2022, the LMAO Business Combination was consummated and these warrants were assumed by SeaStar Medical. The warrants are recorded at fair value and are classified as long term investments in "Long-term investments - equity securities" on the consolidated balance sheets. The fair value of the private placement warrants is classified as Level 3 in the fair value hierarchy as the calculation is dependent upon company specific adjustments to the observable trading price of Seastar's public warrants for lack of marketability. Prior to the consummation of the LMAO Business Combination, the fair value determination of the private placement warrants also included specific adjustments related to the risk of forfeiture if a business combination did not occur. Subsequent changes in fair value will be recorded in the income statement during the period of the change. As of December 31, 2023 and 2022, our re-measurement of the fair value of the private placement warrants resulted in an unrealized loss of approximately \$0.3 million

and \$1.5 million, respectively. The unrealized loss is included within "Unrealized gain on investment and equity securities" within the consolidated statements of operations.

Long-term investments for the SMHC (formerly LMAO) warrants consist of the following:

	December 31, 2023	December 31, 2022
Seastar Medical Holding Corporation (formerly LMAO) warrants	\$ 156,992	\$ 464,778
End of period	<u>\$ 156,992</u>	<u>\$ 464,778</u>

	December 31, 2023	December 31, 2022
Beginning of year	\$ 464,778	\$ 1,973,413
Unrealized loss on equity securities	(307,786)	(1,508,635)
End of period	<u>\$ 156,992</u>	<u>\$ 464,778</u>

#### **SeaStar Medical Holding Corporation - Common Stock**

Pursuant to the Merger Agreement, the 2,587,500 shares of Class B common stock of LMAO held by Sponsor automatically converted into 2,587,500 shares of LMAO's Class A common stock on a one-for-one basis and the Class A Common Stock and Class B Common Stock of LMAO was reclassified as Common Stock of SMHC at the time of the LMAO business combination and are subject to certain transfer restrictions. As of December 31, 2023, Sponsor holds 2,587,500 shares, or approximately 5.4% of the total common shares of SMHC, along with 5,738,000 private placement warrants. Taking into consideration the approximately 30% minority interest in Sponsor, the percentage of ownership in the total common shares of SMHC that is attributable to the Company is approximately 4%.

Our investment in SMHC (formerly LMAO) common stock qualifies for equity-method accounting, for which we have elected the fair value option which requires the Company to remeasure our retained interest in SMHC (formerly LMAO) at fair value and include any resulting adjustments as part of a gain or loss on investment. Prior to the closing of the LMAO business combination, the calculation of fair value of our retained interest in LMAO included company-specific adjustments applied to the observable trading price of LMAO's Class A common stock related risk of forfeiture should LMAO not consummate a business combination. Subsequent to the LMAO business combination, the fair value calculation related to our retained interest in SMHC is based upon the observable trading price of SMHC's Class A common stock.

As part of the merger, Sponsor agreed that it will not transfer its shares of SMHC common stock until the date that is the earlier of (1) the twelve month anniversary of the closing of the merger and (2) the last sale price of the Common Stock equals or exceeds \$12.00 per share (as adjusted for stock splits, stock dividends, reorganizations, recapitalizations and the like) for any 20 trading days within any 30-trading day period commencing at least 150 days after the close of the merger.

The Company evaluated the impact of the LMAO Business Combination and determined that our investment in SeaStar Medical continues to meet the criteria for the equity method of accounting, for which we have elected the fair value option. We remeasure our retained interest in SeaStar Medical's common stock at fair value and include any resulting adjustments as part of our gain or loss on investments. The fair value of our retained interest in SeaStar Medical's common stock is classified as Level 1 in the fair value hierarchy as the fair value is based upon the observable trading price of ICU common stock. The trading price of ICU common stock as of December 31, 2023 and 2022 was \$0.44 and \$4.10 per share, respectively.

Subsequent changes in fair value will be recorded in the income statement during the period of change. As of December 31, 2023 and 2022, our re-measurement of the fair value of ICU (formerly LMAO) common stock resulted in an unrealized loss of approximately \$9.5 million and unrealized gain of approximately \$5.9 million, respectively. The unrealized gain is included within "Unrealized gain (loss) on investment and equity securities" within the consolidated statements of operations.

	December 31, 2023	December 31, 2022
Seastar Medical Holding Corporation common stock	\$ 1,145,486	\$ 10,608,750
End of period	<u>\$ 1,145,486</u>	<u>\$ 10,608,750</u>
	December 31, 2023	December 31, 2022
Beginning of year	\$ 10,608,750	\$ 4,676,130
Unrealized gain (loss) on equity investment	(9,463,264)	5,932,620
End of period	<u>\$ 1,145,486</u>	<u>\$ 10,608,750</u>

The net unrealized gain (loss) on securities from the Company's investment in SMHC's (formerly LMAO) common stock and warrants totaled (\$9.8) million and \$4.4 million for the years ended December 31, 2023 and 2022, respectively.

#### Note 6. Debt and Other Financing Arrangements

Debt of the Company consisted of the following at December 31, 2023 and 2022:

	December 31, 2023	December 31, 2022
Financing agreement with Imperial PFS that is unsecured. Down payment of \$78,000 was required upfront and equal installment payments of \$45,672 to be made over a 10 month period. The note matured on August 1, 2023. Annualized interest is 7.35%.	\$ -	\$ 365,379
Financing agreement with Imperial PFS that is unsecured. Down payment of \$15,000 was required upfront and equal installment payments of \$13,799 to be made over an 8 month period. The note matured on August 1, 2023. Annualized interest is 7.35%.	-	110,396
Financing agreement with Imperial PFS that is unsecured. Down payment of \$3,438 was required upfront and equal installment payments of \$3,658 to be made over a 11 month period. The note matures on July 1, 2024. Annualized interest is 12.05%.	21,945	-
Financing agreement with Imperial PFS that is unsecured. Down payment of \$36,544 was required upfront and equal installment payments of \$41,879 to be made over an 10 month period. The note matures on August 1, 2024. Annualized interest is 9.6%.	335,022	-
Financing agreement with Imperial PFS that is unsecured. Down payment of \$30,000 was required upfront and equal installment payments of \$35,103 to be made over a 6 month period. The note matures on June 1, 2024. Annualized interest is 12.05%.	210,619	-
	<u>\$ 567,586</u>	<u>\$ 475,775</u>

Minimum required principal payments on the Company's debt as of December 31, 2023 are as follows :

Maturity	Amount
2024	\$ 567,586
	<u>\$ 567,586</u>

## Note 7. Commitments and Contingencies

### Leases

The Company leases certain office space and office equipment under non-cancelable operating leases. Leases with an initial term of one year or less are not recorded on the balance sheet, and the Company generally recognizes lease expense for these leases on a straight-line basis over the lease term. As of December 31, 2023, the Company's long term operating lease has a remaining lease term of 20 months and includes options to renew the leases. The exercise of lease renewal options is generally at the Company's sole discretion. The Company's leases do not contain any material residual value guarantees or material restrictive covenants. The Company does not have any material financing leases.

The Company determines if an arrangement is a lease at inception. Operating lease ROU assets and current and long-term operating lease liabilities are separately stated on the Consolidated Balance Sheet. ROU assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent the Company's obligation to make lease payments arising from the lease. ROU assets and lease liabilities are recognized at the commencement date based on the present value of lease payments over the lease term. The present value of future lease payments are discounted using either the implicit rate in the lease, if known, or the Company's incremental borrowing rate for the specific lease as of the lease commencement date. The ROU asset is also adjusted for any prepayments made or incentives received. The lease terms include options to extend or terminate the lease only to the extent it is reasonably certain any of those options will be exercised. Lease expense is recognized on a straight-line basis over the lease term. The Company accounts for lease components (e.g., fixed payments) separate from the non-lease components (e.g., common-area maintenance costs).

The Company's office lease began July 15, 2019 and was due to expire on July 31, 2022. During the first quarter of 2022 the Company exercised its option to extend its office lease to July 31, 2025. The Company accounted for the lease extension as a lease modification under ASC 842. Due to the lease extension, the Company remeasured the lease liability and ROU asset associated with the lease. As of the effective date of modification, the Company recorded an adjustment to the right-of-use asset and lease liability in the amount of \$300,787 based on the net present value of lease payments discounted using an estimated incremental borrowing rate of 7.5%. Subsequent renewal options were not considered probable of being exercised as of December 31, 2023. This office space is in a building owned by a board member.

The Company shares this space and the related costs associated with this operating lease with a related party (see Note 9) that also performs legal services associated with the collection of delinquent assessments. The related party has a sub-lease for approximately \$4.8 thousand per month plus operating expenses. Lease expense recognized for the years ended December 31, 2023 and 2022 was approximately \$109 thousand and \$108 thousand, respectively. Sublease income recognized for the years ended December 31, 2023 and 2022 was approximately \$58 thousand and \$59.5 thousand, respectively.

On February 27, 2023, the Company executed a lease for office equipment which has been classified as an operating lease. The lease term is 39 months. As of the effective date of the lease, the Company recorded an adjustment to the right-of-use asset and lease liability in the amount of approximately \$22 thousand based on the net present value of lease payments discounted using an estimated incremental borrowing rate of 7.35%.

The following table presents supplemental balance sheet information related to operating leases as of December 31, 2023 and 2022:

	Balance Sheet Line Item	December 31, 2023	December 31, 2022
<b>Assets</b>			
ROU assets	Right of use asset, net	\$ 189,009	\$ 265,658
Total lease assets		<u>\$ 189,009</u>	<u>\$ 265,658</u>
<b>Liabilities</b>			
Current lease liabilities	Lease liability	\$ 110,384	\$ 90,823
Long-term lease liabilities	Lease liability	85,775	179,397
Total lease liabilities		<u>196,159</u>	<u>270,220</u>
Weighted-average remaining lease term (in years)		1.7	2.7
Weighted-average discount rate		7.49%	7.50%

The following table presents supplemental cash flow information and non-cash activity related to operating leases for the years ended December 31, 2023 and 2022:

	For the year ended December 31,	
	2023	2022
<b>Operating cash flow information</b>		
Cash paid for amounts included in the measurement of lease liabilities	\$ (95,948)	\$ (98,569)
<b>Non-cashflow information</b>		
ROU assets and operating lease obligation recognized	\$ 21,887	\$ 300,787

The following table presents maturities of operating lease liabilities on an undiscounted basis as of December 31, 2023:

#### Lease Maturity Table

	Operating Leases
2024	121,385
2025	85,324
2026	3,163
(less: imputed interest)	(13,713)
	<u>\$ 196,159</u>

#### Legal Proceedings

Except as described below, we are not currently a party to material pending or known threatened litigation proceedings. However, we frequently become party to litigation in the ordinary course of business, including either the prosecution or defense of claims arising from contracts by and between us and client Associations. Regardless of the outcome, litigation can have an adverse impact on us because of prosecution, defense, and settlement costs, diversion of management resources and other factors.

The Company accrues for contingent obligations, including estimated legal costs, when the obligation is probable and the amount is reasonably estimable. As facts concerning contingencies become known, the Company reassesses its position and makes appropriate adjustments to the consolidated financial statements. Estimates that are particularly sensitive to future changes include those related to tax, legal, and other regulatory matters.

On March 9, 2022, legal counsel to a purported stockholder of the Company threatened to file a direct and derivative complaint alleging breaches of fiduciary duty by the Company's officers and directors, primarily with respect to (i) the Amended and Restated Employment Agreements entered into by the Company with each of Mr. Rodgers and Mr. Russell in October 2021; (ii) the approval of actions taken at our 2021 annual meeting of stockholders in December 2021; (iii) payments made to Business Law Group, P.A. in exchange for services provided pursuant to the Services Agreement between the Company and Business Law Group; and (iv) strategic advisory agreements entered into by us in connection with our planned cryptocurrency mining business. On May 20, 2022, the Company and the purported stockholder agreed to a settlement of the stockholder's alleged claims under which the Company is required to seek a new independent director to replace Joel Rodgers within six months of the settlement date, engage a compensation consultant to review certain sections of the Company's executive employment agreements within ninety days of the settlement date, make changes in response to the consultant's recommendation within six months of the settlement date and pay the attorney fees and other related legal costs incurred by the counterparty in an amount of \$275 thousand. The settlement payment is included within "Professional Fees" within our consolidated statements of operations for the year ended December 31, 2022. The Company satisfied the other settlement terms in a timely matter.

In October 2021, we entered into a sale and purchase agreement (the "Uptime Purchase Agreement") with Uptime Armory LLC ("Uptime") pursuant to which US Digital agreed to purchase, and Uptime agreed to supply to US Digital, an aggregate of 18 modified 40-foot cargo containers ("POD5ive containers") that will be designed to hold and operate 280 S19 Pro Antminers manufactured by Bitmain. The purchase price of the POD5ive containers totals \$3.15 million, of which \$2.4 million or 75% was paid in 2021 as a non-refundable down payment and the remaining 25% was paid after Uptime delivered a "notice of completion" of the equipment in 2022. However, no containers have been delivered as of December 31, 2023.

On November 8, 2022, LMFA filed an action in Florida circuit court against Uptime Armory, LLC and Bit5ive, LLC in a case styled US Digital Mining and Hosting Co. LLC v. Uptime Amory, LLC and Bit5ive, LLC (Fla. 11th Cir. Ct., November 8, 2022). In that action, we alleged breach of contract and violation of the Florida Deceptive and Unfair Trade Practices Act and are seeking, among other things, damages of \$3.15 million for non-delivery of the 18 POD5ive containers. The Defendants in this action filed a motion to compel confidential arbitration action. The court has now stayed the action in the Florida Circuit Court, and ordered the parties to confidential arbitration governed by the American Arbitration Association and the case is proceeding to arbitration. We recorded an impairment charge of \$3.15 million on our mining machine deposit in the fourth quarter of 2022 and is reported on our Consolidated Statements of Operations as Impairment loss on prepaid mining machine deposits. The arbitrator has ruled in favor of US Digital's

dispositive motions against Uptime Armory and BitFive. Entities Uptime Armory, LLC, Uptime Hosting, LLC, and BitFive, LLC have filed for Assignment for the Benefit of Creditors. LMFA US Digital's Proof of Claim against entities is due April 3, 2024.

In October 2021, US Digital also entered into a hosting agreement with Uptime Hosting LLC (the "Hosting Agreement") to host the Company's 18 PODFive containers at a secure location and provide power, maintenance and other services specified in the contract for 6 cents per kilowatt with a term of one year. Under the Hosting Agreement we paid a deposit of \$0.8 million in 2021 and were required to pay an additional deposit for each container three months prior to delivery at the hosting site of \$44 thousand and a final deposit for each container one month prior to arrival at the hosting site of \$44 thousand. The deposits paid for hosting services under the Hosting Agreement are refundable. On June 29, 2022, the Company and Uptime Hosting LLC entered into a Release and Termination Agreement in which the Hosting Agreement was terminated and Uptime Hosting LLC agreed to pay the \$0.8 million. We recorded an impairment charge of \$0.8 million on our prepaid hosting deposit in the fourth quarter of 2022 which is reported on our Consolidated Statements of Operations as Impairment loss on prepaid hosting deposits.

On September 2, 2022, LMFA filed in Florida circuit court a legal action against Uptime Hosting LLC in an action styled US Digital Mining and Hosting Co, LLC v. Uptime Hosting, LLC (Fla. 13th Cir. Ct. Sept. 2, 2022) for the return of the deposit and other damages, alleging breach of contract and violation of the Florida Deceptive and Unfair Trade Practices Act. LMFA has amended its complaint.

This is now an action for (i) breach of contract against Uptime and BitFive, (ii) violation of Florida's Uniform Fraudulent Transfer Act against Uptime; (iii) violation of Florida's Uniform Fraudulent Transfer Act against BitFive; (iv) violation of Florida's Uniform Fraudulent Transfer Act against Block Consulting and Robert Collazo (v) violation of Florida Fraudulent Asset Conversion against Block Consulting Services, 6301 Southwest Ranches, LLC, Robert D Collazo, Jr. and Elyam Moral-Collazo; (vi) violation of Florida Deceptive and Unfair Trade Practices Act ("FDUTPA") against all Defendants, (vii) equitable lien against Robert D Collazo, Jr., Elyam Moral-Collazo and 6301 Southwest Ranches, LLC., and (viii) equitable lien against Defendants Robert D Collazo, Jr., Elyam Moral-Collazo and 6301 Southwest Ranches, LLC. Currently the proceedings have been stayed by the court while defendants seek new counsel.

#### **Note 8. Income Taxes**

Prior to the Company's initial public offering in October 2015, the earnings of the Predecessor, which was a limited liability company taxed as a partnership, were taxable to its members. In connection with the contribution of membership interests to the Company (a C-Corporation formed in 2015), the net income or loss of the Company after the initial public offering is taxable to the Company and reflected in the accompanying consolidated financial statements.

The Company performs an evaluation of the realizability of its deferred tax assets on a quarterly basis. The Company considers all positive and negative evidence available in determining the potential of realizing deferred tax assets, including the scheduled reversal of temporary differences, recent and projected future taxable income and prudent and feasible tax planning strategies. The estimates and assumptions used by the Company in computing the income taxes reflected in the accompanying consolidated financial statements could differ from the actual results reflected in the income tax returns filed during the subsequent year. Adjustments are recorded based on filed returns when finalized or the related adjustments are identified.

Under ASC 740-10-30-5, *Income Taxes*, deferred tax assets should be reduced by a valuation allowance if, based on the weight of available evidence, it is more-likely-than-not (i.e., a likelihood of more than 50%) that some portion or all of the deferred tax assets will not be realized. The Company considers all positive and negative evidence available in determining the potential realization of deferred tax assets including, primarily, the recent history of taxable earnings or losses. Based on operating losses reported by the Company during 2022, 2020 and 2019, the Company concluded there was not sufficient positive evidence to overcome this recent operating history. As a result, the Company believed that a valuation allowance was necessary based on the more-likely-than-not threshold noted above. The Company has recorded a valuation allowance of approximately \$14.1 million as of December 31, 2023 and \$8.5 million as of December 31, 2022.

Significant components of the tax expense (benefit) recognized in the accompanying Consolidated Statements of Operations for the years ended December 31, 2023 and December 31, 2022 are as follows:

	Years Ended December 31,	
	2023	2022
Current tax benefit		
Federal	\$ 60,571	\$ 1,196,415
State	-	241,651
Total current tax expense	60,571	1,438,066
Deferred tax expense - Federal	(4,540,213)	(4,181,816)
Deferred tax expense - State	(1,091,907)	(1,041,813)
Valuation allowance	5,632,121	5,223,629
Income tax expense	<u>\$ 60,571</u>	<u>\$ 1,438,066</u>

The reconciliation of the income tax computed at the combined federal and state statutory rate of (0.3)% for the year ended December 31, 2023 and (5.4)% for the year ended December 31, 2022 to the income tax benefit is as follows:

	Years Ended December 31,		Years Ended December 31,	
	2023		2022	
Income tax provision at the US federal statutory rate	\$ (3,951,107)	21.0%	\$ (5,553,496)	21.0%
Nondeductible expenses	20,847	-0.1%	-	0.0%
Stock based compensation	-	0.0%	3,222,271	-12.2%
State income taxes, net of federal benefit	(852,967)	4.5%	(470,684)	1.8%
True-up	(681,760)	3.6%	(786,165)	3.0%
Change in valuation allowance	5,632,122	-29.9%	5,223,627	-19.8%
Change in Rate	(106,564)	0.6%	(197,487)	0.7%
Tax expense/effective rate	<u>\$ 60,571</u>	<u>-0.3%</u>	<u>\$ 1,438,066</u>	<u>-5.4%</u>

The significant components of the Company's deferred tax liabilities and assets as of December 31, 2023 and December 31, 2022 are as follows:

	As of December 31,	As of December 31,
	2023	2022
Deferred tax liabilities:		
Depreciation	\$ 877,838	\$ 538,866
Right to use assets	48,306	67,052
Other	316,331	-
Total deferred tax liabilities	1,242,475	605,918
Deferred tax assets:		
Loss carryforwards - Federal	7,045,561	5,922,644
Loss carryforwards - State	1,529,067	1,195,806
Stock option expense	1,916,270	490,892
Amortization	362,918	395,272
Allowance for credit losses	13,541	14,555
Right to use liability	50,133	68,203
Unrealized loss on securities	4,424,536	986,639
Charitable contributions	2,664	2,000
Total deferred tax asset	15,344,690	9,076,011
Valuation allowance	(14,102,215)	(8,470,093)
Net deferred tax asset	<u>\$ -</u>	<u>\$ -</u>



As a result of various equity transactions prior to the incorporation, the former members of the Predecessor recognized taxable gains associated with redemption consideration and/or deficit capital accounts totaling approximately \$5.25 million. In accordance with ASC 740-20-45-11, the Company accounted for the tax effect of the step up in income tax basis related to these transactions with or among shareholders and recognized a deferred tax asset and corresponding increase in equity of approximately \$1.91 million. Federal net operating loss carryforwards of approximately \$512 thousand related to 2015, \$3.96 million related to 2016, \$2.98 million related to 2017, \$1.41 million related to 2018, \$1.95 million related to 2019, and \$5.1 million related to 2020 will expire in 2035, 2036, 2037, 2038, respectively and net operating loss generated after January 1, 2018 will not expire. The Company's federal and state tax returns for the 2018 through 2022 tax years generally remain subject to examination by U.S. and various state authorities.

Pursuant to IRC §382 of the Internal Revenue Code, the utilization of net operating loss carryforwards and tax credits may be limited as a result of a cumulative change in stock ownership of more than 50% over a three year period. The Company underwent such a change and consequently, the utilization of a portion of the net operating loss carryforwards is subject to certain limitations.

#### **Note 9. Related Party Transactions**

Legal services for the Company associated with the collection of delinquent assessments from property owners was performed by a law firm (Business Law Group "BLG") which was owned solely by Bruce M. Rodgers, the chairman and CEO of the Company, until and through the date of its initial public offering in 2015. Following the initial public offering, Mr. Rodgers transferred his interest in BLG to other attorneys at the firm through a redemption of his interest in the firm, and BLG is now under control of those lawyers. The law firm has historically performed collection work primarily on a deferred billing basis wherein the law firm receives payment for services rendered upon collection from the property owners or at amounts ultimately subject to negotiations with the Company.

Under the agreement, the Company paid BLG a fixed monthly fee of \$82 thousand per month for services rendered. The Company paid BLG a minimum per unit fee of \$700 in any case where there is a collection event and BLG received no payment from the property owner. This provision was expanded to also include any unit where the Company has taken title to the unit or where the Association has terminated its contract with either BLG or the Company.

On February 1, 2022, the Company consented to the assignment by BLG to the law firm BLG Association Law, PLLC ("BLGAL") of the Services Agreement, dated April 15, 2015, previously entered into by the Company and Business Law Group, P.A. (the "Services Agreement"). The Services Agreement had set forth the terms under which Business Law Group, P.A. would act as the primary law firm used by the Company and its association clients for the servicing and collection of association accounts. The assignment of the Services Agreement was necessitated by the death of the principal attorney and owner of Business Law Group, P.A. In connection with the assignment, BLGAL agreed to amend the Services Agreement on February 1, 2022, to reduce the monthly compensation payable to the law firm from \$82 thousand to \$53 thousand (the "Amendment"). Bruce M. Rodgers is a 50% owner of BLGAL, and the assignment and Amendment was approved by the independent directors of the Company. A \$150 thousand termination fee was also paid to BLG in association with the assignment. On March 28, 2024, BLGAL and the Company reduced the monthly compensation payable to the law firm from \$53 thousand to \$43 thousand.

The Company had originally engaged BLG on behalf of many of its Association clients to service and collect the Accounts and to distribute the proceeds as required by Florida law and the provisions of the purchase agreements between LMF and the Associations. This engagement was subsequently assigned to BLGAL as described above. Ms. Gould, who is a Director of the Company, worked as the General Manager of BLG and works as the General Manager of BLGAL.

Amounts paid to BLG or BLGAL for the years ended December 31, 2023 and 2022 were approximately \$637 thousand and \$665 thousand, respectively.

Under the Services Agreement in effect during the years ended December 31, 2023 and 2022, the Company pays all costs (lien filing fees, process and serve costs) incurred in connection with the collection of amounts due from property owners. Any recovery of these collection costs are accounted for as a reduction in expense incurred. The Company incurred expenses related to these types of costs of \$37 thousand and \$63 thousand, during 2023 and 2022, respectively. Recoveries during the years ended December 31, 2023 and 2022 related to those costs were approximately \$66 thousand and \$75 thousand, respectively.

The Company also shares office space, personnel and related common expenses with BLGAL (previously BLG). All shared expenses, including rent, are charged to BLGAL based on an estimate of actual usage. Any expenses of BLGAL or BLG paid by the Company that have not been reimbursed or settled against other amounts are reflected as due from related parties in the accompanying consolidated balance sheet. BLGAL and BLG, as applicable were charged a total of approximately \$58 thousand and \$60 thousand for the office sub-lease during the years ended December 31, 2023 and 2022, respectively. The charges for certain shared personnel totaled approximately \$54 thousand and \$172 thousand for the years ended December 31, 2023 and 2022, respectively.

Amounts payable to BLGAL and BLG in aggregate as of December 31, 2023 and 2022 were approximately \$24 thousand and \$63 thousand, respectively.

## Note 10. Stockholders' Equity

### Reverse Stock Split

On November 9, 2023, our shareholders voted in favor of the approval of an amendment to our Certificate of Incorporation, in the event it is deemed advisable by our Board of Directors, to effect a reverse stock split of the Company's issued and outstanding common stock at a ratio within the range of one-for-two (1:2) and one-for-ten (1:10), as determined by the Board of Directors.

On February 23, 2024, the Board approved a one-for-six (1:6) reverse split of the Company's issued and outstanding common stock, par value \$0.001 per share, pursuant to which every six outstanding shares of common stock was converted into one share of common stock (the "Reverse Stock Split"). The Reverse Stock Split was effected by the filing of an amendment to our Certificate of Incorporation on March 7, 2024 which provided that the Reverse Stock Split become effective at 12:01 a.m. eastern time on March 12, 2024. The amendment provides that no fractional shares shall be issued and, in lieu thereof, any person who would otherwise be entitled to a fractional share of common stock as a result of the Reverse Stock Split will be entitled to receive one share of common stock. The Company's common stock began trading on The Nasdaq Capital Market on a split-adjusted basis on March 12, 2024. The Company has retroactively adjusted all share amounts and per share data herein to give effect to the Reverse Stock Split.

### Stock Issuance

In the year ended December 31, 2021, the Company issued 12,323 shares to management as part of their employment contracts of which \$229,500 was expensed. The shares were physically issued in February 2022.

On April 20, 2023 (the "Grant Date"), the board of directors of the Company approved the grant of 260,000 shares of restricted stock ("Restricted Shares") to management and employees.

The Restricted Shares vest in twelve substantially equal installments on each monthly anniversary of the Grant Date for twelve months following the Grant Date (subject to accelerated vesting upon a change of control of the Company), provided that the employee is in continuous employment or service to the Company through the applicable vesting date.

The total fair value of the stock at the time of issuance was approximately \$1.2 million which was based on the closing market price on the Grant Date of \$4.51. The Company expensed approximately \$1,096 thousand for the year December 31, 2023. There was approximately \$76 thousand of unrecognized compensation cost associated with unvested restricted stock as of December 31, 2023.

The following is a summary of the restricted share activity during the year ended December 31, 2023 and 2022:

	2023		2022	
	Number of Restricted Shares	Weighted Average Award Price	Number of Restricted Shares	Weighted Average Award Price
Restricted Shares outstanding at beginning of the year	-	\$ -	-	\$ -
Granted	260,000	4.51	-	-
Vested	(173,333)	4.51	-	-
Restricted Shares outstanding at December 31,	86,667	\$ 4.51	-	\$ -

## Stock Warrants

The following is a summary of the stock warrant plan activity during the years ended December 31, 2023 and 2022:

	2023		2022	
	Number of Warrants	Weighted Average Exercise Price	Number of Warrants	Weighted Average Exercise Price
Warrants outstanding at beginning of the year	1,279,573	\$ 30.00	1,283,740	\$ 30.00
Granted	-	-	-	-
Exercised	-	-	-	-
Forfeited	(4,766)	20.16	(4,167)	27.00
Warrants outstanding and exercisable at December 31,	<u>1,274,807</u>	<u>\$ 30.04</u>	<u>1,279,573</u>	<u>\$ 30.00</u>

The aggregate intrinsic value of the outstanding common stock warrants as of December 31, 2023 and 2022 was approximately \$0 and \$0, respectively.

On October 18, 2021, the Company issued warrants as part of its secondary offering that allowed for the right to purchase 1,052,630 shares of common stock at an exercise price of \$30.00 per share. These warrants have an average remaining life of 2.8 years as of December 31, 2023 and expire in the year 2026. No warrants were exercised during the year ended December 31, 2023 and 2022.

On October 19, 2021, the Company issued warrants as part of its secondary offering that allowed for the right to purchase 157,895 shares of common stock at an exercise price of \$30.00 per share. These warrants have an average remaining life of 2.8 years as of December 31, 2023 and expire in the year 2026. No warrants were exercised during the year ended December 31, 2023 and 2022.

On October 20, 2021, the Company issued warrants as part of its secondary offering that allowed for the right to purchase 36,316 shares of common stock at an exercise price of \$35.64 per share. These warrants have an average remaining life of 1.3 years as of December 31, 2023 and expire in the year 2025. No warrants were exercised during the year ended December 31, 2023 and 2022.

On August 18, 2020, the Company issued warrants as part of its secondary offering that allowed for the right to purchase 373,333 shares of common stock at an exercise price of \$27.00 per share. After exercises in the year 2021, there are 51,383 remaining shares available to be exercised under these warrants. These warrants have an average remaining life of 1.63 years as of December 31, 2023 and expire in the year 2025. No warrants were exercised during the year ended December 31, 2023 and 2022.

On October 31, 2018, the Company issued warrants as part of its secondary offering that allowed for the right to purchase 83,333 shares of common stock at an exercise price of \$12.00 per share which were subsequently adjusted due to an issuance of shares in August 2020 to \$3.35 per share. During the year ended December 31, 2021 warrants for 299,000 shares were exercised for approximately \$1,004,000. No warrants were exercised during the year ended December 31, 2023 or 2022. These warrants expired on October 31, 2023.

As part of its underwriting agreement dated, October 31, 2018, the Company issued additional warrants, effective May 1, 2019, to its underwriter as part of its secondary offering that allowed for the right to purchase 4,167 shares of common stock at an exercise price of \$27.00 per share on or after May 1, 2019. These warrants expired on May 2, 2022. No warrants were exercised during the year ended December 31, 2022.

## Stock Options

The following is a summary of the stock option plan activity during the years ended December 31, 2023 and 2022:

	2023		2022	
	Number of Options	Weighted Average Exercise Price	Number of Options	Weighted Average Exercise Price
Options outstanding at beginning of the year	186,877	\$ 19.56	659,471	\$ 37.20
Granted	414,417	4.51	127,406	3.54
Cancelled	-	-	(600,000)	35.70
Forfeited	(1,697)	72.18	-	-
Options outstanding at December 31,	<u>599,597</u>	<u>\$ 9.00</u>	<u>186,877</u>	<u>\$ 19.56</u>
Options exercisable at December 31,	<u>379,194</u>	<u>\$ 10.55</u>	<u>30,443</u>	<u>\$ 71.28</u>

The 2015 Omnibus Incentive Plan provided for the issuance of stock options, stock appreciation rights, performance shares, performance units, restricted stock, restricted stock units, shares of our common stock, dividend equivalent units, incentive cash awards or other awards based on our common stock. This plan was reconstituted into a new 2021 Omnibus Plan. The 2021 Omnibus Plan is intended to allow us to continue to use equity awards as part of our ongoing compensation strategy for our key employees. Awards under the Plan will support the creation of long-term value and returns for our stockholders.

Awards may be granted alone or in addition to, in tandem with, or (subject to the 2021 Omnibus Incentive Plan's prohibitions on repricing) in substitution for any other award (or any other award granted under another plan of ours or of any of our affiliates).

The Black-Scholes option-pricing model was developed for use in estimating the fair value of traded options that have no vesting restrictions. The model requires the use of subjective assumptions. Expected volatility for each award was based on the historical and expected volatility of the Company. The expected life (in years) is determined using historical data to estimate options exercise patterns. The Company does not expect to pay any dividends for the foreseeable future thus a value of zero was used in the calculations. The risk-free interest rate was based on the rate for US Treasury bonds commensurate with the expected term of the granted options. The Company recognizes the determined value as an expense over the period in which the stock options vest.

The maximum term of an option is 10 years from the date of grant.

### Option Awards – Fiscal Year 2023

On April 20, 2023 (the "Grant Date"), the board of directors of the Company approved the grant of options to purchase 414,417 shares of common stock of the Company ("Options") to management and employees. The Options grant each recipient the right to purchase shares of Company common stock at a price of \$4.50 per share, the fair market value of the Company's common stock on the Grant Date. The Options vest as to 50% of the total amount of the award on the one-year anniversary of the Grant Date and 50% of the total amount of the award on the two-year anniversary of the Grant Date (subject to accelerated vesting upon a change of control of the Company), provided that the executive is in continuous employment or service to the Company through the applicable vesting date. The Options are subject to accelerated vesting as follows: (a) the portion of the Options that are scheduled to vest during the first year after the Grant Date vest instead as of June 30, 2023, if the Company's Bitcoin mining operations achieve 500 petahash of computing power as of June 30, 2023, and (b) the portion of the Options that are scheduled to vest during the second year after the Grant Date will vest as of June 30, 2024, if the Company's Bitcoin mining operations achieve 1,000 petahash of computing power as of June 30, 2024. As of June 30, 2023, the Company's Bitcoin mining operations achieved 500 petahash of computing power therefore the 207,208 options scheduled to vest during the first year vested as of June 30, 2023. The stock based compensation expense attributable to the portion of options that were scheduled to vest during the first year was recognized during the year ended December 31, 2023 as a result of the accelerated vesting of such options.

The options awarded to the employees were valued using the Black-Scholes option pricing model. Total expense to be recognized after adjusting for forfeitures for the employee options for these 2023 awards is approximately \$1.8 million.

Significant assumptions used in the option-pricing model to fair value options granted were as follows:

	2023
Risk-free rate	3.54%
Expected volatility	118 %
Expected life	10 years
Expected dividend	—

#### **Option Awards – Fiscal Year 2022**

In December 2022 the Company granted to a director a total of 6,219 stock options at an exercise price of \$4.02 per share that expire after 10 years. In December 2022 the Company also granted to its directors a total of 121,187 stock options at an exercise price of \$3.54 per share that expire after 10 years. Both of these awards will vest over a twelve month period with 50% after 6 months and the remaining 50% at end of twelve months. The grant date fair value of the options was \$3.48 and \$3.00, respectively.

The options awarded to the directors were valued using the Black-Scholes option pricing model. Total expense to be recognized after adjusting for forfeitures for the director options for these 2022 awards is approximately \$409 thousand.

Significant assumptions used in the option-pricing model to fair value options granted were as follows:

	2022
Risk-free rate	3.53% - 3.83%
Expected volatility	119 %
Expected life	10 years
Expected dividend	—

Compensation expense recognized for stock options for the years ended December 31, 2023 and 2022 was approximately \$1.8 million and \$16.6 million, respectively. The remaining unrecognized compensation cost associated with unvested stock options as of December 31, 2023 and 2022 is approximately \$0.6 million and \$0.6 million, respectively.

At December 31, 2023 and 2022, the stock options had a remaining life of approximately 9.1 years and 9.6 years, respectively.

The aggregate intrinsic value of the outstanding common stock options as of December 31, 2023 and 2022 was \$0 and \$0 respectively.

#### **At the Market Program**

On June 26, 2023, the Company entered into an Equity Distribution Agreement (the "Distribution Agreement") with Maxim Group LLC (the "Agent"), pursuant to which the Company may, from time to time, at the Company's discretion, offer and sell shares of the Company's common stock, having an aggregate offering price of up to \$4,700,000 (the "Shares"), through the Agent, acting as sales agent. The Shares to be sold under the Distribution Agreement, if any, will be issued and sold pursuant to the Company's shelf registration statement which was filed with the Securities and Exchange Commission ("SEC") on July 30, 2021 (the "Registration Statement") and was declared effective on August 16, 2021. A prospectus supplement related to the Company's at the market offering ("ATM") program with the Agent under the Distribution Agreement was filed with the SEC on June 26, 2023. The ATM program is expected to remain in effect until June 26, 2024. As of December 31, 2023, an aggregate gross sales limit of \$4,700,000 remains available for issuance under the ATM program. Approximately \$119 thousand of legal and professional fees incurred related to the establishment of the ATM program as of December 31, 2023 were deferred and recorded within "Prepaid expenses and other assets" on the Consolidated Balance Sheets and will be amortized ratably as stock is issued under the program.

#### **Note 11. Segment Information**

The Company applies ASC 280, Segment Reporting, in determining its reportable segments. The Company has two reportable segments: Specialty Finance and Mining Operations. The guidance requires that segment disclosures present the measure(s) used by the CODM to decide how to allocate resources and for purposes of assessing such segments' performance. The Company's CODM uses revenue, income from operations and income before taxes of our reporting segments to assess the performance of the business of our reportable operating segments.

No operating segments have been aggregated to form the reportable segments. The corporate oversight function, and other components that may earn revenues that are only incidental to the activities of the Company are aggregated and included in the "All Other" category.

The Specialty Finance segment generates revenue from providing funding to nonprofit community associations. The Mining Operations segment generates revenue from the Bitcoin the Company earns through its mining activities.

	Year Ended December 31, 2023			
	Specialty Finance	Mining Operations	All Other	Total
Revenue, net	\$ 694,959	\$ 12,289,131	\$ -	\$ 12,984,090
Depreciation and amortization	5,364	4,918,332	59,784	4,983,480
Operating loss	(934,807)	(2,020,112)	(7,107,000)	(10,061,919)
Realized gain on securities	-	-	4,420	4,420
Unrealized gain on marketable securities	-	-	13,570	13,570
Impairment loss on prepaid machine deposits	-	(36,691)	-	(36,691)
Impairment loss on prepaid hosting deposits	-	(184,236)	-	(184,236)
Impairment loss on Symbiont assets	-	-	(750,678)	(750,678)
Unrealized loss on investment and equity securities	-	-	(9,771,050)	(9,771,050)
Realized gain on sale of purchased digital assets	-	-	1,917	1,917
Loss on disposal of assets	-	(9,389)	-	(9,389)
Other income - coupon sales	-	639,472	-	639,472
Gain on adjustment of note receivable allowance	-	-	1,052,542	1,052,542
Other income - finance revenue	-	-	37,660	37,660
Interest income, net	-	-	249,586	249,586
Loss before income taxes	(934,807)	(1,610,956)	(16,269,033)	(18,814,796)
Fixed Asset Additions	2,938	2,162,741	10,812	2,176,491

	Year Ended December 31, 2022			
	Specialty Finance	Mining Operations	All Other	Total
Revenue, net	\$ 788,391	\$ 945,560	\$ -	\$ 1,733,951
Depreciation and amortization	3,348	471,049	3,623	478,020
Operating loss	(1,122,872)	(1,014,327)	(22,538,786)	(24,675,985)
Realized loss on securities	-	-	(349,920)	(349,920)
Realized gain on convertible debt securities	-	-	287,778	287,778
Unrealized loss on marketable securities	-	-	(56,830)	(56,830)
Impairment loss on prepaid machine deposits	-	(3,150,000)	-	(3,150,000)
Impairment loss on prepaid hosting deposits	-	(1,790,712)	-	(1,790,712)
Impairment loss on Symbiont assets	-	-	(1,052,542)	(1,052,542)
Unrealized gain on investment and equity securities	-	-	4,423,985	4,423,985
Impairment loss on digital assets	-	-	(467,406)	(467,406)
Realized gain on sale of purchased digital assets	-	-	20,254	20,254
Loss on disposal of fixed asset	-	-	(38,054)	(38,054)
Digital assets other income	-	-	5,658	5,658
Dividend income	-	-	3,875	3,875
Interest income, net	-	-	399,094	399,094
Income (loss) before income taxes	(1,122,872)	(5,993,094)	(19,329,255)	(26,445,221)
Fixed Asset Additions	1,612	27,683,559	5,304	27,690,475

## Note 12. Subsequent Events

On January 31, 2024, SeaStar Medical repaid \$1.4 million of its outstanding note receivable.

On February 23, 2024, the Board approved a one-for-six (1:6) reverse split of the Company's issued and outstanding common stock, par value \$0.001 per share, pursuant to which every six outstanding shares of common stock was converted into one share of common stock (the "Reverse Stock Split"). The Reverse Stock Split was effected by the filing of an amendment to our Certificate of Incorporation on March 7, 2024 which provided that the Reverse Stock Split become effective at 12:01 a.m. eastern time on March 12, 2024. The amendment provides that no fractional shares shall be issued and, in lieu thereof, any person who would otherwise be entitled to a fractional share of common stock as a result of the Reverse Stock Split will be entitled to receive one share of common stock. The Company's common stock began trading on The Nasdaq Capital Market on a split-adjusted basis on March 12, 2024. The Company has retroactively adjusted all share amounts and per share data herein to give effect to the Reverse Stock Split.

**Exhibit Index**

<b>Exhibit Number</b>	<b>Description</b>
3.1	<a href="#"><u>Certificate of Incorporation of LM Funding America, Inc., as amended (incorporated by reference to Exhibit 3.1 to the Form 8-K filed on March 7, 2024)</u></a>
3.2	<a href="#"><u>Restated By-Laws of LM Funding America, Inc. (incorporated by reference to Exhibit 3.2 to the Form 10-Q filed on November 17, 2022)</u></a>
4.1	<a href="#"><u>Form of Common Stock Certificate (incorporated by reference to Exhibit 4.2 to the Registration Statement on Form S-1 (Amendment No. 2) filed on August 27, 2015 (Registration No. 333-205232))</u></a>
4.2	<a href="#"><u>Form of Common Stock Purchase Warrant (incorporated by reference to Exhibit 4.1 to Form 8-K filed on August 18, 2020)</u></a>
4.3*	<a href="#"><u>Description of Securities Registered Under Section 12 of the Securities Exchange Act of 1934, as amended</u></a>
4.4	<a href="#"><u>Form of Representative's Warrant (incorporated by reference to Exhibit 4.1 to the Form 8-K filed on October 20, 2021)</u></a>
4.5	<a href="#"><u>Form of Common Warrant (incorporated by reference to Exhibit 4.2 to the Form 8-K filed on October 20, 2021)</u></a>
10.1#	<a href="#"><u>LM Funding America, Inc. 2015 Omnibus Incentive Plan. (incorporated by reference to Exhibit 10.4 to the Form 8-K filed on October 23, 2015)</u></a>
10.2#	<a href="#"><u>Form of LM Funding America, Inc. 2015 Omnibus Incentive Plan Stock Option Award Agreement. (incorporated by reference to Exhibit 10.5 to the Form 8-K filed on October 23, 2015)</u></a>
10.3#	<a href="#"><u>Form of LM Funding America, Inc. 2015 Omnibus Incentive Plan Restricted Stock Award Agreement. (incorporated by reference to Exhibit 10.6 to the Form 8-K filed on October 23, 2015)</u></a>
10.4	<a href="#"><u>Software License Agreement, dated April 15, 2015, between LM Funding, LLC and Business Law Group, P.A. (incorporated by reference to Exhibit 10.8 to the Registration Statement on Form S-1 filed on June 25, 2015 (Registration No. 333-205232))</u></a>
10.5#	<a href="#"><u>Form of Indemnification Agreement entered into between LM Funding America, Inc. and its directors and officers. (incorporated by reference to Exhibit 10.21 to the Registration Statement on Form S-1 filed on June 25, 2015 (Registration No. 333-205232))</u></a>
10.6#	<a href="#"><u>Warrant Agreement dated January 25, 2021 between the Seastar Medical Holding Corporation and Continental Stock Transfer &amp; Trust Company (incorporated by reference to Exhibit 10.1 to the Form 8-K filed on January 25, 2021)</u></a>
10.7#	<a href="#"><u>Amended and Restated Employment Agreement of Bruce M. Rodgers, dated October 27, 2021, by and between the Company and Bruce M. Rodgers (incorporated by reference to Exhibit 10.6 to the Form 8-K filed on November 1, 2021)</u></a>
10.8#	<a href="#"><u>Amended and Restated Employment Agreement of Richard Russell, dated October 27, 2021, by and between the Company and Richard Russell (incorporated by reference to Exhibit 10.7 to the Form 8-K filed on November 1, 2021)</u></a>
10.9#	<a href="#"><u>Employment Agreement, dated October 27, 2021, by and between the Company and Ryan Duran (incorporated by reference to Exhibit 10.8 to the Form 8-K filed on November 1, 2021)</u></a>
10.10#	<a href="#"><u>LM Funding America, Inc. 2021 Omnibus Incentive Plan. (incorporated by reference to Exhibit 10.1 to the Form 8-K filed on November 1, 2021)</u></a>
10.11#	<a href="#"><u>Form of Stock Option Award Agreement (2021 Omnibus Incentive Plan) (incorporated by reference to Exhibit 10.3 to the Form 8-K filed on November 1, 2021)</u></a>
10.12#	<a href="#"><u>Form of Stock Option Award Agreement for executive officer option grants made on October 28, 2021 (incorporated by reference to Exhibit 10.4 to the Form 8-K filed on November 1, 2021)</u></a>
10.13#	<a href="#"><u>Form of Stock Option Award Agreement for non-employee directors (incorporated by reference to Exhibit 10.5 to the Form 8-K filed on November 1, 2021)</u></a>
10.14#	<a href="#"><u>LM Funding America, Inc. Non-Employee Director Compensation Program, as amended (incorporated by reference to Exhibit 10.4 to the Form 8-K filed on November 18, 2022)</u></a>
10.15*	<a href="#"><u>Services Agreement Amendment dated effective as of January 1, 2024, between LM Funding America, Inc. and BLG Association Law, PLLC</u></a>
10.16	<a href="#"><u>Master Services Agreement, entered into September 6, 2022 but effective as of August 29, 2022, between Core Scientific, Inc. and U.S. Digital Mining and Hosting Co, LLC (incorporated by reference to Exhibit 10.2 to the Form 8-K filed September 8, 2022)</u></a>
10.17#	<a href="#"><u>Amendment No. 1 to Amended and Restated Employment Agreement, dated November 16, 2022, by and between the Company and Bruce Rodgers (incorporated by reference to Exhibit 10.1 to the Form 8-K filed November 18, 2022)</u></a>
10.18#	<a href="#"><u>Amendment No. 1 to Amended and Restated Employment Agreement, dated November 16, 2022, by and between the Company and Richard Russell (incorporated by reference to Exhibit 10.2 to the Form 8-K filed November 18, 2022)</u></a>
10.19	<a href="#"><u>Asset Purchase Agreement, dated December 26, 2023, between LM Funding America, Inc. and Platonic Holdings, Inc. (incorporated by reference to Exhibit 10.1 to the Form 8-K filed December 28, 2023)</u></a>

Exhibit Number	Description
10.20	<a href="#">Equity Distribution Agreement, dated June 26, 2023, by and between LM Funding America, Inc. and Maxim Group LLC (incorporated by reference to Exhibit 1.1 to the Form 8-K filed June 26, 2023)</a>
10.21	<a href="#">Asset Purchase Agreement, dated June 5, 2023, between LM Funding America, Inc. and Symbiont.io, LLC, as Chapter 11 Debtor in Possession and Seller (incorporated by reference to Exhibit 2.1 to the Form 8-K filed June 6, 2023)</a>
21.1*	<a href="#">Subsidiaries of the registrant.</a>
31.1*	<a href="#">Certification of 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 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 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 Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>
97*	<a href="#">Clawback Policy</a>
101.INS	Inline XBRL Instance Document
101.SCH	Inline XBRL Taxonomy Extension Schema With Embedded Linkbase Documents
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

# Indicates a management contract or compensatory arrangement.

\* Filed herewith.



## Signatures

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized:

**LM FUNDING AMERICA, INC.**

Date: April 1, 2024

By: **/s/ Bruce M. Rodgers**  
**Bruce M. Rodgers**  
**Chief Executive Officer and Chairman of the Board**

KNOW ALL THESE PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Bruce M. Rodgers and Richard Russell and each of them, jointly and severally, his attorneys-in-fact, each with full power of substitution, for him in any and all capacities, to sign any and all amendments to this Report on Form 10-K, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each said attorneys-in-fact or his substitute or substitutes, may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, this Report has been signed below by the following persons on behalf of the Registrant in the capacities and on the dates indicated.

Name	Title	Date
<b>/s/ Bruce M. Rodgers</b> <b>Bruce M. Rodgers</b>	Chief Executive Officer and Chairman of the Board of Directors (Principal Executive Officer)	April 1, 2024
<b>/s/ Richard Russell</b> <b>Richard Russell</b>	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	April 1, 2024
<b>/s/ Carolinn Gould</b> <b>Carolinn Gould</b>	Member of the Board of Directors	April 1, 2024
<b>/s/ Andrew Graham</b> <b>Andrew Graham</b>	Member of the Board of Directors	April 1, 2024
<b>/s/ Frank Silcox</b> <b>Frank Silcox</b>	Member of the Board of Directors	April 1, 2024
<b>/s/ Todd Zhang</b> <b>Todd Zhang</b>	Member of the Board of Directors	April 1, 2024
<b>/s/ Douglas McCree</b> <b>Douglas McCree</b>	Member of the Board of Directors	April 1, 2024
<b>/s/ Frederick Mills</b> <b>Frederick Mills</b>	Member of the Board of Directors	April 1, 2024

**Description of Securities Registered Under Section 12 of the Securities Exchange Act of 1934, as amended**

As of December 31, 2023, LM Funding America, Inc. (the “Company,” “we,” “us,” and “our”) had one class of securities registered under Section 12 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), our common stock, par value \$0.001 per share (“Common Stock”).

The following description of our Common Stock and warrants to purchase our Common Stock (the “Warrants”) is a summary and does not purport to be complete. It is subject to and qualified in its entirety by reference to our Certificate of Incorporation, as amended (our “Certificate of Incorporation”), our By-Laws (our “By-Laws”), and the terms of the Warrant Agreements (the “Warrant Agreements”) for our outstanding Warrants, each of which is filed as an exhibit to our Annual Report on Form 10-K for the fiscal year ended December 31, 2023 and incorporated by reference herein. We encourage you to read our Certificate of Incorporation, our By-Laws, the Warrant Agreements and the applicable provisions of the General Corporation Law of the State of Delaware (the “DGCL”) for additional information.

**Common Stock**

**Authorized Capital Stock.** Under our Certificate of Incorporation, we are authorized to issue 350,000,000 shares of Common Stock, par value \$0.001 per share, and 150,000,000 shares of preferred stock, par value \$0.001 per share, in one or more series designated by our board of directors (the “Board of Directors”).

**Voting Rights.** The holders of our Common Stock are entitled to one vote per share. Holders of our common stock are not entitled to cumulate their votes in the election of directors. Generally, all matters to be voted on by stockholders must be approved by a majority (or, in the case of election of directors, by a plurality) of the votes entitled to be cast by all holders of Common Stock present in person or represented by proxy, voting together as a single class. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares then outstanding) by (in addition to any vote of the holders of one or more series of preferred stock that may be required to vote pursuant to the terms of our Certificate of Incorporation) the affirmative vote of holders of shares of capital stock of the Company representing a majority of the votes represented by all outstanding shares of capital stock of the Company entitled to vote, irrespective of any of the provisions of the DGCL.

**Dividends.** Holders of our Common Stock will share ratably (based on the number of shares of Common Stock held) if and when any dividend is declared by the Board of Directors out of funds legally available therefor, subject to any statutory or contractual restrictions on the payment of dividends by us and subject to any restrictions or preferential rights on the payment of dividends imposed by the terms of any outstanding series of preferred stock.

**Liquidation Rights.** In the event of our liquidation, dissolution or winding up, the holders of our Common Stock are entitled to share ratably in all assets of the Company remaining after the payment of its liabilities, subject to the prior distribution rights of any series of preferred stock then outstanding.

**Other Rights.** Our Common Stock is not subject to redemption nor do holders of our Common Stock have any preemptive rights to purchase additional shares of Common Stock. Holders of shares of our Common Stock do not have subscription, redemption or conversion rights. There are no redemption or sinking fund provisions applicable to the Common Stock. All of the outstanding shares of Common Stock are validly issued, fully paid and non-assessable.

**Reverse Stock Split.** On March 12, 2024, the Company effected a consolidation of its Common Stock (the “Reverse Stock Split”) by means of a one-for-six (1:6) reverse split of its outstanding Common Stock, par value \$0.001 per share. As a result of the Reverse Stock Split, every six shares of Common Stock were consolidated into one share of Common Stock, effective as of March 12, 2024. Unless otherwise noted, all share and per-share amounts included herein have been adjusted to reflect the Reverse Stock Split.

**Listing on The Nasdaq Global Market.** Our Common Stock is listed on The Nasdaq Capital Market under the symbol “LMFA”.

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## Preferred Stock

Our Certificate of Incorporation provides that our Board of Directors has the authority, without action by the stockholders, to designate and issue up to 150,000,000 shares of preferred stock in one or more classes or series and to fix the powers, rights, preferences, and privileges of each class or series of preferred stock, including dividend rights, conversion rights, voting rights, terms of redemption, liquidation preferences and the number of shares constituting any class or series, which may be greater than the rights of the holders of the Common Stock. Currently, the Company has no shares of preferred stock outstanding.

## Warrants

As of December 31, 2023, the Company had 1,274,807 outstanding Warrants to purchase up to an aggregate of 1,274,807 shares of Common Stock as follows:

- 1,223,424 Warrants to purchase up to 1,223,424 shares of common stock that were issued by the Company on October 19, 2021 in connection with the Company's secondary offering conducted in 2021; and
- 51,383 Warrants to purchase up to 51,383 shares of common stock that were issued by the Company on August 18, 2020 in connection with the Company's secondary offering conducted in 2020.

### *2021 Secondary Offering Warrants*

**Amount of Warrants and Shares Issuable.** On October 18, 2021, the Company entered into an underwriting agreement (the "Underwriting Agreement") with Maxim Group LLC (the "Underwriter") with respect to the issuance and sale, in an underwritten public offering (the "2021 Secondary Offering"), of 1,065,529 units (the "Units"), with each Unit being comprised of one share of our Common Stock, and one Warrant to purchase one share of our Common Stock (the "2021 Common Warrants"), including by the exercise by the Underwriter of an over-allotment option with respect to the 2021 Common Warrants. The shares of our Common Stock and 2021 Common Warrants included in the Units were offered together.

### 2021 Common Warrants

**Duration and Exercise Price.** The 2021 Common Warrants have an exercise price of \$30.00 per share of Common Stock, subject to adjustment in certain circumstances, as described further below. The 2021 Common Warrants expire on October 19, 2026.

**Exercisability and Cashless Exercise.** The 2021 Common Warrants are exercisable, at the option of each holder, in whole or in part, by delivering to us a duly executed exercise notice accompanied by payment in full for the number of shares of our Common Stock purchased upon such exercise (except in the case of a cashless exercise as discussed below). If a registration statement is not available for the issuance of the underlying shares of Common Stock, the 2021 Common Warrants may be exercised on a cashless net-share basis.

**Adjustment.** As long as any of the 2021 Common Warrants remain outstanding, the number of shares of Common Stock to be issued upon the exercise of the 2021 Common Warrants, and the exercise price thereof, will be adjusted in the event of one or more stock splits, readjustments or reclassifications. In the event of any of the foregoing, the remaining number of shares of Common Stock still subject to the 2021 Common Warrants shall be increased or decreased to reflect proportionately the increase or decrease in the number of shares of Common Stock outstanding and the exercise price per share shall be decreased or increased, as the case may be, in the same proportion. In addition, in the event (i) we issue any rights, options or warrants entitling them to subscribe for or purchase shares of Common Stock ("Purchase Rights") or (ii) distribute any evidence of our indebtedness or assets (including cash or cash dividends) or rights or warrants to subscribe for or purchase a security other than our Common Stock (a "Distribution"), to all of the holders of our Common Stock, the holders of the 2021 Common Warrants, upon exercise

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of the 2021 Common Warrants, will be entitled to receive such Purchase Rights or participate in such Distribution to the same extent as if they had exercised the 2021 Common Warrants and received the underlying shares of Common Stock as of immediately before the date of determination for the issuance of such Purchase Rights or Distribution. Furthermore, in the event the Company undertakes a “fundamental transaction”, including any merger or business combination, sale of substantially all of its assets, tender offer or exchange offer, or similar transaction, then the Common Warrant will become the right thereafter to receive, upon exercise, the number of shares of Common Stock of the successor or acquiring corporation (or the Company, if it is the survivor) and any additional consideration receivable upon such a fundamental transaction by holders of shares of Common Stock immediately prior to such fundamental transaction.

**Anti-Dilution Protection.** In addition to the structural protections afforded the holders of the 2021 Common Warrants described above, the 2021 Common Warrants also include full-ratchet anti-dilution protection in the event of subsequent issuances by the Company of shares of Common Stock, options or other securities convertible into shares of Common Stock, including by way of adjustments to the option price or conversion rate of such options or convertible securities (subject to certain exceptions).

**Limitations on Issuance.** The terms of the 2021 Common Warrants include a limitation on the issuance of shares of Common Stock upon exercise of the 2021 Common Warrants. A holder (together with its affiliates) may not exercise any portion of a Common Warrant to the extent that the holder would own more than 4.99% of the Company's outstanding Common Stock immediately after exercise. However, any holder may increase such percentage to any other percentage not in excess of 9.99%; provided that any increase in such percentage shall not be effective until 61 days after the holder give notice to us of such increase.

**Reservation of Shares.** The terms of the 2021 Common Warrants require that we have reserved a sufficient number of shares of Common Stock for issuance upon exercise of the 2021 Common Warrants and such shares, when issued in accordance with the terms of the 2021 Common Warrants, will be fully paid and non-assessable.

**Fractional Shares.** Fractional shares will not be issued upon the exercise of the 2021 Common Warrants. Rather, the number of shares of Common Stock to be issued will, at our election, either be rounded up to the nearest whole number or we will pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the exercise price.

**Rights as a Stockholder.** The holders of the 2021 Common Warrants as such are not entitled to vote, receive dividends or to exercise any of the rights of holders of shares of Common Stock for any purpose until such Common Warrants shall have been duly exercised and the underlying shares of Common Stock for such Common Warrants shall have been received by the holder thereof.

#### 2021 Underwriter Warrants

**Amount of Warrants and Shares Issuable.** On October 19, 2021, the Underwriter exercised its option, pursuant to the Underwriting Agreement, to purchase Warrants representing the right to purchase up to 157,895 shares of Common Stock, at an exercise price of \$30.00 per share of Common Stock (the “2021 Underwriter Warrants”). As of December 31, 2023, there were 157,895 2021 Underwriter Warrants outstanding.

**Duration and Exercise Price.** The 2021 Underwriter Warrants have an exercise price of \$30.00 per share of Common Stock. The 2021 Underwriter Warrants expire on April 16, 2025.

**Exercisability and Cashless Exercise.** The 2021 Underwriter Warrants are exercisable, at the option of each holder, in whole or in part, by delivering to us a duly executed exercise notice accompanied by payment in full for the number of shares of our Common Stock purchased upon such exercise (except in the case of a cashless exercise as discussed below). If a registration statement is not available for the issuance of the underlying shares of Common Stock, the 2021 Underwriter Warrants may be exercised on a cashless net-share basis.

**Adjustment.** As long as any of the 2021 Underwriter Warrants remain outstanding, the number of shares of Common Stock to be issued upon the exercise of the 2021 Underwriter Warrants, and the exercise price thereof, will be adjusted

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in the event of one or more stock splits, readjustments or reclassifications. In the event of any of the foregoing, the remaining number of shares of Common Stock still subject to the 2021 Underwriter Warrants shall be increased or decreased to reflect proportionately the increase or decrease in the number of shares of Common Stock outstanding and the exercise price per share shall be decreased or increased, as the case may be, in the same proportion. In addition, in the event (i) we issue any rights, options or warrants entitling them to subscribe for or purchase shares of Common Stock ("Purchase Rights") or (ii) distribute any evidence of our indebtedness or assets (including cash or cash dividends) or rights or warrants to subscribe for or purchase a security other than our Common Stock (a "Distribution"), to all of the holders of our Common Stock, the holders of the 2021 Underwriter Warrants, upon exercise of the 2021 Underwriter Warrants, will be entitled to receive such Purchase Rights or participate in such Distribution to the same extent as if they had exercised the 2021 Underwriter Warrants and received the underlying shares of Common Stock as of immediately before the date of determination for the issuance of such Purchase Rights or Distribution. Furthermore, in the event the Company undertakes a "fundamental transaction", including any merger or business combination, sale of substantially all of its assets, tender offer or exchange offer, or similar transaction, then the Underwriter Warrant will become the right thereafter to receive, upon exercise, the number of shares of Common Stock of the successor or acquiring corporation (or the Company, if it is the survivor) and any additional consideration receivable upon such a fundamental transaction by holders of shares of Common Stock immediately prior to such fundamental transaction

**Limitations on Issuance.** The terms of the 2021 Underwriter Warrants include a limitation on the issuance of shares of Common Stock upon exercise of the 2021 Underwriter Warrants. A holder (together with its affiliates) may not exercise any portion of a Underwriter Warrant to the extent that the holder would own more than 4.99% of the Company's outstanding Common Stock immediately after exercise. However, any holder may increase such percentage to any other percentage not in excess of 9.99%; provided that any increase in such percentage shall not be effective until 61 days after the holder give notice to us of such increase.

**Reservation of Shares.** The terms of the 2021 Underwriter Warrants require that we have reserved a sufficient number of shares of Common Stock for issuance upon exercise of the 2021 Underwriter Warrants and such shares, when issued in accordance with the terms of the 2021 Underwriter Warrants, will be fully paid and non-assessable.

**Fractional Shares.** Fractional shares will not be issued upon the exercise of the 2021 Underwriter Warrants. Rather, the number of shares of Common Stock to be issued will, at our election, either be rounded up to the nearest whole number or we will pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the exercise price.

**Rights as a Stockholder.** The holders of the 2021 Underwriter Warrants as such are not entitled to vote, receive dividends or to exercise any of the rights of holders of shares of Common Stock for any purpose until such Underwriter Warrants shall have been duly exercised and the underlying shares of Common Stock for such Underwriter Warrants shall have been received by the holder thereof.

#### *2020 Secondary Offering Warrants*

**Amount of Warrants and Shares Issuable.** On August 18, 2020, the Company entered into an underwriting agreement with the Underwriter with respect to the issuance and sale, in an underwritten public offering (the "2020 Secondary Offering"), of (i) [ ] units (the "2020 Units"), with each 2020 Unit being comprised of one share of Company Common Stock and one warrant to purchase one share of Common Stock (the "2020 Common Warrants"), (ii) [ ] pre-funded 2020 Units (the "Pre-Funded Units"), with each Pre-Funded Unit being comprised of one pre-funded warrant to purchase one share of Common Stock at an exercise price of \$[ ] per share (the "Pre-Funded Warrants") and one 2020 Common Warrant. Each 2020 Unit was sold for a price of \$[ ] per 2020 Unit, and each Pre-Funded Unit was sold for a price of \$[ ] per Pre-Funded Unit. The shares of Common Stock and 2020 Common Warrants included in the 2020 Units, and the 2020 Common Warrants and Pre-Funded Warrants included in the Pre-Funded Units, were offered together, but the securities included in the Units and Pre-Funded Units are issued separately.

#### Pre-Funded Warrants

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**Duration and Exercise Price.** The Pre-Funded Warrants have an exercise price of \$[ ] per share of Common Stock, subject to adjustment in certain circumstances, as described further below.

**Exercisability and Cashless Exercise.** The Pre-Funded Warrants are exercisable, at the option of each holder, in whole or in part, by delivering to us a duly executed exercise notice accompanied by payment in full for the number of shares of our Common Stock purchased upon such exercise (except in the case of a cashless exercise as discussed below). If a registration statement is not available for the issuance of the underlying shares of Common Stock, the Pre-Funded Warrants may be exercised on a cashless net-share basis.

**Adjustment.** As long as any of the Pre-Funded Warrants remain outstanding, the number of shares of Common Stock to be issued upon the exercise of the Pre-Funded Warrants, and the exercise price thereof, will be adjusted in the event of one or more stock splits, readjustments or reclassifications. In the event of any of the foregoing, the remaining number of shares of Common Stock still subject to the Pre-Funded Warrants shall be increased or decreased to reflect proportionately the increase or decrease in the number of shares of Common Stock outstanding and the exercise price per share shall be decreased or increased, as the case may be, in the same proportion. In addition, in the event (i) we issue any rights, options or warrants entitling them to subscribe for or purchase shares of Common Stock ("Purchase Rights") or (ii) distribute any evidence of our indebtedness or assets (including cash or cash dividends) or rights or warrants to subscribe for or purchase a security other than our Common Stock (a "Distribution"), to all of the holders of our Common Stock, the holders of the Pre-Funded Warrants, upon exercise of the Pre-Funded Warrants, will be entitled to receive such Purchase Rights or participate in such Distribution to the same extent as if they had exercised the Pre-Funded Warrants and received the underlying shares of Common Stock as of immediately before the date of determination for the issuance of such Purchase Rights or Distribution. Furthermore, in the event the Company undertakes a "fundamental transaction", including any merger or business combination, sale of substantially all of its assets, tender offer or exchange offer, or similar transaction, then the Pre-Funded Warrant will become the right thereafter to receive, upon exercise, the number of shares of Common Stock of the successor or acquiring corporation (or the Company, if it is the survivor) and any additional consideration receivable upon such a fundamental transaction by holders of shares of Common Stock immediately prior to such fundamental transaction.

**Limitations on Issuance.** The terms of the Pre-Funded Warrants include a limitation on the issuance of shares of Common Stock upon exercise of the Pre-Funded Warrants. A holder (together with its affiliates) may not exercise any portion of a Pre-Funded Warrant to the extent that the holder would own more than 4.99% of the Company's outstanding Common Stock immediately after exercise. However, any holder may increase such percentage to any other percentage not in excess of 9.99%; provided that any increase in such percentage shall not be effective until 61 days after the holder give notice to us of such increase.

**Reservation of Shares.** The terms of the Pre-Funded Warrants require that we have reserved a sufficient number of shares of Common Stock for issuance upon exercise of the Pre-Funded Warrants and such shares, when issued in accordance with the terms of the Pre-Funded Warrants, will be fully paid and non-assessable.

**Fractional Shares.** Fractional shares will not be issued upon the exercise of the Pre-Funded Warrants. Rather, the number of shares of Common Stock to be issued will, at our election, either be rounded up to the nearest whole number or we will pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the exercise price.

**Rights as a Stockholder.** The holders of the Pre-Funded Warrants as such are not entitled to vote, receive dividends or to exercise any of the rights of holders of shares of Common Stock for any purpose until such Pre-Funded Warrants shall have been duly exercised and the underlying shares of Common Stock for such Pre-Funded Warrants shall have been received by the holder thereof.

#### 2020 Common Warrants

**Duration and Exercise Price.** The 2020 Common Warrants have an exercise price of \$27.00 per share of Common Stock, subject to adjustment in certain circumstances, as described further below. The 2020 Common Warrants expire on August 18, 2025.

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**Exercisability and Cashless Exercise.** The 2020 Common Warrants are exercisable, at the option of each holder, in whole or in part, by delivering to us a duly executed exercise notice accompanied by payment in full for the number of shares of our Common Stock purchased upon such exercise (except in the case of a cashless exercise as discussed below). If a registration statement is not available for the issuance of the underlying shares of Common Stock, the 2020 Common Warrants may be exercised on a cashless net-share basis.

**Adjustment.** As long as any of the 2020 Common Warrants remain outstanding, the number of shares of Common Stock to be issued upon the exercise of the 2020 Common Warrants, and the exercise price thereof, will be adjusted in the event of one or more stock splits, readjustments or reclassifications. In the event of any of the foregoing, the remaining number of shares of Common Stock still subject to the 2020 Common Warrants shall be increased or decreased to reflect proportionately the increase or decrease in the number of shares of Common Stock outstanding and the exercise price per share shall be decreased or increased, as the case may be, in the same proportion. In addition, in the event (i) we issue any rights, options or warrants entitling them to subscribe for or purchase shares of Common Stock ("Purchase Rights") or (ii) distribute any evidence of our indebtedness or assets (including cash or cash dividends) or rights or warrants to subscribe for or purchase a security other than our Common Stock (a "Distribution"), to all of the holders of our Common Stock, the holders of the 2020 Common Warrants, upon exercise of the 2020 Common Warrants, will be entitled to receive such Purchase Rights or participate in such Distribution to the same extent as if they had exercised the 2020 Common Warrants and received the underlying shares of Common Stock as of immediately before the date of determination for the issuance of such Purchase Rights or Distribution. Furthermore, in the event the Company undertakes a "fundamental transaction", including any merger or business combination, sale of substantially all of its assets, tender offer or exchange offer, or similar transaction, then the Common Warrant will become the right thereafter to receive, upon exercise, the number of shares of Common Stock of the successor or acquiring corporation (or the Company, if it is the survivor) and any additional consideration receivable upon such a fundamental transaction by holders of shares of Common Stock immediately prior to such fundamental transaction.

**Anti-Dilution Protection.** In addition to the structural protections afforded the holders of the 2020 Common Warrants described above, the 2020 Common Warrants also include full-ratchet anti-dilution protection in the event of subsequent issuances by the Company of shares of Common Stock, options or other securities convertible into shares of Common Stock, including by way of adjustments to the option price or conversion rate of such options or convertible securities (subject to certain exceptions).

**Limitations on Issuance.** The terms of the 2020 Common Warrants include a limitation on the issuance of shares of Common Stock upon exercise of the 2020 Common Warrants. A holder (together with its affiliates) may not exercise any portion of a Common Warrant to the extent that the holder would own more than 4.99% of the Company's outstanding Common Stock immediately after exercise. However, any holder may increase such percentage to any other percentage not in excess of 9.99%; provided that any increase in such percentage shall not be effective until 61 days after the holder give notice to us of such increase.

**Reservation of Shares.** The terms of the 2020 Common Warrants require that we have reserved a sufficient number of shares of Common Stock for issuance upon exercise of the 2020 Common Warrants and such shares, when issued in accordance with the terms of the 2020 Common Warrants, will be fully paid and non-assessable.

**Fractional Shares.** Fractional shares will not be issued upon the exercise of the 2020 Common Warrants. Rather, the number of shares of Common Stock to be issued will, at our election, either be rounded up to the nearest whole number or we will pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the exercise price.

**Rights as a Stockholder.** The holders of the 2020 Common Warrants as such are not entitled to vote, receive dividends or to exercise any of the rights of holders of shares of Common Stock for any purpose until such Common Warrants shall have been duly exercised and the underlying shares of Common Stock for such Common Warrants shall have been received by the holder thereof.

#### 2020 Underwriter Warrants

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**Amount of Warrants and Shares Issuable.** On August 18, 2020, the Underwriter exercised its option, pursuant to the Underwriting Agreement, to purchase Warrants representing the right to purchase up to [ ] shares of Common Stock, at an exercise price of \$27.00 per share of Common Stock (the "2020 Underwriter Warrants"). As of December 31, 2023, there were [ ] 2020 Underwriter Warrants outstanding.

**Duration and Exercise Price.** The 2020 Underwriter Warrants have an exercise price of \$27.00 per share of Common Stock. The 2020 Underwriter Warrants expire on April 16, 2025.

**Exercisability and Cashless Exercise.** The 2020 Underwriter Warrants are exercisable, at the option of each holder, in whole or in part, by delivering to us a duly executed exercise notice accompanied by payment in full for the number of shares of our Common Stock purchased upon such exercise (except in the case of a cashless exercise as discussed below). If a registration statement is not available for the issuance of the underlying shares of Common Stock, the 2020 Underwriter Warrants may be exercised on a cashless net-share basis.

**Adjustment.** As long as any of the 2020 Underwriter Warrants remain outstanding, the number of shares of Common Stock to be issued upon the exercise of the 2020 Underwriter Warrants, and the exercise price thereof, will be adjusted in the event of one or more stock splits, readjustments or reclassifications. In the event of any of the foregoing, the remaining number of shares of Common Stock still subject to the 2020 Underwriter Warrants shall be increased or decreased to reflect proportionately the increase or decrease in the number of shares of Common Stock outstanding and the exercise price per share shall be decreased or increased, as the case may be, in the same proportion. In addition, in the event (i) we issue any rights, options or warrants entitling them to subscribe for or purchase shares of Common Stock ("Purchase Rights") or (ii) distribute any evidence of our indebtedness or assets (including cash or cash dividends) or rights or warrants to subscribe for or purchase a security other than our Common Stock (a "Distribution"), to all of the holders of our Common Stock, the holders of the 2020 Underwriter Warrants, upon exercise of the 2020 Underwriter Warrants, will be entitled to receive such Purchase Rights or participate in such Distribution to the same extent as if they had exercised the 2020 Underwriter Warrants and received the underlying shares of Common Stock as of immediately before the date of determination for the issuance of such Purchase Rights or Distribution. Furthermore, in the event the Company undertakes a "fundamental transaction", including any merger or business combination, sale of substantially all of its assets, tender offer or exchange offer, or similar transaction, then the Underwriter Warrant will become the right thereafter to receive, upon exercise, the number of shares of Common Stock of the successor or acquiring corporation (or the Company, if it is the survivor) and any additional consideration receivable upon such a fundamental transaction by holders of shares of Common Stock immediately prior to such fundamental transaction

**Limitations on Issuance.** The terms of the 2020 Underwriter Warrants include a limitation on the issuance of shares of Common Stock upon exercise of the 2020 Underwriter Warrants. A holder (together with its affiliates) may not exercise any portion of a Underwriter Warrant to the extent that the holder would own more than 4.99% of the Company's outstanding Common Stock immediately after exercise. However, any holder may increase such percentage to any other percentage not in excess of 9.99%; provided that any increase in such percentage shall not be effective until 61 days after the holder give notice to us of such increase.

**Reservation of Shares.** The terms of the 2020 Underwriter Warrants require that we have reserved a sufficient number of shares of Common Stock for issuance upon exercise of the 2020 Underwriter Warrants and such shares, when issued in accordance with the terms of the 2020 Underwriter Warrants, will be fully paid and non-assessable.

**Fractional Shares.** Fractional shares will not be issued upon the exercise of the 2020 Underwriter Warrants. Rather, the number of shares of Common Stock to be issued will, at our election, either be rounded up to the nearest whole number or we will pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the exercise price.

**Rights as a Stockholder.** The holders of the 2020 Underwriter Warrants as such are not entitled to vote, receive dividends or to exercise any of the rights of holders of shares of Common Stock for any purpose until such Underwriter Warrants shall have been duly exercised and the underlying shares of Common Stock for such Underwriter Warrants shall have been received by the holder thereof.

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## Anti-Takeover Provisions

### *Our Certificate of Incorporation and By-Laws*

Our Certificate of Incorporation and our By-Laws contain provisions that may delay, defer or discourage another party from acquiring control of us. We expect that these provisions, which are summarized below, will discourage coercive takeover practices or inadequate takeover bids. These provisions are also designed to encourage persons seeking to acquire control of us to first negotiate with the Board of Directors, which we believe may result in an improvement of the terms of any such acquisition in favor of our stockholders. However, they also give the Board of Directors the power to discourage acquisitions that some stockholders may favor. These provisions are described further below.

**Staggered Board.** Our Certificate of Incorporation provides that our Board of Directors 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. As such, at a given annual meeting, only a portion of our Board of Directors may be considered for election. Since our "staggered board" may prevent our stockholders from replacing a majority of our Board of Directors at certain annual meetings, it may entrench our management and discourage unsolicited stockholder proposals.

**Undesignated Preferred Stock.** Our Certificate of Incorporation provides our Board of Directors with the ability to designate the terms of and issue a new series of preferred stock. The purpose of authorizing our Board of Directors to issue preferred stock and determine its rights and preferences is to eliminate delays associated with a stockholder vote on specific issuances. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions, future financings and other corporate purposes, could have the effect of making it more difficult for a third party to acquire, or could discourage a third party from seeking to acquire, a majority of our outstanding voting stock. Additionally, the issuance of preferred stock may adversely affect the holders of our Common Stock by restricting dividends on the Common Stock, diluting the voting power of the Common Stock or subordinating the liquidation rights of the Common Stock. As a result of these or other factors, the issuance of preferred stock could have an adverse impact on the market price of our Common Stock and otherwise discourage a potential acquisition of the Company by a third party.

**Special Meetings of Stockholders.** Special meetings of stockholders may only be called by the Chairman of our Board of Directors, the Chief Executive Officer or the Secretary pursuant to a resolution adopted by a majority of the directors then in office, or by stockholders holding at least a majority of the issued and outstanding voting stock of the Company. The only matters that may be considered at any special meeting of the stockholders are the matters specified in the notice of the meeting.

**Stockholder Notice Provisions.** Our By-Laws establish advance notice procedures with respect to stockholder proposals and the nomination of candidates for election as directors, other than nominations made by or at the direction of our Board of Directors or a committee of the Board of Directors. Our By-Laws also provide certain form requirements for any such proposal delivered in accordance with the advanced notice procedures set forth therein.

**No Stockholder Written Consent in Lieu of Meeting.** Our By-Laws provide that any action required or permitted to be taken by the stockholders of the Company must be effected at an annual or special meeting of stockholders of the Company and may not be effected in lieu thereof by any consent in writing by such stockholders unless the action to be effected by written consent of the stockholders and the taking of such action by written consent have been approved in advance by a resolution adopted by the Board of Directors.

### *Delaware Law*

**Section 203 of the DGCL.** In our Certificate of Incorporation, we elected not to be governed by Section 203 of the DGCL, which regulates corporate takeovers. This section prevents certain Delaware corporations, under certain circumstances, from engaging in a "business combination" with an "interested stockholder."

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## SERVICES AGREEMENT

This **SERVICES AGREEMENT** ("Agreement") is entered into as of this 1st day of January, 2017 by and between **LM FUNDING, LLC**, a Florida limited liability company ("LMF"), and the **BUSINESS LAW GROUP, P.A.**, a Florida professional association ("BLG"), (collectively, the "Parties") and shall terminate and supersede all previous Agreements between the Parties effective as of this date.

### RECITALS

**WHEREAS**, BLG is a Florida professional association that provides legal services to its clients, which include Homeowners Associations ("HOA") and Condominium Associations ("COA") (hereinafter collectively referred to as ("Community Associations"));

**WHEREAS**, an HOA is a corporation responsible for the operation of a community in which the voting membership is made up of owners, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel;

**WHEREAS**, a COA is a unit owners' association organized under Florida Statute §718, in which membership is a mandatory condition of unit ownership and which is authorized to impose assessments that, if unpaid, may become a lien on the unit;

**WHEREAS**, LMF and BLG have agreed herein for BLG to provide collection services to the Community Associations and in some cases to LMF, subject to the rules of professional conduct promulgated by the Florida Bar, and serve as Counsel as further defined in the Purchase Agreements (as defined herein). The legal services provided by BLG to the Community Associations under this Agreement include assisting such clients with the collection of past due accounts from its Delinquent Unit owners;

**WHEREAS**, LMF pays Community Associations for an assignment of the proceeds of Community Associations' Delinquent Assessments as further defined pursuant to an executed Association Receivables Purchase Agreement ("Purchase Agreement") entered into between LMF and each respective Community Association. LMF is considered a third-party payor for

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legal services provided to the Community Associations and will pay for services rendered by BLG to collect the Community Associations' Ledger Amounts, Delinquent Assessments, Interest, Administrative Late Fees, as all are further defined by the executed Purchase Agreements, , and to exercise its collection remedies pursuant to the Purchase Agreements.

**WHEREAS**, LMF maintains a proprietary software system and database of debtor information in order to monitor the collection services on units where LMF has been assigned the Delinquent Assessments and/or Ledger Amounts pursuant to a Purchase Agreement;

**WHEREAS**, BLG desires to utilize LMF's proprietary software and database systems in order to facilitate collection work on behalf of the Community Associations that have engaged BLG for collection work, as well as Community Associations that have entered into Purchase Agreements with LMF, and BLG has executed a separate Software License Agreement that is incorporated herewith; and

**NOW, THEREFORE**, in consideration of the covenants and agreements set forth herein, and for other good and valuable consideration, it is agreed that:

**1. Recitals**. The statements contained in the recitals set forth above ("Recitals") are true and correct and the Recitals by this reference are made a part of this Agreement.

**2. Commencement**. Subject to and upon the terms and conditions set forth in this Agreement, this Agreement shall be deemed effective January 1, 2017 ("Effective Date") and during the term of this Agreement (i) LMF shall provide BLG the services described in the Software License Agreement; (ii) upon request of LMF, BLG shall provide legal services to the Community Associations in accordance with the respective terms and conditions of the Purchase Agreements; and (iii) LMF shall provide BLG with the law related services as set forth herein.

**3. Standard Operations**. LMF shall provide law-related services for BLG which shall include, but are not limited to, operational services, document preparation, and accounting services. BLG shall draft form legal documents and upload those documents to LMF's database pursuant to the terms of the Software License Agreement. BLG shall have the ability to select those forms to use and/or edit such forms in any particular case, and shall utilize LMF's Software to populate those forms. LMF shall populate any of those forms as necessary or

instructed by BLG. BLG will at all times have the ability to direct LMF's operation with regard to accounts serviced under the Software License Agreement and LMF understands that the services being performed hereunder are law-related and not actual legal services. Proper notification pertaining to the use of a separate entity performing law-related services has been addressed in the Purchase Agreements with the Community Associations and LMF will do its best to maintain the integrity of the relationship between BLG and the Community Associations. For evidentiary purposes, LMF shall be a necessary party to the provision of legal services, and any communications between BLG and LMF about BLG client matters shall be confidential and non-waivable except by the client or an agent of the client acting as their attorney-in-fact.

#### **4. Scope of Legal Services.**

a)BLG may use the software and database subject to the Software License Agreement on any and all accounts BLG chooses and LMF shall provide BLG the services described herein on such accounts at no cost to BLG.

b)For Delinquent Unit accounts subject to Purchase Agreements between LMF and Community Associations, BLG shall serve as Counsel as further defined by the respective Purchase Agreements, and shall provide collection related services at the direction of LMF as provided for, and limited by, the Purchase Agreements between LMF and the Community Associations.

c)The LMF sales staff or LMF's representatives shall provide reasonable support services to BLG with regard to the Delinquent Unit accounts assigned and defined pursuant to Purchase Agreements.

d)BLG's representation under this Agreement does not extend to any specific members of the Community Associations' Board of Directors. BLG is not obligated to advise or represent Community Associations regarding any additional matters unless BLG agrees to it by separate written retainer agreement with the Community Association, and under the condition that the terms set forth herein will continue to apply.

e)BLG will take direction from LMF for Delinquent Unit accounts subject to Purchase Agreements, pursuant to the terms of the Purchase Agreements. The Community

Associations have granted this authority to LMF pursuant to an irrevocable Power of Attorney given under the Purchase Agreements between LMF and the Community Associations. LMF will provide BLG, on an annual basis, in writing, with a current list of individuals who have the authority to act on behalf of LMF.

f)The parties hereto understand and agree that BLG is not a party to any Purchase Agreements between LMF and any such Community Associations.

#### **5.Charges for Legal Services:**

a)LMF shall pay to BLG an engagement fee for each month in the amount of

\$82,000 which shall be earned upon receipt and non-refundable. Regardless of the operational and document preparation responsibilities, all units assigned to or originated by BLG will have legal fees credited to BLG. Prior to the commencement of work on a new matter, or a matter assigned to BLG by LMF, or a matter originated by BLG, whereby LMF is the guarantor/payor pursuant to a Purchase Agreement, and BLG is, or may be seeking payment for its legal fees from LMF, BLG shall advise LMF of its preferred course of action prior to the commencement of work by BLG. At the time the course of action is determined by LMF, LMF and BLG shall agree on the amount, type, and terms of payment for the services rendered. BLG shall defer legal billing until such time a "Triggering Event" occurs. Triggering events are defined as the earlier of any of the following events:

i.A collection event occurs, which relieves all potential debtors from liability, otherwise concluding the representation;

11. Obtainment of title by LMF or its assigns in a lien foreclosure action;

m. Termination of the representation ofBLG by LMF; or

1v. Ongoing defense of a mortgage foreclosure, whereby LMF or its assigns are the unit owner.

b)Upon the occurrence of a Triggering Event wherein BLG received no payment from the Delinquent Unit Owner, LMF shall pay to BLG \$700. These fees are exclusive of costs as further addressed in Section 6 of this Agreement.

c) If BLG renders legal services that are not subject to the Purchase Agreements, the Community Associations will be responsible for paying BLG for said legal services and costs not subject to such Purchase Agreement, including those incurred in connection with any work performed by BLG on matters prior to the date this Agreement was executed by the Parties.

**6. Collection Costs.** LMF will advance BLG for costs directly associated with the collection of the Community Association accounts subject to Purchase Agreements. Advanceable costs include, but are not limited to, court fees, service of process, court reports, publication costs, photocopying, computer research services, filing fees, postage, express mail charges, court reporter fees and transcript charges, courier and messenger services, title insurance guarantee costs, sheriff's fees and costs, guardian ad-litem fees, skip trace fees and costs, and other out-of-pocket expenditures. The Community Associations are legally entitled to collect these and most other costs from the Delinquent Unit owner. Upon collection, BLG shall remit Collection Costs to LMF to the extent such Collection Costs were advanced by LMF. Prior to the Effective Date, LMF advanced sums to BLG for Collection Costs. For Collection Costs collected on LMF accounts purchased prior to the Effective Date, BLG shall remit to LMF a percentage of Collection Costs equal to the Collection Costs multiplied by the fraction the numerator being the Collection Costs expended by BLG in year a unit was purchased ("Purchase Year") over the amount of Collection Costs advanced in the Purchase Year for the unit. BLG shall remit Collection Costs recovered at least quarterly. BLG will advance other costs including travel and per diem expense and charge these costs to the Delinquent Unit owner.

**7. Recoverable Fees.** At all times all Community Associations for whom BLG may provide legal services under this Agreement, shall be liable to BLG for all attorney fees and costs incurred by BLG on their behalf. The Community Associations are legally entitled to recover Attorney's Fees and Costs incurred by them, from the delinquent owner. In every case BLG is engaged pursuant to this Agreement under this Agreement they will seek attorney's fees from the account debtor, which will vary depending upon the extent to which the case is defended or prosecuted, any difficulties encountered delivering the complaint, the extent of any settlement negotiations and the complexity of the legal issues which may arise. If the Community Associations are subject to a third-party payor arrangement as set forth in Section 8 outlined below, the Community Associations will be responsible for attorney's fees that cannot be

reimbursed from the delinquent owner pursuant to the Florida Statutes, but LMF will pay those non-recoverable fees on their behalf.

**8. Third-Party Payment for Collection Services.** The Community Associations have elected to engage LMF as a third-party payor for specific collection matters on behalf of the Community Associations. In this event, the parties agree that this type of payment arrangement will not direct, regulate, or interfere with BLG' independent professional judgment or with the client-lawyer relationship. In addition, and under the terms of this Agreement and the Purchase Agreements, the Community Associations have authorized BLG to use BLG' independent professional judgment and discretion when making decisions relating to the handling of routine, day-to-day, or merely tactical aspects of their representation. For Delinquent Unit accounts subject to Purchase Agreements, BLG may rely upon the direction of LMF and shall be indemnified and held harmless pursuant to the Purchase Agreements as an agent of the Community Associations.

**9. Conflicts.** LMF understands that BLG may represent Community Associations with regard to collection matters outside the scope of this Agreement. LMF agrees that BLG can adequately represent the Community Associations' interest in this matter and does not believe that a conflict of interest exists. BLG warrants that the level of service provided by BLG under this Agreement will not be constrained by other legal commitments and/or business ventures.

**10. Confidentiality.** In addition to executing this Agreement, BLG has entered into a Software License Agreement with LMF, a copy of which is attached hereto as Exhibit A. BLG will have access to LMF and its actual and prospective clients' confidential and proprietary information including, but not limited to, client lists, client billing rates and information, client financial and other confidential and proprietary information, LMF's financial information, including, but not limited to, LMF's internal costs and the revenue received from each client, and client records, including, but not limited to, client contract terms, to which BLG did not have access prior to entering into this Agreement or the Software License Agreement, is not generally available to the public, and which is of great value to LMF. BLG agrees that having access to the aforementioned information is critical in order to comply with the terms and conditions of

this Agreement and understands that this information is considered attorney-client privilege and subject to the rules governing confidentiality.

**11. Liens on Funds and Other Property Held in Trust.** BLG will have a retaining lien over any and all funds deposited into BLG trust accounts, or otherwise held by LMF, including but not limited to deposits and settlement funds, for an amount equivalent to all outstanding attorneys' fees and costs incurred (including any accrued interest) for work performed on any matter for LMF or the Community Associations pursuant to this Agreement. BLG will also have a retaining lien over all property held by it, including, but not limited to, Community Associations' files.

**12. Communications.** BLG will strive to maintain clear communication with the Community Associations and LMF. BLG will provide LMF with a contact list and periodic updates on the status of accounts in collections with BLG, and any and all information obtained shall be used in conjunction with BLG' legal representation set forth herein.

**13. Tax Matters.** LMF acknowledges that BLG will not render any tax opinions upon which the Community Associations should rely with regard to the Purchase Agreements. BLG shall encourage Community Associations to retain the services of a Certified Public Accountant to handle all tax matters for the Community Associations.

**14. Termination of Legal Services.** Community Associations may terminate their engagement of BLG with or without cause at any time and will give BLG prompt written notice of the same. BLG may terminate the engagement with the Community Associations for any reason not prohibited by the Florida Rules of Professional Conduct governing Attorneys. Such reasons may include: conflicts of interest; misrepresentation of (or failure to disclose) any material facts; or any other conduct or situation that in BLG's judgment may impair an effective attorney-client relationship or presents conflicts with its professional responsibilities.

**15. Termination of Agreement.** This Agreement will commence upon the Effective Date and continue until terminated by either party upon 30 days written notice. Upon termination, all accrued amounts contained on unit ledgers will be owed to the Parties hereto as described in this Agreement and payable upon collection by BLG. It is the intent of LMF that



termination shall result in no additional Delinquent Unit accounts being referred to BLG as collection Counsel under any Purchase Agreement. With respect to accounts subject to this Agreement, all services and economic benefits of this Agreement after termination will continue in an orderly fashion until all accounts subject to this Agreement are paid in full or a formal termination agreement is entered into by the Parties.

**16. Indemnification between LMF and BLG.**

(a) *Indemnification by BLG.* BLG agrees to indemnify LMF, its affiliates and their respective directors, officers, agents, employees, affiliates and successors against, any and all losses, liabilities, obligations, demands, claims, actions, cause of actions, costs, damages, deficiencies, taxes, penalties, fines or expenses, whether or not arising out of third-party claims (including, without limitation, interest, penalties, reasonable attorneys' fees and expenses, court costs and all amounts paid in investigation, defense or settlement of any of the foregoing) arising or resulting from (i) any breach of this Agreement by BLG, or (ii) the negligence, gross negligence or willful misconduct of BLG in providing legal services.

(b) *Indemnification by LMF.* LMF agrees to indemnify BLG, its affiliates and their respective directors, officers, agents, employees, affiliates and successors against, any and all losses, liabilities, obligations, demands, claims, actions, cause of actions, costs, damages, deficiencies, taxes, penalties, fines or expenses, whether or not arising out of third-party claims (including, without limitation, interest, penalties, reasonable attorney fees and expenses, court costs and all amounts paid in investigation, defense or settlement of any of the foregoing) arising or resulting from (i) any breach of this Agreement by LMF or (ii) the negligence, gross negligence or willful misconduct of LMF in providing support services.

**17. Dispute Resolution.** This Agreement shall be construed in accordance with, and governed in all respects by, the laws of the State of Florida, without regard to conflicts of law principles. The Parties voluntarily consent to the jurisdiction of the State and Federal Courts in the State of Florida

for resolution of all claims that may arise under or related to this Agreement.

The Parties further agree and consent that venue of any action hereunder shall be exclusively in the county of Hillsborough, State of Florida. The prevailing party in any action to enforce the terms of this Agreement shall be entitled to attorney's fees for the action, from investigation through appeal.

**18. Retention of Legal Files.** BLG agrees to keep the Community Associations' legal files in accordance with its then existing document retention policy. At the end of the retention period, BLG may destroy the files unless the Community Associations or LMF requests possession of them. If applicable, trust account records will be retained longer as required.

**19. Notice s .** All notices or other communications required or permitted hereunder shall be deemed to have been duly given and made if (a) in writing and served by personal delivery upon the party for whom it is intended or (b) delivered by registered mail, certified mail, courier service, or telecopier, return receipt received, to the following addresses:

Ifto BLG:

Ifto LMF:

Business Law Group, P.A.  
302 Knights Run Avenue, Suite 1050  
Tampa, FL 33606  
Attn: Scott C. Davis, Esq.

LM Funding, LLC  
302 Knights Run Avenue, Suite 1000  
Tampa, Florida 33602  
Attn: Bruce M. Rodgers, CEO

20.**Entire Agreement**. This Agreement constitutes the entire agreement of the Parties with respect to its subject matter and supersedes any prior or contemporaneous agreement or understanding between the Parties. Unless otherwise agreed between us in writing, BLG, LMF agree and consent to these terms. No change, amendment, supplement or modification of this Agreement shall be valid unless the same is in writing and signed by the Parties hereto.

21.**Counterparts**. This Agreement may be executed in counterparts, each of which will constitute an original, and all of which will constitute one agreement.

22.**Headin** . The section headings in this Agreement are solely for convenience of reference and shall not affect the interpretation or construction of the terms and provisions hereof.

The undersigned hereby acknowledge that the Parties have executed and entered into this Agreement as of the Effective Date first written above.

**LM FUNDING, LLC**  
**By LM Funding America, Inc. Its Manager**

**/s/ Bruce Rodgers**  
**Bruce M. Rodgers, CEO**

**BUSINESS LAW GROUP, P.A.**

**/s/ Scott Davis**  
**SCOTT C. DAVIS, PRESIDENT**

Exhibit A

**Copy of the Software License Agreement**



**AMENDMENT**  
**TO**  
**SERVICES AGREEMENT**

This **AMENDMENT TO SERVICES AGREEMENT** ("Amendment") is entered into as of this 1st day of February 1, 2022, by and between **LM FUNDING, LLC**, a Florida limited liability company ("LMF"), and **BLG Association Law, PLLC**, a Florida professional limited liability company ("New BLG") and successor in interest to **BUSINESS LAW GROUP, P.A.**, a Florida professional association ("Old BLG"), (collectively, the "Parties"). This Amendment amends the Agreement by and between Old BLG and LMF dated April 15, 2015, as amended ("Agreement") and assigned to New BLG on February 1, 2022.

**RECITALS**

**WHEREAS**, on February 1, 2022, Old BLG assigned all of its assets to New BLG and New BLG has assumed all of the liabilities of Old BLG;

**WHEREAS**, LMF has conditioned its consent to the Assignment of the Agreement upon New BLG agreeing to the amended terms and conditions contained herein; and

**WHEREAS**, LMF and New BLG have agreed herein for New BLG to provide collection services to the Community Associations and in some cases to LMF, subject to the rules of professional conduct promulgated by the Florida Bar, and serve as Counsel as further defined in the Purchase Agreements (as defined herein). The legal services provided by New BLG to the Community Associations under this Agreement include assisting such clients with the collection of past due accounts from its Delinquent Unit owners;

**NOW, THEREFORE**, in consideration of the covenants and agreements set forth herein, and for other good and valuable consideration, it is agreed that:

1. **Recitals.** The statements contained in the recitals set forth above ("Recitals") are true and correct and the Recitals by this reference are made a part of this Agreement. All defined terms not defined herein shall have the same meaning as set forth in the Agreement.

2. **Commencement.** Subject to and upon the terms and conditions set forth in this Amendment, this Amendment shall be deemed effective and relate back to February 1, 2022 ("Effective Date").

3. **Amendment.** Section 5 of the Agreement is deleted in its entirety and amended and restated as follows:

**5. Charges for Legal Services:**

a) LMF shall pay to New BLG an engagement fee for each month in the amount of \$53,000 which shall be earned upon receipt and non-refundable. Regardless of the operational and document preparation responsibilities, all units assigned to or originated by New BLG will have legal fees credited to New BLG. Prior to the commencement of work on a new matter, or a matter assigned to New BLG by LMF, or a matter originated by New BLG, whereby LMF is the guarantor/payor pursuant to a Purchase Agreement, and New BLG is, or may be seeking payment for its legal fees from LMF, New BLG shall advise LMF of its preferred course of action prior to the commencement of work by New BLG. At the time the course of action is determined by LMF, LMF and New BLG shall agree on the amount, type, and terms of payment for the services rendered. New BLG shall defer legal billing until such time a "Triggering Event" occurs. Triggering events are defined as the earlier of any of the following events:

- i. A collection event occurs, which relieves all potential debtors from liability, otherwise concluding the representation;
- ii. Obtainment of title by LMF or its assigns in a lien foreclosure action;
- iii. Termination of the representation of New BLG by LMF; or
- iv. Ongoing defense of a mortgage foreclosure, whereby LMF or its assigns are the unit owner.

b) Upon the occurrence of a Triggering Event wherein New BLG received no payment from the Delinquent Unit Owner, LMF shall pay to New BLG \$700. These fees are exclusive of costs as further addressed in Section 6 of this Agreement.

c) If New BLG renders legal services that are not subject to the Purchase Agreements, the Community Associations will be responsible for paying BLG for said legal services and costs not subject to such Purchase Agreement, including those incurred in connection with any work performed by BLG on matters prior to the date this Agreement was executed by the Parties.

4. **Notices.** All notices or other communications required or permitted hereunder shall be deemed to have been duly given and made if (a) in writing and served by personal delivery upon the party for whom it is intended or (b) delivered by registered mail, certified mail, courier service, or telecopier, return receipt received, to the following addresses:

If to BLG: BLG Association Law, PLLC  
1200 W. Platt St., Suite 1000  
Tampa, FL 33606  
Attn: Jacob Bair, Esq.

If to LMF: LM Funding, LLC  
1200 W. Platt St., Suite 1010  
Attn: Bruce M. Rodgers, President

5. **Entire Agreement.** This Amendment, together with the Agreement, constitutes the entire agreement of the Parties with respect to its subject matter and supersedes any prior or contemporaneous agreement or understanding between the Parties. Unless otherwise agreed between us in writing, New BLG, LMF agree and consent to these terms. No change, amendment, supplement or modification of this Agreement shall be valid unless the same is in writing and signed by the Parties hereto.

6. **Counterparts.** This Amendment may be executed in counterparts, each of which will constitute an original, and all of which will constitute one agreement.

7. **Headings.** The section headings in this Agreement are solely for convenience of reference and shall not affect the interpretation or construction of the terms and provisions hereof.

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The undersigned hereby acknowledge that the Parties have executed and entered into this Agreement as of the Effective Date first written above.

**LM FUNDING, LLC**

/s/ Bruce Rodgers  
Bruce M. Rodgers, President

**BLG ASSOCIATION LAW, PLLC**

/s/ Jacob Bair  
Jacob Bair, Manager

## AMENDMENT

### TO

### SERVICES AGREEMENT

This **AMENDMENT TO SERVICES AGREEMENT** ("Amendment") is entered into as of this 1st day of February 1, 2022, by and between **LM FUNDING, LLC**, a Florida limited liability company ("LMF"), and **BLG Association Law, PLLC**, a Florida professional limited liability company ("New BLG") and successor in interest to **BUSINESS LAW GROUP, P.A.**, a Florida professional association ("Old BLG"), (collectively, the "Parties"). This Amendment amends the Agreement by and between Old BLG and LMF dated April 15, 2015, as amended ("Agreement") and assigned to New BLG on February 1, 2022.

### RECITALS

**WHEREAS**, on February 1, 2022, Old BLG assigned all of its assets to New BLG and New BLG has assumed all of the liabilities of Old BLG;

**WHEREAS**, LMF has conditioned its consent to the Assignment of the Agreement upon New BLG agreeing to the amended terms and conditions contained herein; and

**WHEREAS**, LMF and New BLG have agreed herein for New BLG to provide collection services to the Community Associations and in some cases to LMF, subject to the rules of professional conduct promulgated by the Florida Bar, and serve as Counsel as further defined in the Purchase Agreements (as defined herein). The legal services provided by New BLG to the Community Associations under this Agreement include assisting such clients with the collection of past due accounts from its Delinquent Unit owners;

**NOW, THEREFORE**, in consideration of the covenants and agreements set forth herein, and for other good and valuable consideration, it is agreed that:

1. **Recitals.** The statements contained in the recitals set forth above ("Recitals") are true and correct and the Recitals by this reference are made a part of this Agreement. All defined terms not defined herein shall have the same meaning as set forth in the Agreement.

2. **Commencement.** Subject to and upon the terms and conditions set forth in this Amendment, this Amendment shall be deemed effective and relate back to January 1, 2024 ("Effective Date").

3. **Amendment.** Section 5 of the Agreement is deleted in its entirety and amended and restated as follows:

**5. Charges for Legal Services:**

a) LMF shall pay to New BLG an engagement fee for each month in the amount of \$43,000 which shall be earned upon receipt and non-refundable. Regardless of the operational and document preparation responsibilities, all units assigned to or originated by New BLG will have legal fees credited to New BLG. Prior to the commencement of work on a new matter, or a matter assigned to New BLG by LMF, or a matter originated by New BLG, whereby LMF is the guarantor/payor pursuant to a Purchase Agreement, and New BLG is, or may be seeking payment for its legal fees from LMF, New BLG shall advise LMF of its preferred course of action prior to the commencement of work by New BLG. At the time the course of action is determined by LMF, LMF and New BLG shall agree on the amount, type, and terms of payment for the services rendered. New BLG shall defer legal billing until such time a "Triggering Event" occurs. Triggering events are defined as the earlier of any of the following events:

- i. A collection event occurs, which relieves all potential debtors from liability, otherwise concluding the representation;
- ii. Obtainment of title by LMF or its assigns in a lien foreclosure action;
- iii. Termination of the representation of New BLG by LMF; or
- iv. Ongoing defense of a mortgage foreclosure, whereby LMF or its assigns are the unit owner.

b) Upon the occurrence of a Triggering Event wherein New BLG received no payment from the Delinquent Unit Owner, LMF shall pay to New BLG \$700. These fees are exclusive of costs as further addressed in Section 6 of this Agreement.

c) If New BLG renders legal services that are not subject to the Purchase Agreements, the Community Associations will be responsible for paying BLG for said legal services and costs not subject to such Purchase Agreement, including those incurred in connection with any work performed by BLG on matters prior to the date this Agreement was executed by the Parties.

4. **Notices.** All notices or other communications required or permitted hereunder shall be deemed to have been duly given and made if (a) in writing and served by personal delivery upon the party for whom it is intended or (b) delivered by registered mail, certified mail, courier service, or telecopier, return receipt received, to the following addresses:

If to BLG: BLG Association Law, PLLC  
1200 W. Platt St., Suite 1000  
Tampa, FL 33606  
Attn: Jacob Bair, Esq.

If to LMF: LM Funding, LLC  
1200 W. Platt St., Suite 1010  
Attn: Bruce M. Rodgers, President

5. **Entire Agreement.** This Amendment, together with the Agreement, constitutes the entire agreement of the Parties with respect to its subject matter and supersedes any prior or contemporaneous agreement or understanding between the Parties. Unless otherwise agreed between us in writing, New BLG, LMF agree and consent to these terms. No change, amendment, supplement or modification of this Agreement shall be valid unless the same is in writing and signed by the Parties hereto.

6. **Counterparts.** This Amendment may be executed in counterparts, each of which will constitute an original, and all of which will constitute one agreement.

7. **Headings.** The section headings in this Agreement are solely for convenience of reference and shall not affect the interpretation or construction of the terms and provisions hereof.

---

The undersigned hereby acknowledge that the Parties have executed and entered into this Agreement as of the Effective Date first written above.

**LM FUNDING, LLC**

/s/ Richard Russell  
Richard Russell, CFO

**BLG ASSOCIATION LAW, PLLC**

/s/ Jacob Bair  
Jacob Bair, Manager

SUBSIDIARIES OF LM FUNDING AMERICA, INC.

Except as indicated below, all of the following subsidiaries are 100% owned by LM Funding, LLC, a Florida limited liability company:

<b>NAME OF SUBSIDIARY</b>	<b>JURISDICTION OF ORGANIZATION</b>
LM Funding, LLC (1)	Florida
LMF October 2010 Fund, LLC	Florida
REO Holdings Management, LLC (2)	Florida
LM Funding of Colorado, LLC	Colorado
LM Funding of Washington, LLC	Washington
LMF SPE#2, LLC	Florida
LM Funding of Illinois, LLC	Illinois
LM Financial Partners, LLC	Florida
Central Florida Office Ventures, LLC	Florida
Data Investigative Services, LLC	Florida
Diligent Association Title, LLC	Florida
LMFAO Sponsor LLC (3)	Florida
US Digital Mining and Hosting Co LLC	Florida
US Digital Mining Kentucky	Kentucky
US Digital Mining Texas LLC	Texas
US Digital Mining North Carolina LLC	North Carolina

(1)Owned 100% by LM Funding America, Inc.

(2)REO Holdings Management owns a number of single purpose LLC entities for owning various properties

(3)Owned approximately 70% by LM Funding America, Inc.

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**Certification of Chief Financial Officer  
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Bruce Rodgers certify that:

1. I have reviewed this annual report on Form 10-K of LM Funding America 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 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:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Bruce Rodgers

April 1, 2024

Bruce Rodgers

*Chief Executive Officer*

*(Principal Executive Officer)*

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A signed original of this document has been provided to LM Funding America, Inc. and will be retained by LM Funding America, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

---

**Certification of Chief Financial Officer  
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Richard Russell, certify that:

1. I have reviewed this annual report on Form 10-K of LM Funding America 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 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:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Richard Russell

April 1, 2024

Richard Russell

*Chief Financial Officer*

*(Principal Financial and Accounting Officer)*

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A signed original of this document has been provided to LM Funding America, Inc. and will be retained by LM Funding America, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

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**Written Statement of the Chief Financial Officer**

**Pursuant to 18 U.S.C. Section 1350**

Solely for the purposes of complying with 18 U.S.C. ss.1350, I, the undersigned Chief Financial Officer of LM Funding America, Inc. (the "Company"), hereby certify, based on my knowledge, that the Annual Report on Form 10-K of the Company for the annual period ended December 31, 2023 as filed with the Securities and Exchange Commission on April 1, 2024 (the "Report"), fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934, as amended; and that information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Bruce Rodgers

April 1, 2024

Bruce Rodgers

*Chief Executive Officer*

*(Principal Executive Officer)*

A signed original of this document has been provided to LM Funding America, Inc. and will be retained by LM Funding America, Inc. and furnished to the Securities and Exchange Commission or its staff upon request

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**Written Statement of the Chief Financial Officer**

**Pursuant to 18 U.S.C. Section 1350**

Solely for the purposes of complying with 18 U.S.C. ss.1350, I, the undersigned Chief Financial Officer of LM Funding America, Inc. (the "Company"), hereby certify, based on my knowledge, that the Annual Report on Form 10-K of the Company for the annual period ended December 31, 2023 as filed with the Securities and Exchange Commission on April 1, 2024 (the "Report"), fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934, as amended; and that information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Richard Russell

April 1, 2024

Richard Russell

*Chief Financial Officer*

*(Principal Financial and Accounting Officer)*

A signed original of this document has been provided to LM Funding America, Inc. and will be retained by LM Funding America, Inc. and furnished to the Securities and Exchange Commission or its staff upon request

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**LM FUNDING AMERICA, INC.  
Compensation Recovery Policy**

**1. Purpose.** The purpose of this Compensation Recovery Policy (this "Policy") is to describe the circumstances under which LM Funding America, Inc. (the "Company") is required to recover certain compensation paid to certain employees. Any references in compensation plans, agreements, equity awards or other policies to the Company's "recoupment", "clawback" or similarly-named policy shall be deemed to refer to this Policy with respect to Incentive-Based Compensation Received on or after the Effective Date. With respect to Incentive-Based Compensation Received prior to the Effective Date, such references to the Company's "recoupment", "clawback" or similarly-named policy in compensation plans, agreements, equity awards or other policies shall be deemed to refer to the Company's "recoupment," "clawback" or similarly-named policy, if any, in effect prior to the Effective Date.

**2. Mandatory Recovery of Compensation.** In the event that the Company is required to prepare an Accounting Restatement, the Company shall recover reasonably promptly the amount of Erroneously Awarded Compensation.

**3. Definitions.** For purposes of this Policy, the following terms, when capitalized, shall have the meanings set forth below:

(a) "*Accounting Restatement*" shall mean any accounting restatement required due to material noncompliance of the Company with any financial reporting requirement under the securities laws, including 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.

(b) "*Covered Officer*" shall mean the Company's president; principal financial officer; principal accounting officer (or if there is no such accounting officer, the controller); any vice-president of the Company in charge of a principal business unit, division, or function (such as sales, administration, or finance); any other officer who performs a significant policy-making function; or any other person who performs similar significant policy-making functions for the Company.

(c) "*Effective Date*" shall mean October 2, 2023.

(d) "*Erroneously Awarded Compensation*" shall mean the excess of (i) the amount of Incentive-Based Compensation Received by a person (A) after beginning service as a Covered Officer, (B) who served as a Covered Officer at any time during the performance period for that Incentive-Based Compensation, (C) while the Company has a class of securities listed on a national securities exchange or a national securities association and (D) during the Recovery Period; over (ii) the Recalculated Compensation. For the avoidance of doubt, a person who served as a Covered Officer during the periods set forth in clauses (A) and (B) of the preceding

sentence shall continue to be subject to this Policy even after such person's service as a Covered Officer has ended.

(e) "*Incentive-Based Compensation*" shall mean any compensation that is granted, earned, or vested based wholly or in part upon the attainment of a financial reporting measure. A financial reporting measure is a measure that is determined and presented in accordance with the accounting principles used in preparing the Company's financial statements, and any measures that are derived wholly or in part from such measures, regardless of whether such measure is presented within the financial statements or included in a filing with the Securities and Exchange Commission. Each of stock price and total shareholder return is a financial reporting measure. For the avoidance of doubt, incentive-based compensation subject to this Policy does not include stock options, restricted stock, restricted stock units or similar equity-based awards for which the grant is not contingent upon achieving any financial reporting measure performance goal and vesting is contingent solely upon completion of a specified employment period and/or attaining one or more non-financial reporting measures.

(f) "*Recalculated Compensation*" shall mean the amount of Incentive-Based Compensation that otherwise would have been Received had it been determined based on the restated amounts in the Accounting Restatement, computed without regard to any taxes paid. For Incentive-Based Compensation based on stock price or total shareholder return, where the amount of the Erroneously Awarded Compensation is not subject to mathematical recalculation directly from the information in an Accounting Restatement, the amount of the Recalculated Compensation must be based on a reasonable estimate of the effect of the Accounting Restatement on the stock price or total shareholder return, as the case may be, on the compensation Received. The Company must maintain documentation of the determination of that reasonable estimate and provide such documentation to the national securities exchange or association on which its securities are listed.

(g) Incentive-Based Compensation is deemed "*Received*" in the Company's fiscal period during which the financial reporting measure specified in the award of such Incentive-Based Compensation is attained, even if the payment or grant of the Incentive-Based Compensation occurs after the end of that period.

(h) "*Recovery Period*" shall mean the three completed fiscal years of the Company immediately preceding the date the Company is required to prepare an Accounting Restatement; provided that the Recovery Period shall not begin before the Effective Date. For purposes of determining the Recovery Period, the Company is considered to be "required to prepare an Accounting Restatement" on the earlier to occur of: (i) the date the Company's Board of Directors, a committee thereof, or the Company's authorized officers conclude, or reasonably should have concluded, that the Company is required to prepare an Accounting Restatement, or (ii) the date a court, regulator, or other legally authorized body directs the Company to prepare an Accounting Restatement. If the Company changes its fiscal year, then the

transition period within or immediately following such three completed fiscal years also shall be included in the Recovery Period, provided that if the transition period between the last day of the Company's prior fiscal year end and the first day of its new fiscal year comprises a period of nine to 12 months, then such transition period shall instead be deemed one of the three completed fiscal years and shall not extend the length of the Recovery Period.

**4. Exceptions.** Notwithstanding anything to the contrary in this Policy, recovery of Erroneously Awarded Compensation will not be required to the extent the Company's committee of independent directors responsible for executive compensation decisions (or a majority of the independent directors on the Company's board of directors in the absence of such a committee) has made a determination that such recovery would be impracticable and one of the following conditions have been satisfied:

(a) The direct expense paid to a third party to assist in enforcing this Policy would exceed the amount to be recovered; provided that, before concluding that it would be impracticable to recover any amount of Erroneously Awarded Compensation that was Incentive-Based Compensation based on the expense of enforcement, the Company must make a reasonable attempt to recover such Erroneously Awarded Compensation, document such reasonable attempt(s) to recover, and provide that documentation to the national securities exchange or association on which its securities are listed.

(b) Recovery would violate home country law where, with respect to Incentive-Based Compensation, that law was adopted prior to November 28, 2022; provided that, before concluding that it would be impracticable to recover any amount of Erroneously Awarded Compensation that was Incentive-Based Compensation based on violation of home country law, the Company must obtain an opinion of home country counsel, acceptable to the national securities exchange or association on which its securities are listed, that recovery would result in such a violation, and must provide such opinion to the exchange or association.

(c) Recovery would likely cause an otherwise tax-qualified retirement plan, under which benefits are broadly available to employees of the Company, to fail to meet the requirements of 26 U.S.C. 401(a)(13) or 26 U.S.C. 411(a) and regulations thereunder.

**5. Manner of Recovery.** In addition to any other actions permitted by law or contract, the Company may take any or all of the following actions to recover any Erroneously Awarded Compensation: (a) require the Covered Officer to repay such amount; (b) offset such amount from any other compensation owed by the Company or any of its affiliates to the Covered Officer, regardless of whether the contract or other documentation governing such other compensation specifically permits or specifically prohibits such offsets; and (c) subject to Section 4(c), to the extent the Erroneously Awarded Compensation was deferred into a plan of deferred compensation, whether or not qualified, forfeit such amount (as well as the earnings on such amounts) from the Covered Officer's balance in such plan, regardless of whether the plan specifically permits or specifically prohibits such forfeiture.

If the Erroneously Awarded Compensation consists of shares of the Company's common stock, and the Covered Officer still owns such shares, then the Company may satisfy its recovery obligations by requiring the Covered Officer to transfer such shares back to the Company.

6. Other.

(a) This Policy shall be administered and interpreted, and may be amended from time to time, by the Company's board of directors or any committee to which the board may delegate its authority in its sole discretion in compliance with the applicable listing standards of the national securities exchange or association on which the Company's securities are listed, and the determinations of the board or such committee shall be binding on all Covered Officers.

(b) The Company shall not indemnify any Covered Officer against the loss of Erroneously Awarded Compensation.

(c) The Company shall file all disclosures with respect to this Policy in accordance with the requirements of the Federal securities laws, including disclosure required by the Securities and Exchange Commission filings.

(d) Any right to recovery under this Policy shall be in addition to, and not in lieu of, any other rights of recovery that may be available to the Company.

