

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

FORM 10-Q

(Mark One)

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

For the quarterly period ended June 30, 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: 001-40304



Frontier Group Holdings, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

46-3681866
(I.R.S. Employer
Identification No.)

4545 Airport Way
Denver, CO 80239
(720) 374-4490

(Address of principal executive offices, including zip code, and Registrant's telephone number, including area code)

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, \$0.001 par value per share	ULCC	The Nasdaq Stock Market LLC

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 definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

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

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

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

The registrant had 220,679,262 shares of common stock, \$0.001 par value per share, outstanding as of July 28, 2023.

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Cautionary Statement Regarding Forward-Looking Statements

Certain statements in this Quarterly Report on Form 10-Q should be considered forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and the Private Securities Litigation Reform Act of 1995. These forward-looking statements are based on our current expectations and beliefs with respect to certain current and future events and anticipated financial and operating performance. Words such as "may," "might," "will," "should," "could," "would," "expect," "intends," "plan," "anticipate," "believe," "estimate," "project," "targets," "predict," "potential" and similar expressions are intended to identify forward-looking statements. Additionally, forward-looking statements include statements that do not relate solely to historical facts, such as statements which identify uncertainties or trends, discuss the possible future effects of current known trends or uncertainties, or which indicate that the future effects of known trends or uncertainties cannot be predicted, guaranteed or assured. You should read the following discussion and analysis of our financial condition and results of operations together with our unaudited condensed consolidated financial statements and related notes included elsewhere in this Quarterly Report on Form 10-Q, as well as our audited consolidated financial statements and related notes as disclosed in our Annual Report on Form 10-K for the fiscal year ended December 31, 2022, as filed with the Securities and Exchange Commission (the "SEC") on February 22, 2023 (the "2022 Annual Report"). This discussion contains forward-looking statements based upon current plans, expectations and beliefs involving risks and uncertainties. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of various factors, including those set forth in Part I, Item 2. "Management's Discussion and Analysis of Financial Condition and Results of Operations" and other factors set forth in other parts of this Quarterly Report on Form 10-Q, as well as those risks and uncertainties set forth from time to time under the sections captioned "Risk Factors" in our reports and other documents filed with the SEC, including our 2022 Annual Report. Furthermore, such forward-looking statements speak only as of the date of this report. Except as required by law, we undertake no obligation to update any forward-looking statements to reflect events or circumstances after the date of such statements.

PART I – FINANCIAL INFORMATION

ITEM 1. CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

FRONTIER GROUP HOLDINGS, INC.
Condensed Consolidated Balance Sheets
(unaudited, in millions, except share and per share amounts)

	June 30, 2023	December 31, 2022
Assets		
Cash and cash equivalents	\$ 780	\$ 761
Accounts receivable, net	91	90
Supplies, net	60	55
Other current assets	78	114
Total current assets	1,009	1,020
Property and equipment, net	260	226
Operating lease right-of-use assets	2,638	2,484
Pre-delivery deposits for flight equipment	380	371
Aircraft maintenance deposits	85	105
Intangible assets, net	28	28
Other assets	308	265
Total assets	\$ 4,708	\$ 4,499
Liabilities and stockholders' equity		
Accounts payable	\$ 91	\$ 89
Air traffic liability	353	313
Frequent flyer liability	11	13
Current maturities of long-term debt, net	237	157
Current maturities of operating leases	497	465
Other current liabilities	456	518
Total current liabilities	1,645	1,555
Long-term debt, net	193	272
Long-term operating leases	2,157	2,034
Long-term frequent flyer liability	32	32
Other long-term liabilities	115	97
Total liabilities	4,142	3,990
Commitments and contingencies (Note 9)		
Stockholders' equity:		
Common stock, \$0.001 par value per share, with 220,677,393 and 217,875,890 shares issued and outstanding as of June 30, 2023 and December 31, 2022, respectively	—	—
Additional paid-in capital	396	393
Retained earnings	180	122
Accumulated other comprehensive income (loss)	(10)	(6)
Total stockholders' equity	566	509
Total liabilities and stockholders' equity	\$ 4,708	\$ 4,499

See Notes to Condensed Consolidated Financial Statements

FRONTIER GROUP HOLDINGS, INC.
Condensed Consolidated Statements of Operations
(unaudited, in millions, except per share amounts)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Operating revenues:				
Passenger	\$ 945	\$ 890	\$ 1,775	\$ 1,478
Other	22	19	40	36
Total operating revenues	967	909	1,815	1,514
Operating expenses:				
Aircraft fuel	244	335	536	550
Salaries, wages and benefits	211	174	414	346
Aircraft rent	148	133	279	261
Station operations	124	120	248	225
Sales and marketing	44	46	84	78
Maintenance, materials and repairs	52	31	97	65
Depreciation and amortization	12	15	23	28
Transaction and merger-related costs	—	9	1	20
Other operating	53	39	79	87
Total operating expenses	888	902	1,761	1,660
Operating income (loss)	79	7	54	(146)
Other income (expense):				
Interest expense	(7)	(3)	(13)	(12)
Capitalized interest	6	2	12	3
Interest income and other	10	2	18	2
Total other income (expense)	9	1	17	(7)
Income (loss) before income taxes	88	8	71	(153)
Income tax expense (benefit)	17	(5)	13	(45)
Net income (loss)	\$ 71	\$ 13	\$ 58	\$ (108)
Earnings (loss) per share:				
Basic	\$ 0.32	\$ 0.06	\$ 0.26	\$ (0.49)
Diluted	\$ 0.31	\$ 0.06	\$ 0.26	\$ (0.49)

See Notes to Condensed Consolidated Financial Statements

FRONTIER GROUP HOLDINGS, INC.
Condensed Consolidated Statements of Comprehensive Income (Loss)
(unaudited, in millions)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Net income (loss)	\$ 71	\$ 13	\$ 58	\$ (108)
Unrealized gains (losses) and amortization from cash flow hedges, net of deferred tax benefit/(expense) of \$(1) and \$1, respectively, for the three and six months ended June 30, 2023 and less than \$1 for each of the three and six months ended June 30, 2022. (Note 4)				
Other comprehensive income (loss)	3	—	(4)	—
Comprehensive income (loss)	\$ 74	\$ 13	\$ 54	\$ (108)

See Notes to Condensed Consolidated Financial Statements

FRONTIER GROUP HOLDINGS, INC.
Condensed Consolidated Statements of Cash Flows
(unaudited, in millions)

	Six Months Ended June 30,	
	2023	2022
Cash flows from operating activities:		
Net income (loss)	\$ 58	\$ (108)
Deferred income taxes	13	(45)
Depreciation and amortization	23	28
Gains recognized on sale-leaseback transactions	(57)	(28)
Loss on extinguishment of debt	—	7
Stock-based compensation	7	7
Amortization of cash flow hedges, net of tax	1	1
Changes in operating assets and liabilities:		
Accounts receivable	28	(6)
Supplies and other current assets	9	(34)
Aircraft maintenance deposits	(9)	(10)
Other long-term assets	(93)	(42)
Accounts payable	6	8
Air traffic liability	40	99
Other liabilities	(60)	56
Cash provided by (used in) operating activities	(34)	(67)
Cash flows from investing activities:		
Capital expenditures	(23)	(14)
Pre-delivery deposits for flight equipment, net of refunds	(9)	(41)
Other	(1)	(2)
Cash provided by (used in) investing activities	(33)	(57)
Cash flows from financing activities:		
Proceeds from issuance of debt, net of issuance costs	52	141
Principal repayments on debt	(51)	(189)
Proceeds from sale-leaseback transactions	89	23
Proceeds from the exercise of stock options	1	—
Minimum tax withholdings on share-based awards	(5)	(3)
Cash provided by (used in) financing activities	86	(28)
Net increase (decrease) in cash, cash equivalents and restricted cash	19	(152)
Cash, cash equivalents and restricted cash, beginning of period	761	918
Cash, cash equivalents and restricted cash, end of period	\$ 780	\$ 766

See Notes to Condensed Consolidated Financial Statements

FRONTIER GROUP HOLDINGS, INC.
Condensed Consolidated Statements of Stockholders' Equity
(unaudited, in millions, except share amounts)

	Common Stock		Additional paid-in capital	Retained earnings	Accumulated other comprehensive income (loss)	Total
	Shares	Amount				
Balance at December 31, 2021	217,065,096	\$ —	\$ 381	\$ 159	\$ (10)	\$ 530
Net income (loss)	—	—	—	(121)	—	(121)
Shares issued in connection with vesting of restricted stock units	676,146	—	—	—	—	—
Shares withheld to cover employee taxes on vested restricted stock units	(275,822)	—	(3)	—	—	(3)
Stock option exercises	34,461	—	—	—	—	—
Stock-based compensation	—	—	3	—	—	3
Balance at March 31, 2022	217,499,881	\$ —	\$ 381	\$ 38	\$ (10)	\$ 409
Net income (loss)	—	—	—	13	—	13
Shares issued in connection with vesting of restricted stock units	96,078	—	—	—	—	—
Shares withheld to cover employee taxes on vested restricted stock units	(10,472)	—	—	—	—	—
Amortization of swaption cash flow hedges, net of tax	—	—	—	—	1	1
Unrealized loss from cash flows hedges, net of tax	—	—	—	—	(1)	(1)
Stock option exercises	89,950	—	—	—	—	—
Stock-based compensation	—	—	4	—	—	4
Balance at June 30, 2022	217,675,437	\$ —	\$ 385	\$ 51	\$ (10)	\$ 426

See Notes to Condensed Consolidated Financial Statements

FRONTIER GROUP HOLDINGS, INC.
Condensed Consolidated Statements of Stockholders' Equity (Continued)
(unaudited, in millions, except share amounts)

	Common Stock		Additional paid-in capital	Retained earnings	Accumulated other comprehensive income (loss)	Total
	Shares	Amount				
Balance at December 31, 2022	217,875,890	\$ —	\$ 393	\$ 122	\$ (6)	\$ 509
Net income (loss)	—	—	—	(13)	—	(13)
Shares issued in connection with vesting of restricted stock units	976,916	—	—	—	—	—
Shares withheld to cover employee taxes on vested restricted stock units	(402,814)	—	(5)	—	—	(5)
Unrealized loss from cash flows hedges, net of tax	—	—	—	—	(7)	(7)
Stock option exercises	53,862	—	—	—	—	—
Stock-based compensation	—	—	4	—	—	4
Balance at March 31, 2023	218,503,854	\$ —	\$ 392	\$ 109	\$ (13)	\$ 488
Net income (loss)	—	—	—	71	—	71
Shares issued in connection with vesting of restricted stock units	185,358	—	—	—	—	—
Shares withheld to cover employee taxes on vested restricted stock units	(15,080)	—	—	—	—	—
Amortization of swaption cash flow hedges, net of tax	—	—	—	—	1	1
Unrealized gain from cash flows hedges, net of tax	—	—	—	—	2	2
Stock option exercises	2,003,261	—	1	—	—	1
Stock-based compensation	—	—	3	—	—	3
Balance at June 30, 2023	220,677,393	\$ —	\$ 396	\$ 180	\$ (10)	\$ 566

See Notes to Condensed Consolidated Financial Statements

FRONTIER GROUP HOLDINGS, INC.
Notes to Condensed Consolidated Financial Statements
(unaudited)

1. Summary of Significant Accounting Policies

Basis of Presentation

The condensed consolidated financial statements have been prepared in accordance with the generally accepted accounting principles in the United States (“GAAP”) and include the accounts of Frontier Group Holdings, Inc. (“FGHI” or the “Company”) and its wholly-owned direct and indirect subsidiaries, including Frontier Airlines Holdings, Inc. (“FAH”) and Frontier Airlines, Inc. (“Frontier”). All wholly-owned subsidiaries are consolidated, with all intercompany transactions and balances being eliminated.

The Company is an ultra low-cost, low-fare airline headquartered in Denver, Colorado that offers flights throughout the United States and to select international destinations in the Americas, serving approximately 90 airports.

The Company is managed as a single business unit that provides air transportation for passengers. Management has concluded there is only one reportable segment.

The accompanying condensed consolidated financial statements include the accounts of the Company and reflect all normal recurring adjustments which management believes are necessary to fairly present the financial position, results of operations and cash flows of the Company for the respective periods presented. Certain information and footnote disclosures normally included in the annual financial statements prepared in accordance with GAAP have been condensed or omitted pursuant to the rules and regulations of the Securities and Exchange Commission (“SEC”) for Form 10-Q. These unaudited interim condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements of the Company and notes thereto included in the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2022, which was filed with the SEC on February 22, 2023 (the “2022 Annual Report”).

The interim results reflected in the unaudited condensed consolidated financial statements are not necessarily indicative of the results that may be expected for other interim periods or for the full year. The air transportation business is subject to significant seasonal fluctuations and is volatile and highly affected by economic cycles and trends.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts in the financial statements and accompanying notes. Actual results could differ from those estimates.

2. Revenue Recognition

As of June 30, 2023 and December 31, 2022, the Company’s air traffic liability balance was \$356 million and \$328 million, respectively, which includes amounts classified in other long-term liabilities. During the six months ended June 30, 2023, 89% of the air traffic liability as of December 31, 2022 was recognized as passenger revenue within the Company’s condensed consolidated statements of operations. Of the air traffic liability balances as of June 30, 2023 and December 31, 2022, \$72 million and \$60 million, respectively, was related to unearned membership fees.

FRONTIER GROUP HOLDINGS, INC.
Notes to Condensed Consolidated Financial Statements (Continued)
(unaudited)

During the three and six months ended June 30, 2023 and 2022, the Company recognized \$10 million, \$20 million, \$23 million and \$45 million, respectively, in passenger revenues within the Company's condensed consolidated statements of operations, related to expected and actual expiration of customer rights to book future travel.

Operating revenues are comprised of passenger revenues, which includes fare and non-fare passenger revenues, and other revenues. Disaggregated operating revenues are as follows (in millions):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Passenger revenues:				
Fare	\$ 361	\$ 420	\$ 664	\$ 649
Non-fare passenger revenues:				
Service fees	245	201	462	363
Baggage	232	186	453	316
Seat selection	74	68	146	122
Other	33	15	50	28
Total non-fare passenger revenue	584	470	1,111	829
Total passenger revenues	945	890	1,775	1,478
Other revenues	22	19	40	36
Total operating revenues	\$ 967	\$ 909	\$ 1,815	\$ 1,514

The Company is managed as a single business unit that provides air transportation for passengers. Operating revenues by principal geographic region, as defined by the U.S. Department of Transportation (the "DOT"), are as follows (in millions):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Domestic	\$ 877	\$ 819	\$ 1,658	\$ 1,365
Latin America	90	90	157	149
Total operating revenues	\$ 967	\$ 909	\$ 1,815	\$ 1,514

The Company attributes operating revenues by geographic region based upon the origin and destination of each passenger flight segment. The Company's tangible assets consist primarily of flight equipment, which are mobile across geographic markets. Accordingly, assets are not allocated to specific geographic regions.

Frequent Flyer Program

The Company's *Frontier Miles* frequent flyer program provides frequent flyer travel awards to program members based on accumulated mileage credits. Mileage credits are generally accumulated as a result of travel, purchases using the co-branded credit card and purchases from other participating partners. The Company defers revenue for mileage credits earned by passengers under its *Frontier Miles* program based on the equivalent ticket value a passenger receives by redeeming mileage credits for a ticket rather than paying cash.

The Company has a credit card affinity agreement with its credit card partner, Barclays Bank Delaware ("Barclays"), through 2029, which provides for joint marketing, grants certain benefits to co-branded credit cardholders ("Cardholders") and allows Barclays to market using the Company's customer database. Cardholders earn mileage credits under the *Frontier Miles* program and the Company sells mileage credits at agreed-upon rates to Barclays and earns fees from Barclays for the acquisition, retention and use of the co-branded credit card by Cardholders.

FRONTIER GROUP HOLDINGS, INC.
Notes to Condensed Consolidated Financial Statements (Continued)
(unaudited)

3. Other Current Assets

Other current assets consist of the following (in millions):

	June 30, 2023	December 31, 2022
Supplier incentives	\$ 40	\$ 55
Prepaid expenses	23	20
Derivative instruments	5	24
Income tax and other taxes receivable	5	8
Other	5	7
Total other current assets	\$ 78	\$ 114

4. Financial Derivative Instruments and Risk Management

The Company may be exposed to interest rate risk through aircraft and spare engine lease contracts for the time period between agreement of terms and commencement of the lease, when portions of rental payments can be adjusted and become fixed based on the swap rate. As part of its risk management program, the Company enters into contracts in order to limit the exposure to fluctuations in interest rates. During each of the three and six months ended June 30, 2023, the Company did not enter into any swaps and, therefore, paid no upfront premiums. During each of the three and six months ended June 30, 2022, the Company paid upfront premiums of \$9 million for the option to enter into and exercise cash-settled swaps with a forward starting effective date for seven of the Company's future aircraft deliveries. As of June 30, 2023, the Company had hedged the interest rate exposure on \$295 million of total aircraft and spare engine rent for seven aircraft and two engines to be delivered by the end of 2023.

Additionally, the Company is exposed to credit losses in the event of nonperformance by counterparties to its derivative instruments but does not presently expect that any of its counterparties will fail to meet their respective obligations. The amount of such credit exposure is generally the fair value of the Company's outstanding contracts in a receivable position. To manage credit risks, the Company selects counterparties based on credit assessments and monitors the market position with each counterparty.

The assets associated with the Company's derivative instruments are presented on a gross basis and include upfront premiums paid. These assets are recorded as a component of other current assets on the Company's condensed consolidated balance sheets. There were \$5 million and \$24 million of assets outstanding as of June 30, 2023 and December 31, 2022, respectively.

FRONTIER GROUP HOLDINGS, INC.
Notes to Condensed Consolidated Financial Statements (Continued)
(unaudited)

The following table summarizes the effect of interest rate derivative instruments reflected in aircraft rent expense within the Company's condensed consolidated statements of operations (in millions):

	<u>Three Months Ended June 30,</u>		<u>Six Months Ended June 30,</u>	
	<u>2023</u>	<u>2022</u>	<u>2023</u>	<u>2022</u>
Derivatives designated as cash flow hedges				
Amortization of cash flow hedges, net of tax	\$ (1)	\$ (1)	\$ (1)	\$ (1)

The following table summarizes the net of tax impact of the overall effectiveness of derivative instruments designated as cash flow hedging instruments within the Company's condensed consolidated statements of comprehensive income (loss) (in millions):

	<u>Three Months Ended June 30,</u>		<u>Six Months Ended June 30,</u>	
	<u>2023</u>	<u>2022</u>	<u>2023</u>	<u>2022</u>
Derivatives designated as cash flow hedges				
Amortization of cash flow hedges, net of tax	\$ 1	\$ 1	\$ 1	\$ 1
Interest rate derivative contract gains (losses), net of tax	2	(1)	(5)	(1)
Total	\$ 3	\$ —	\$ (4)	\$ —

As of June 30, 2023, \$10 million of losses, net of tax, related to interest rate hedging instruments included in accumulated other comprehensive income (loss), a component of stockholders' equity on the Company's condensed consolidated balance sheets, is expected to be reclassified into aircraft rent within the Company's condensed consolidated statements of operations over the aircraft or engine lease term.

5. Other Current Liabilities

Other current liabilities consist of the following (in millions):

	<u>June 30, 2023</u>	<u>December 31, 2022</u>
Passenger and other taxes and fees payable	\$ 128	\$ 113
Salaries, wages and benefits	98	104
Aircraft maintenance	58	63
Station obligations	49	57
Fuel liabilities	33	34
Leased aircraft return costs	28	84
Other current liabilities	62	63
Total other current liabilities	\$ 456	\$ 518

FRONTIER GROUP HOLDINGS, INC.
Notes to Condensed Consolidated Financial Statements (Continued)
(unaudited)

6. Debt

The Company's debt obligations are as follows (in millions):

	June 30, 2023	December 31, 2022
Secured debt:		
Pre-delivery credit facility ^(a)	\$ 270	\$ 277
Floating rate building note ^(b)	17	17
Unsecured debt:		
Affinity card advance purchase of mileage credits ^(c)	80	71
PSP Promissory Notes ^(d)	66	66
Total debt	433	431
Less current maturities of long-term debt	(237)	(157)
Less debt acquisition costs and other discounts, net	(3)	(2)
Long-term debt, net	\$ 193	\$ 272

(a) The Company, through an affiliate, entered into the pre-delivery payment ("PDP") facility with Citibank, N.A., as facility agent, in December 2014 (as amended from time to time, the "PDP Financing Facility"). The PDP Financing Facility is primarily collateralized by the Company's purchase agreement for Airbus A320 family aircraft deliveries (see Note 9) through the term of the facility, which extends through December 2025. As of June 30, 2023, the PDP Financing Facility allows for total commitments of up to \$270 million.

Interest is paid every 90 days based on the Secured Overnight Financing Rate ("SOFR") plus a margin for each individual tranche. The PDP Financing Facility consists of separate loans for each PDP aircraft. Each separate loan matures upon the earlier of (i) delivery of that aircraft to the Company by Airbus, (ii) the date one month following the last day of the scheduled delivery month of such aircraft and (iii) if there is a delay in delivery of aircraft, depending on the cause of the delivery delay, up to six months following the last day of the scheduled delivery month of such aircraft. The PDP Financing Facility will be repaid periodically according to the preceding sentence, with the last scheduled delivery of aircraft expected to be in the fourth quarter of 2025.

(b) Represents a note with a commercial bank related to the Company's headquarters building. Under the terms of the note, the Company began repaying the outstanding principal balance with quarterly payments beginning in January 2022 and continuing until the maturity date in December 2023. On the maturity date, one final balloon payment will be made to cover all unpaid principal, accrued unpaid interest and other amounts due. The interest rate of one-month SOFR plus a margin is payable monthly.

(c) The Company entered into an agreement with Barclays in 2003 which, as amended, provides for joint marketing, grants certain benefits to Cardholders and allows Barclays to market using the Company's customer database, through 2029. Cardholders earn mileage credits under the *Frontier Miles* program and the Company sells mileage credits at agreed-upon rates to Barclays and earns fees from Barclays for the acquisition, retention and use of the co-branded credit card by Cardholders. In addition, Barclays will pre-purchase miles if the Company meets certain conditions precedent. The pre-purchased miles facility amount is to be reset on January 15 of each calendar year through, and including, January 15, 2028, based on the aggregate amount of fees payable by Barclays to the Company on a calendar year basis, up to an aggregate maximum facility amount of \$200 million. The Company pays interest on a monthly basis, which is based on a one-month Effective Federal Funds Rate ("EFFR") plus a margin. Beginning March 31, 2028, the facility is scheduled to be repaid in 12 equal monthly installments.

(d) As a result of the Company's participation in the payroll support programs offered by the U.S. Department of the Treasury (the "Treasury"), the Company obtained a series of 10-year, low-interest loans from the Treasury (collectively, the "PSP Promissory Notes") that are due between 2030 to 2031. The PSP Promissory Notes include an annual interest rate of 1.00% for the first five years and the SOFR plus 2.00% in the final five years, with bi-annual interest payments. The loans can be prepaid at par at any time without incurring a penalty.

In connection with the term loan facility entered into with the Treasury on September 28, 2020 (the "Treasury Loan"), which was repaid in full on February 2, 2022, and the PSP Promissory Notes, the Company issued to the Treasury warrants to purchase 3,117,940 shares of FGHI common stock at a weighted-average price of \$6.95 per share. The Treasury has not exercised any warrants as of June 30, 2023.

FRONTIER GROUP HOLDINGS, INC.
Notes to Condensed Consolidated Financial Statements (Continued)
(unaudited)

Cash payments for interest related to debt were \$12 million and \$5 million for the six months ended June 30, 2023 and 2022, respectively.

The Company has caused standby letters of credit and surety bonds to be issued to various airport authorities and vendors that are collateralized by a portion of the Company's property and equipment and, as of June 30, 2023 and December 31, 2022, the Company did not have any outstanding letters of credit that were drawn upon.

As of June 30, 2023, future maturities of debt are payable as follows (in millions):

	June 30, 2023	
Remainder of 2023	\$	102
2024		163
2025		22
2026		—
2027		—
Thereafter		146
Total debt principal payments	\$	433

The Company continues to monitor covenant compliance with various parties, including, but not limited to, its lenders and credit card processors, and as of June 30, 2023, the Company was in compliance with all of its covenants.

7. Operating Leases

The Company leases property and equipment under operating leases. For leases with initial terms greater than 12 months, the related operating lease right-of-use asset and corresponding operating lease liability are recorded at the present value of lease payments over the term on the Company's condensed consolidated balance sheets. Some leases include rental escalation clauses, renewal options, termination options and/or other items that cause variability that are factored into the determination of lease payments, when appropriate. The Company does not separate lease and non-lease components of contracts, except for certain flight training equipment, for which consideration is allocated between lease and non-lease components.

Aircraft

As of June 30, 2023, the Company leased 126 aircraft with remaining terms ranging from one month to 12 years, all of which are under operating leases and are included within operating lease right-of-use assets and operating lease liabilities on the Company's condensed consolidated balance sheets. In addition, as of June 30, 2023, the Company leased 32 spare engines which are all under operating leases, with the remaining term ranging from one month to 12 years. As of June 30, 2023, the lease rates for 13 of the engines depend on usage-based metrics which are variable and, as such, these leases are not recorded on the Company's condensed consolidated balance sheets as operating lease right-of-use assets or as operating lease liabilities.

FRONTIER GROUP HOLDINGS, INC.
Notes to Condensed Consolidated Financial Statements (Continued)
(unaudited)

During the three and six months ended June 30, 2023 and 2022, the Company executed sale-leaseback transactions with third-party lessors for one, four, three and five new Airbus A320neo family aircraft, respectively, and also entered into direct leases for two and five new Airbus A320neo family aircraft during the three and six months ended June 30, 2023, respectively. The Company did not enter into any direct leases during the three and six months ended June 30, 2022. Additionally, the Company completed sale-leaseback transactions for one and two engines during the three and six months ended June 30, 2023, respectively, and two engines for each of the three and six months ended June 30, 2022. All of the leases from the sale-leaseback transactions are accounted for as operating leases. The Company recognized net sale-leaseback gains from those sale-leaseback transactions of \$17 million, \$57 million, \$21 million and \$28 million during the three and six months ended June 30, 2023 and 2022, respectively, which are included as a component of other operating expenses within the Company's condensed consolidated statements of operations.

Aircraft Rent Expense and Maintenance Obligations

During the three and six months ended June 30, 2023 and 2022, aircraft rent expense was \$148 million, \$279 million, \$133 million and \$261 million respectively. Aircraft rent expense includes supplemental rent, which is made up of maintenance reserves paid or to be paid that are not probable of being reimbursed and probable lease return condition obligations. Supplemental rent expense (benefit) for maintenance-related reserves that were deemed non-recoverable, and any impact from changes in those estimates, was (\$2 million) for each of the three and six months ended June 30, 2023 and (\$1 million) for each of the three and six months ended June 30, 2022. The portion of supplemental rent expense related to probable lease return condition obligations was \$22 million, \$24 million, \$18 million and \$33 million for the three and six months ended June 30, 2023 and 2022, respectively. As of June 30, 2023 and December 31, 2022, the Company's total leased aircraft return cost liability was \$58 million and \$102 million, respectively, which are reflected in other current liabilities and other long-term liabilities within the Company's condensed consolidated balance sheets.

Additionally, certain of the Company's aircraft lease agreements require the Company to pay maintenance reserves to aircraft lessors to be held as collateral in advance of the Company's required performance of major maintenance activities. As of June 30, 2023 and December 31, 2022, the Company had aircraft maintenance deposits that are expected to be recoverable of \$109 million and \$117 million, respectively, on the Company's condensed consolidated balance sheets, of which \$24 million and \$12 million, respectively, are included in accounts receivable, net on the Company's condensed consolidated balance sheets as the eligible maintenance has been performed. The remaining \$85 million and \$105 million are included within aircraft maintenance deposits on the Company's condensed consolidated balance sheets as of June 30, 2023 and December 31, 2022, respectively.

A majority of these maintenance reserve payments are calculated based on a utilization measure, such as flight hours or cycles. Maintenance reserves collateralize the lessor for maintenance time run off the aircraft until the completion of the maintenance of the aircraft. As of June 30, 2023, fixed maintenance reserve payments for aircraft and spare engines, including estimated amounts for contractual price escalations, were expected to be \$2 million for the remainder of 2023, \$3 million per year for 2024 through 2026, \$4 million for 2027 and \$5 million thereafter, before consideration of reimbursements.

During the six months ended June 30, 2023, the Company extended the term for certain aircraft operating leases that were slated to expire in the fourth quarter of 2023. For the six months ended June 30, 2023, the Company recorded an \$18 million benefit to aircraft rent in the Company's condensed consolidated statement of operations related to previously accrued lease return costs that were variable in nature and associated with the anticipated utilization and condition of the airframes and engines at original return date. Given the extension of these aircraft operating leases, such variable return costs are no longer probable of occurring.

FRONTIER GROUP HOLDINGS, INC.
Notes to Condensed Consolidated Financial Statements (Continued)
(unaudited)

Airport Facilities

The Company's facility leases are primarily for space at approximately 90 airports that are primarily located in the United States. These leases are classified as operating leases and reflect the use of airport terminals, ticket counters, office space and maintenance facilities. Generally, this space is leased from government agencies that control the use of the airport. The majority of these leases are short-term in nature and renew on an evergreen basis. For these leases, the contractual term is used as the lease term. As of June 30, 2023, the remaining lease terms vary from one month to 12 years. At the majority of the U.S. airports, the lease rates depend on airport operating costs or use of the facilities and are reset at least annually, and because of the variable nature of the rates, these leases are not recorded on the Company's condensed consolidated balance sheets as right-of-use assets and lease liabilities.

Other Ground Property and Equipment

The Company leases certain other assets such as flight training equipment, building space and various other equipment. Certain of the Company's leases for other assets are deemed to contain fixed rental payments and, as such, are classified as operating leases and are recorded on the Company's condensed consolidated balance sheets as a right-of-use asset and liability. The remaining lease terms ranged from one month to nine years as of June 30, 2023.

Lease Costs

The table below presents certain information related to lease costs for operating leases during the three and six months ended June 30, 2023 and 2022 (in millions):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Operating lease cost ^(a)	\$ 131	\$ 118	\$ 258	\$ 235
Variable lease cost ^(a)	70	64	144	119
Total lease costs	\$ 201	\$ 182	\$ 402	\$ 354

(a) Expenses are included within aircraft rent, station operations, maintenance, materials and repairs and other operating within the Company's condensed consolidated statements of operations.

During the three and six months ended June 30, 2023 and 2022, the Company acquired, through new or modified operating leases, operating lease assets totaling \$107 million, \$338 million, \$87 million and \$148 million, respectively, which are included in operating lease right-of-use assets on the Company's condensed consolidated balance sheets. During the three and six months ended June 30, 2023 and 2022, the Company paid cash of \$130 million, \$257 million, \$119 million and \$236 million, respectively, for amounts included in the measurement of lease liabilities.

8. Stock-Based Compensation

During the three and six months ended June 30, 2023 and 2022, the Company recognized \$3 million, \$7 million, \$4 million and \$7 million, respectively, in stock-based compensation expense, which is included as a component of salaries, wages and benefits within the Company's condensed consolidated statements of operations.

Stock Options and Restricted Awards

There were no stock options granted during the six months ended June 30, 2023. During the six months ended June 30, 2023, 2,057,123 vested stock options were exercised with a weighted-average exercise price of \$0.32 per share. As of June 30, 2023, the weighted-average exercise price of outstanding options was \$2.60 per share.

FRONTIER GROUP HOLDINGS, INC.
Notes to Condensed Consolidated Financial Statements (Continued)
(unaudited)

During the six months ended June 30, 2023, 1,507,011 restricted stock units were issued with a weighted-average grant date fair value of \$11.86 per share. During the six months ended June 30, 2023, 1,162,274 restricted stock units vested, of which 417,894 restricted stock units were withheld to cover employees' tax withholding obligations, with a weighted-average grant date fair value of \$11.88 and \$12.32 per share, respectively.

Phantom Equity Awards

On December 3, 2013, to give effect to the reorganization of the Company's corporate structure, an agreement was reached to amend and restate a phantom equity agreement with the Company's pilots. Under the terms of this agreement, when an amendment to the underlying collective bargaining agreement was approved, the Company's pilots employed in June 2011 (the "Participating Pilots"), through their agent, FAPAInvest, LLC, received phantom equity units. Each unit represented the right to receive common stock or cash in connection with certain events, including a qualifying initial public offering, such stock to be distributed or cash paid to the Participating Pilots in 2020 and 2022 based on a predetermined formula. In accordance with the amended and restated phantom equity agreement, the obligation became fixed as of December 31, 2019 and was no longer subject to valuation adjustments. As of December 31, 2021, the remaining liability was \$26 million and presented within other current liabilities on the Company's condensed consolidated balance sheet. During the six months ended June 30, 2022, the \$26 million was fully paid.

Stockholders' Equity

As of June 30, 2023 and December 31, 2022, the Company had authorized common stock (voting), common stock (non-voting) and preferred stock of 750,000,000, 150,000,000 and 10,000,000 shares, respectively, of which only common stock (voting) were issued and outstanding. All classes of equity have a par value of \$0.001 per share.

9. Commitments and Contingencies

Flight Equipment Commitments

As of June 30, 2023, the Company's firm aircraft and engine purchase orders consisted of the following:

Year Ending	A320neo	A321neo	Total Aircraft^(a)	Engines
Remainder of 2023	—	7	7	2
2024	—	24	24	2
2025	17	24	41	4
2026	19	22	41	4
2027	21	21	42	3
Thereafter	10	52	62	2
Total	67	150	217	17

(a) While the schedule presented reflects the contractual delivery dates as of June 30, 2023, the Company has recently experienced modest delays in the deliveries of Airbus aircraft which may persist in future periods.

The Company is party to certain aircraft purchase agreements with Airbus (as amended from time to time, the "Airbus Purchase Agreements") pursuant to which, as of June 30, 2023, the Company had commitments to purchase an aggregate of 67 A320neo and 150 A321neo aircraft, with deliveries expected through 2029 per the latest delivery schedule. The Company has the option to convert 18 A320neo family aircraft to A321XLR family aircraft under certain terms and conditions. Since the option has not been exercised, this conversion right is not reflected in the table above.

FRONTIER GROUP HOLDINGS, INC.
Notes to Condensed Consolidated Financial Statements (Continued)
(unaudited)

The Airbus Purchase Agreements also provide for, among other things, varying purchase incentives for each aircraft type (e.g., A320neo versus A321neo), which are allocated proportionally by aircraft type over the remaining aircraft to be delivered so that each aircraft's capitalized cost upon induction would be equal. Therefore, as cash paid for deliveries is greater than the capitalized cost due to the allocation of these purchase incentives, a deferred purchase incentive is recognized within other assets on the Company's condensed consolidated balance sheets, which will ultimately be offset by future deliveries of aircraft with lower cash payments than their associated capitalized cost.

In April 2022, the Company's agreement with Pratt & Whitney, the provider of engines for certain of the Company's undelivered aircraft order book, was amended to include additional spare engine commitments and adjust the timing of remaining deliveries, which has been reflected in the table above.

As of June 30, 2023, purchase commitments for these aircraft and engines, including estimated amounts for contractual price escalations and PDPs, consisted of the following:

(in millions)	Total
Remainder of 2023	\$ 417
2024	1,448
2025	2,437
2026	2,357
2027	2,447
Thereafter	3,757
Total	\$ 12,863

As of June 30, 2023, the Company had signed lease agreements with two of its leasing partners to add ten additional A321neo aircraft through direct leases. Five of the aircraft have been delivered, with two such direct lease deliveries having occurred in the second quarter of 2023, and the remaining five continuing into the third quarter of 2023, based on the latest delivery schedule. None of these five undelivered aircraft are reflected in the table above given these are not purchase orders.

Litigation and Other Contingencies

The Company is subject to commercial litigation claims and to administrative and regulatory proceedings and reviews that may be asserted or maintained from time to time. The Company regularly evaluates the status of such matters to assess whether a loss is probable and reasonably estimable in determining whether an accrual is appropriate. Furthermore, in determining whether disclosure is appropriate, the Company evaluates each matter to assess if there is at least a reasonable possibility that a loss or additional losses may have been incurred and whether an estimate of possible loss or range of loss can be made. The Company believes the ultimate outcome of such lawsuits, proceedings and reviews will not, individually or in the aggregate, have a material adverse effect on its condensed consolidated financial position, liquidity or results of operations and that the Company's current accruals cover matters where loss is deemed probable and can be reasonably estimated.

The ultimate outcome of legal actions is unpredictable and can be subject to significant uncertainties, and it is difficult to determine whether any loss is probable or even possible. Additionally, it is also difficult to estimate the amount of loss and there may be matters for which a loss is probable or reasonably possible but not currently estimable. Thus, actual losses may be in excess of any recorded liability or the range of reasonably possible loss.

FRONTIER GROUP HOLDINGS, INC.
Notes to Condensed Consolidated Financial Statements (Continued)
(unaudited)

Employees

The Company has seven union-represented employee groups that together represented approximately 86% of all employees as of June 30, 2023. The table below sets forth the Company's employee groups and status of the collective bargaining agreements as of June 30, 2023:

Employee Group	Representative	Amendable Date^(a)	Percentage of Workforce
			June 30, 2023
Pilots	Air Line Pilots Association (ALPA)	January 2024	31%
Flight Attendants	Association of Flight Attendants (AFA-CWA)	May 2024	49%
Aircraft Technicians	International Brotherhood of Teamsters (IBT)	May 2025	4%
Aircraft Appearance Agents	IBT	October 2023	1%
Dispatchers	Transport Workers Union (TWU)	December 2021 ^(b)	1%
Material Specialists	IBT	March 2022 ^(b)	<1%
Maintenance Controllers	IBT	October 2023	<1%

(a) Subject to standard early opener provisions.

(b) The Company's collective bargaining agreements with its dispatchers and material specialists, represented by TWU and IBT, respectively, were still amendable as of June 30, 2023 and negotiations are ongoing; however, each agreement is operating under its current arrangement until an amendment has been reached.

The Company is self-insured for health care claims, subject to a stop-loss policy, for eligible participating employees and qualified dependent medical and dental claims, subject to deductibles and limitations. The Company's liabilities for claims incurred but not reported are determined based on an estimate of the ultimate aggregate liability for claims incurred. The estimate is calculated from actual claim rates and adjusted periodically as necessary. The Company had accrued \$6 million and \$5 million for health care claims estimated to be incurred but not yet paid, as of June 30, 2023 and December 31, 2022, respectively, which are included as a component of other current liabilities on the Company's condensed consolidated balance sheets.

General Indemnifications

The Company has various leases with respect to real property as well as various agreements among airlines relating to fuel consortia or fuel farms at airports. Under some of these contracts, the Company is party to joint and several liability regarding environmental damages. Under others, where the Company is a member of an LLC or other entity that contracts directly with the airport operator, liabilities are borne through the fuel consortia structure.

The Company's aircraft, services, equipment lease and sale and financing agreements typically contain provisions requiring the Company, as the lessee, obligor or recipient of services, to indemnify the other parties to those agreements, including certain of those parties' related persons, against virtually any liabilities that might arise from the use or operation of the aircraft or such other equipment. The Company believes that its insurance would cover most of its exposure to liabilities and related indemnities associated with the commercial real estate leases and aircraft, services, equipment lease and sale and financing agreements described above.

Certain of the Company's aircraft and other financing transactions include provisions that require payments to preserve an expected economic return to the lenders if that economic return is diminished due to certain changes in law or regulations. In certain of these financing transactions and other agreements, the Company also bears the risk of certain changes in tax laws that would subject payments to non-U.S. entities to withholding taxes.

FRONTIER GROUP HOLDINGS, INC.
Notes to Condensed Consolidated Financial Statements (Continued)
(unaudited)

Certain of these indemnities survive the length of the related financing or lease. The Company cannot reasonably estimate the potential future payments under the indemnities and related provisions described above because it cannot predict (i) when and under what circumstances these provisions may be triggered, and (ii) the amount that would be payable if the provisions were triggered because the amounts would be based on facts and circumstances existing at such time.

10. Net Earnings (Loss) per Share

Basic and diluted earnings (loss) per share are computed pursuant to the two-class method. Under the two-class method, the Company attributes net income to common stock and other participating rights (including those with vested share-based awards). Basic net earnings per share is calculated by taking net income, less earnings allocated to participating rights, divided by the basic weighted-average common stock outstanding. Net loss per share is calculated by taking net loss divided by basic weighted-average common stock outstanding as participating rights do not share in losses. In accordance with the two-class method, diluted net earnings per share is calculated using the more dilutive impact of the treasury-stock method or from reducing net income for the earnings allocated to participating rights.

The following table sets forth the computation of net earnings (loss) per share on a basic and diluted basis pursuant to the two-class method for the periods indicated (in millions, except for share and per share amounts):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Basic:				
Net income (loss)	\$ 71	\$ 13	\$ 58	\$ (108)
Less: net income attributable to participating rights	(2)	—	(2)	—
Net income (loss) attributable to common stockholders	\$ 69	\$ 13	\$ 56	\$ (108)
Weighted-average common shares outstanding, basic	219,402,647	217,602,480	218,792,850	217,438,904
Net earnings (loss) per share, basic	\$ 0.32	\$ 0.06	\$ 0.26	\$ (0.49)
Diluted:				
Net income (loss)	\$ 71	\$ 13	\$ 58	\$ (108)
Less: net income attributable to participating rights	(2)	—	(2)	—
Net income (loss) attributable to common stockholders	\$ 69	\$ 13	\$ 56	\$ (108)
Weighted-average common shares outstanding, basic	219,402,647	217,602,480	218,792,850	217,438,904
Effect of dilutive potential common shares	1,023,012	1,334,065	1,430,423	—
Weighted-average common shares outstanding, diluted	220,425,659	218,936,545	220,223,273	217,438,904
Net earnings (loss) per share, diluted	\$ 0.31	\$ 0.06	\$ 0.26	\$ (0.49)

Approximately 2,886,151 and 2,264,024 shares were excluded from the computation of diluted shares for the three and six months ended June 30, 2023, respectively, due to antidilutive effects. Approximately 2,284,417 shares were excluded from the computation of diluted shares for the three months ended June 30, 2022 due to antidilutive effects. Due to the net loss incurred during the six months ended June 30, 2022, diluted weighted-average shares outstanding are equal to basic weighted-average shares outstanding because the effect of all equity awards is anti-dilutive.

FRONTIER GROUP HOLDINGS, INC.
Notes to Condensed Consolidated Financial Statements (Continued)
(unaudited)

11. Fair Value Measurements

Under ASC 820, *Fair Value Measurements and Disclosures*, disclosures relating to how fair value is determined for assets and liabilities are required, and a hierarchy for which these assets and liabilities must be grouped is established, based on significant levels of inputs, as follows:

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

Level 2—Observable inputs other than Level 1 prices such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3—Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. The Company utilizes several valuation techniques in order to assess the fair value of its financial assets and liabilities.

Cash, Cash Equivalents and Restricted Cash

Cash, cash equivalents and restricted cash are comprised of liquid money market funds, time deposits and cash, and are categorized as Level 1 instruments. The Company maintains cash with various high-quality financial institutions and holds restricted cash to secure medical claims paid. Cash, cash equivalents and restricted cash are carried at cost, which management believes approximates fair value. As of June 30, 2023 and December 31, 2022, the Company had less than \$1 million of restricted cash.

Interest Rate Derivative Contracts

Interest rate derivative contracts are valued under an income approach based on data either readily observable in public markets, derived from public markets or provided by counterparties who regularly trade in public markets and, therefore, they are classified as Level 2 inputs. Given the swaptions will be cash-settled upon exercise and that the market value will be determined using overnight indexed swap (“OIS”) discounting, OIS discounting is applied to the income approach valuation.

Debt

The estimated fair value of the Company’s debt agreements has been determined to be Level 3 measurement, as certain inputs used to determine the fair value of these agreements are unobservable. The Company utilizes a discounted cash flow method to estimate the fair value of the Level 3 debt.

FRONTIER GROUP HOLDINGS, INC.
Notes to Condensed Consolidated Financial Statements (Continued)
(unaudited)

The carrying amounts and estimated fair values of the Company's debt are as follows (in millions):

	June 30, 2023		December 31, 2022	
	Carrying Value	Estimated Fair Value	Carrying Value	Estimated Fair Value
Secured debt:				
PDP Financing Facility	\$ 270	\$ 272	\$ 277	\$ 277
Floating rate building note	17	17	17	17
Unsecured debt:				
Affinity card advance purchase of mileage credits	80	77	71	66
PSP Promissory Notes	66	55	66	52
Total debt	\$ 433	\$ 421	\$ 431	\$ 412

The tables below present disclosures about the fair value of assets and liabilities measured at fair value on a recurring basis on the Company's condensed consolidated balance sheets (in millions):

Description	Balance Sheet Classification	Fair Value Measurements as of June 30, 2023			
		Total	Level 1	Level 2	Level 3
Cash and cash equivalents	Cash and cash equivalents	\$ 780	\$ 780	\$ —	\$ —
Interest rate derivative contracts	Other current assets	\$ 5	\$ —	\$ 5	\$ —

Description	Balance Sheet Classification	Fair Value Measurements as of December 31, 2022			
		Total	Level 1	Level 2	Level 3
Cash and cash equivalents	Cash and cash equivalents	\$ 761	\$ 761	\$ —	\$ —
Interest rate derivative contracts	Other current assets	\$ 24	\$ —	\$ 24	\$ —

The Company had no transfers of assets or liabilities between fair value hierarchy levels between December 31, 2022 and June 30, 2023.

12. Related Parties

Management Services

Indigo Partners LLC ("Indigo Partners") manages an investment fund that is the controlling stockholder of the Company. The Company is assessed a quarterly fee by Indigo Partners for management services. The Company recorded \$1 million for each of the three and six months ended June 30, 2023 and 2022 for these fees, which are included as other operating expenses within the Company's condensed consolidated statements of operations.

Codeshare Arrangement

The Company entered into a codeshare agreement with Controladora Vuela Compañía de Aviación, S.A.B. de C.V. (an airline based in Mexico doing business as "Volaris") during 2018, under which sales began in July 2018. Two of the Company's directors are members of the board of directors of Volaris and one is an alternate director. As of June 30, 2023, Indigo Partners holds approximately 18% of the total outstanding common stock of Volaris.

FRONTIER GROUP HOLDINGS, INC.
Notes to Condensed Consolidated Financial Statements (Continued)
(unaudited)

In August 2018, the Company and Volaris began operating scheduled codeshare flights. The codeshare agreement provides for codeshare fees and revenue sharing for the codeshare flights. Each party bears its own costs and expenses of performance under the agreement, is required to indemnify the other party for certain claims and losses arising out of or related to the agreement and is responsible for complying with certain marketing and product display guidelines. The codeshare agreement also establishes a joint management committee, which includes representatives from both parties and generally oversees the management of the transactions and relationships contemplated by the agreement. The codeshare agreement is subject to automatic renewals and may be terminated by either party at any time upon the satisfaction of certain conditions.

13. The Proposed Merger with Spirit Airlines, Inc. (“Spirit”)

On February 5, 2022, the Company entered into an Agreement and Plan of Merger (the “Merger Agreement”) with Top Gun Acquisition Corp. (“Merger Sub”), a direct wholly-owned subsidiary of the Company, and Spirit. The Merger Agreement provided that, among other things, the Merger Sub would be merged with and into Spirit (the “Merger”), with Spirit surviving the Merger and continuing as a wholly-owned subsidiary of the Company. On July 27, 2022, the Company and Spirit mutually terminated the Merger Agreement.

The Company recorded less than \$1 million and \$1 million in expenses related to the proposed Merger within transaction and merger-related costs in the Company’s condensed consolidated statement of operations, during the three and six months ended June 30, 2023, respectively, which represented merger-related retention bonus expense for all eligible employees who were subject to CARES Act compensation restrictions. During the three and six months ended June 30, 2022, the Company recorded \$9 million and \$20 million, respectively, of expenses related to the proposed Merger within transaction and merger-related costs in the Company’s condensed consolidated statement of operations. These costs included \$4 million and \$12 million, respectively, related to transaction costs, which include banking, legal and accounting fees, among others, charged in connection with the Merger, and \$5 million and \$8 million, respectively, of retention bonus expenses.

In the event that Spirit, within twelve months following the termination of the Merger Agreement, consummates an acquisition with another acquiror or enters into a definitive written agreement providing for an acquisition with another acquiror, which is ultimately consummated, the Company will be owed an additional \$69 million, as provided for in the Merger Agreement.

ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

General

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our condensed consolidated financial statements and the related notes included elsewhere in this Quarterly Report on Form 10-Q, as well as Part II, Item 7. “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and Part II, Item 8. “Financial Statements and Supplementary Data” included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2022, which was filed with the SEC on February 22, 2023 (the “2022 Annual Report”). This discussion contains forward-looking statements based upon current plans, expectations and beliefs involving risks and uncertainties. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of various factors, including those set forth in the “Risk Factors” section of our 2022 Annual Report and other factors set forth in other parts of this Quarterly Report on Form 10-Q and our other reports and documents filed with the SEC.

Overview

Frontier Airlines, Inc. (“Frontier”) is an ultra low-cost carrier whose business strategy is focused on *Low Fares Done Right*. We are headquartered in Denver, Colorado and offer flights throughout the United States and to select near international destinations in the Americas. Our unique strategy is underpinned by our low-cost structure and superior low-fare brand.

The following table provides select financial and operational information for the three and six months ended June 30, 2023 and 2022, respectively:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
	(in millions)		(in millions)	
Total operating revenues	\$ 967	\$ 909	\$ 1,815	\$ 1,514
Total operating expenses	\$ 888	\$ 902	\$ 1,761	\$ 1,660
Income (loss) before income taxes	\$ 88	\$ 8	\$ 71	\$ (153)
Available seat miles (“ASMs”)	9,337	7,594	18,112	15,036

Total operating revenues for the three and six months ended June 30, 2023 totaled \$967 million and \$1,815 million, respectively, an increase of 6% and 20% compared to the three and six months ended June 30, 2022, respectively. This was primarily due to an increase in capacity, as measured by ASMs, as compared to the corresponding periods in 2022, along with an increase in ancillary revenue per passenger, partially offset by a decrease in fare revenue per passenger.

Total operating expenses during the three and six months ended June 30, 2023 totaled \$888 million and \$1,761 million, respectively, resulting in a cost per available seat mile (“CASM”) of 9.51¢ and 9.72¢, compared to 11.87¢ and 11.04¢ for the three and six months ended June 30, 2022, respectively. Fuel expense was 27% lower and 3% lower during the three and six months ended June 30, 2023, respectively, as compared to the three and six months ended June 30, 2022. The \$91 million and \$14 million decrease in fuel expense for the three and six months ended June 30, 2023, respectively, compared to the corresponding periods in 2022, are primarily driven by a 39% and 18% decrease in fuel rates, partially offset by the 19% and 18% increase in fuel gallons consumed during the three and six months ended June 30, 2023, respectively, as a result of the 23% and 20% increase in capacity, respectively. Our non-fuel expenses increased by 14% and 10% during the three and six months ended June 30, 2023, respectively, as compared to the corresponding prior year periods, driven primarily by higher capacity and a larger fleet size and the resulting increase in operations during these same periods. CASM (excluding fuel), a non-GAAP measure, decreased 8% for the three months ended June 30, 2023 to 6.90¢, as compared to the corresponding period in 2022, as a result of the increase to capacity and was also favorably impacted by station costs due mainly to lower passenger reaccommodation costs, the fixed nature of aircraft rent expense, insignificant transaction and merger-related costs and lower sales and marketing costs, which was partially offset by higher maintenance, material and repair costs. CASM (excluding fuel), a non-GAAP measure, decreased 8% for the six months ended June 30, 2023 to 6.77¢, as compared to the corresponding period in 2022, as a result of the increase to capacity and was also favorably impacted by lower aircraft rent including the reversal of \$18 million of previously accrued lease return costs, higher sale-leaseback gains, lower transaction and merger-related expenses and the semi-fixed nature of certain airport costs, partially offset by higher maintenance, material and repair costs. Adjusted (non-GAAP) CASM (excluding fuel) decreased from 7.24¢ for the three months ended June 30, 2022 to 6.90¢ for the three months ended June 30, 2023. For the three months ended June 30, 2022, this excludes the impact of \$9 million in transaction and merger-related costs, \$7 million in asset impairment charges and \$1 million in collective bargaining contract ratification costs. There were no adjustments for the three months ended June 30, 2023. Adjusted (non-GAAP) CASM (excluding fuel) decreased from 7.19¢ for the six months ended June 30, 2022 to 6.76¢ for the six months ended June 30, 2023. For the six months ended June 30, 2022, this excludes the impact of \$20 million in transaction and merger-related costs, \$7 million in asset impairment charges and \$1 million in collective bargaining contract ratification costs. For the six months ended June 30, 2023, this excludes the impact of \$1 million in transaction and merger-related costs. For the reconciliation to corresponding generally accepted accounting principles in the United States (“GAAP”) measures, see “Results of Operations—Reconciliation of CASM to CASM (excluding fuel), Adjusted CASM (excluding fuel), Adjusted CASM, Adjusted CASM including net interest and CASM including net interest.”

We generated net income of \$71 million and \$58 million during the three and six months ended June 30, 2023, respectively, compared to net income of \$13 million and a net loss of \$108 million for the three and six months ended June 30, 2022, respectively. Considering these aforementioned non-GAAP adjustments and the related tax impacts, our adjusted (non-GAAP) net income was \$71 million and \$59 million for the three and six months ended June 30, 2023, respectively, as compared to an adjusted (non-GAAP) net income of \$20 million and a net loss of \$89 million for the three and six months ended June 30, 2022, respectively. For the reconciliation to corresponding GAAP measures, see “Results of Operations—Reconciliation of Pre-Tax Income (Loss) to Adjusted Pre-Tax Income (Loss), Net Income (Loss) to Adjusted Net Income (Loss) and to EBITDA, EBITDAR, Adjusted EBITDA, and Adjusted EBITDAR.”

As of June 30, 2023, our total available liquidity was \$780 million, made up of cash and cash equivalents. On February 2, 2022, we repaid the \$150 million outstanding under our term loan facility (the “Treasury Loan”) with the U.S. Department of the Treasury (the “Treasury”). The repayment of this loan unencumbered our co-branded credit card program and related brand assets that secured the Treasury Loan obligation.

Results of Operations

Three Months Ended June 30, 2023 Compared to Three Months Ended June 30, 2022

Operating Revenues

	Three Months Ended June 30,		Change	
	2023	2022	2023 vs. 2022	
Operating revenues (\$ in millions):				
Passenger	\$ 945	\$ 890	\$ 55	6 %
Other	22	19	3	16 %
Total operating revenues	\$ 967	\$ 909	\$ 58	6 %
Operating statistics:				
ASMs (millions)	9,337	7,594	1,743	23 %
Revenue passenger miles ("RPMs") (millions)	7,964	6,388	1,576	25 %
Average stage length (miles)	1,038	960	78	8 %
Load factor	85.3 %	84.1 %	1.2 pts	N/A
Total revenue per ASM ("RASM") (¢)	10.35	11.97	(1.62)	(14)%
Total ancillary revenue per passenger (\$)	79.64	74.96	4.68	6 %
Total revenue per passenger (\$)	127.23	139.40	(12.17)	(9)%
Passengers (thousands)	7,596	6,518	1,078	17 %

Total operating revenue increased \$58 million, or 6%, during the three months ended June 30, 2023 as compared to the three months ended June 30, 2022, as we experienced increased demand for leisure travel. Revenue was favorably impacted by a 23% capacity growth, as measured by ASMs, during the three months ended June 30, 2023 as compared to the three months ended June 30, 2022. This was driven by a 12% increase in average aircraft in service during the three months ended June 30, 2023, as compared to the three months ended June 30, 2022, as well as a 6% increase in average daily aircraft utilization to 11.5 hours per day for the three months ended June 30, 2023, as compared to 10.9 hours per day for the corresponding prior year period. Revenue was unfavorably impacted by the 14% decline in RASM due to the 9% decline in revenue per passenger mainly caused by moderation of fare revenue per passenger and the 8% increase in average stage length, partially offset by a 6% increase in total ancillary revenue per passenger and increased load factors during the three months ended June 30, 2023, as compared to the three months ended June 30, 2022.

Operating Expenses

	Three Months Ended June 30,		Change		Cost per ASM		Change		
	2023	2022	2023 vs. 2022		2023	2022	2023 vs. 2022		
Operating expenses (\$ in millions):^(a)									
Aircraft fuel	\$ 244	\$ 335	\$ (91)	(27)%	2.61 ¢	4.41 ¢		(41)%	
Salaries, wages and benefits	211	174	37	21 %	2.26	2.29		(1)%	
Aircraft rent	148	133	15	11 %	1.59	1.75		(9)%	
Station operations	124	120	4	3 %	1.33	1.58		(16)%	
Sales and marketing	44	46	(2)	(4)%	0.47	0.61		(23)%	
Maintenance, materials and repairs	52	31	21	68 %	0.56	0.41		37 %	
Depreciation and amortization	12	15	(3)	(20)%	0.13	0.20		(35)%	
Transaction and merger-related costs	—	9	(9)	N/M	—	0.12		N/M	
Other operating expenses	53	39	14	36 %	0.56	0.50		12 %	
Total operating expenses	\$ 888	\$ 902	\$ (14)	(2)%	9.51 ¢	11.87 ¢		(20)%	
Operating statistics:									
ASMs (millions)	9,337	7,594	1,743	23 %					
Average stage length (miles)	1,038	960	78	8 %					
Passengers (thousands)	7,596	6,518	1,078	17 %					
Departures	45,408	40,829	4,579	11 %					
CASM (excluding fuel) (¢) ^(b)	6.90	7.46	(0.56)	(8)%					
Adjusted CASM (excluding fuel) (¢) ^(b)	6.90	7.24	(0.34)	(5)%					
Fuel cost per gallon (\$)	2.69	4.41	(1.72)	(39)%					
Fuel gallons consumed (thousands)	90,379	76,000	14,379	19 %					

N/M = Not meaningful

(a) Cost per ASM figures may not recalculate due to rounding.

(b) These metrics are not calculated in accordance with GAAP. See the reconciliation to corresponding GAAP measures provided below.

Reconciliation of CASM to CASM (excluding fuel), Adjusted CASM (excluding fuel), Adjusted CASM, Adjusted CASM including net interest and CASM including net interest

	Three Months Ended June 30,			
	2023		2022	
	(\$ in millions)	Per ASM (¢)	(\$ in millions)	Per ASM (¢)
Non-GAAP financial data: ^(a)				
CASM		9.51		11.87
Aircraft fuel	(244)	(2.61)	(335)	(4.41)
CASM (excluding fuel) ^(b)		6.90		7.46
Transaction and merger-related costs ^(c)	—	—	(9)	(0.12)
Asset impairment ^(d)	—	—	(7)	(0.09)
Collective bargaining contract ratification ^(e)	—	—	(1)	(0.01)
Adjusted CASM (excluding fuel) ^(b)		6.90		7.24
Aircraft fuel	244	2.61	335	4.41
Adjusted CASM ^(f)		9.51		11.65
Net interest expense (income)	(9)	(0.10)	(1)	(0.01)
Adjusted CASM + net interest ^(g)		9.41		11.64
CASM		9.51		11.87
Net interest expense (income)	(9)	(0.10)	(1)	—
CASM + net interest ^(g)		9.41		11.87

(a) Cost per ASM figures may not recalculate due to rounding.

(b) CASM (excluding fuel) and Adjusted CASM (excluding fuel) are included as supplemental disclosures because we believe that excluding aircraft fuel is useful to investors as it provides an additional measure of management's performance excluding the effects of a significant cost item over which management has limited influence. The price of fuel, over which we have limited control, impacts the comparability of period-to-period financial performance, and excluding the price of fuel allows management an additional tool to understand and analyze our non-fuel costs and core operating performance, and increases comparability with other airlines that also provide a similar metric. CASM (excluding fuel) and Adjusted CASM (excluding fuel) are not determined in accordance with GAAP and should not be considered in isolation or as a substitute for performance measures calculated in accordance with GAAP.

(c) Represents \$5 million in employee retention costs and \$4 million in transaction costs, including banking, legal and accounting fees, incurred in connection with the terminated Merger with Spirit, for the three months ended June 30, 2022.

(d) Represents a write-off of \$7 million in capitalized software development costs as a result of a termination of a vendor arrangement.

(e) Represents \$1 million of costs related to the collective bargaining contract ratification costs earned through May 2023 and committed to by us as part of an agreement with the union representing our aircraft technicians that was ratified and became effective in May 2022.

(f) Adjusted CASM is included as supplemental disclosure because we believe it is a useful metric to properly compare our cost management and performance to other peers, as derivations of Adjusted CASM are well-recognized performance measurements in the airline industry that are frequently used by our management, as well as by investors, securities analysts and other interested parties in comparing the operating performance of companies in the airline industry. Additionally, we believe this metric is useful because it removes certain items that may not be indicative of base operating performance or future results. Adjusted CASM is not determined in accordance with GAAP, may not be comparable across all carriers and should not be considered in isolation or as a substitute for performance measures calculated in accordance with GAAP.

(g) Adjusted CASM including net interest and CASM including net interest are included as supplemental disclosures because we believe they are useful metrics to properly compare our cost management and performance to other peers that may have different capital structures and financing strategies, particularly as it relates to financing primary operating assets such as aircraft and engines. Additionally, we believe these metrics are useful because they remove certain items that may not be indicative of base operating performance or future results. Adjusted CASM including net interest and CASM including net interest are not determined in accordance with GAAP, may not be comparable across all carriers and should not be considered in isolation or as a substitute for performance measures calculated in accordance with GAAP.

Aircraft Fuel. Aircraft fuel expense decreased by \$91 million, or 27%, during the three months ended June 30, 2023, as compared to the three months ended June 30, 2022. The decrease was primarily due to a 39% decrease in fuel rates partially offset by a 19% increase in fuel gallons consumed due to increased capacity.

Salaries, Wages and Benefits. Salaries, wages and benefits expense increased by \$37 million, or 21%, during the three months ended June 30, 2023, as compared to the three months ended June 30, 2022. The increase was primarily due to higher crew costs, primarily from pilots, driven by elevated credit hours and other benefit costs, as well as increased headcount of salaried support staff.

Aircraft Rent. Aircraft rent expense increased by \$15 million, or 11%, during the three months ended June 30, 2023, as compared to the three months ended June 30, 2022, primarily due to a larger fleet and higher costs associated with anticipated lease returns.

Station Operations. Station operations expense increased by \$4 million, or 3%, during the three months ended June 30, 2023, as compared to the three months ended June 30, 2022, primarily due to a 17% and 11% increase in passengers and departures, respectively, as well as higher station agent commission costs partially offset by lower passenger reaccommodation expenses.

Sales and Marketing. Sales and marketing expense decreased by \$2 million, or 4%, during the three months ended June 30, 2023, as compared to the three months ended June 30, 2022, primarily due to a reduction in media advertising expense and lower booking fees, partially offset by higher credit card fees resulting from the 6% increase in revenue. The following table presents our distribution channel mix:

Distribution Channel	Three Months Ended June 30,		Change
	2023	2022	2023 vs. 2022
Our website, mobile app and other direct channels	71 %	68 %	3 pts
Third-party channels	29 %	32 %	(3) pts

Maintenance, Materials and Repairs. Maintenance, materials and repair expense increased by \$21 million, or 68%, during the three months ended June 30, 2023, as compared to the three months ended June 30, 2022. This was primarily due to more average aircraft in service and higher average daily utilization per aircraft, which resulted in higher maintenance costs, including higher aircraft materials and airframe check expenses, as well as associated contract labor costs.

Depreciation and Amortization. Depreciation and amortization expense decreased by \$3 million, or 20%, during the three months ended June 30, 2023, as compared to the three months ended June 30, 2022, primarily due to a loss on asset disposal during the comparable period, partially offset by an increase in capital maintenance.

Transaction and Merger-Related Costs. Transaction and merger-related costs decreased by \$9 million during the three months ended June 30, 2023, as compared to the three months ended June 30, 2022, as the Merger Agreement was terminated on July 27, 2022.

Other Operating Expenses. Other operating expenses increased by \$14 million, or 36%, during the three months ended June 30, 2023, as compared to the three months ended June 30, 2022. The increase was primarily driven by increased administrative costs, including IT and professional services as well as higher travel expenses relating to crew accommodations, driven by an increase in capacity. These increases were partially offset by lower gains on sale-leaseback transactions compared to the corresponding prior period.

Other Income (Expense). Other income increased by \$8 million during the three months ended June 30, 2023, as compared to the three months ended June 30, 2022. Higher interest rates and increased balances in our interest-bearing cash accounts contributed to an increase in interest income. Additionally, higher interest rates contributed to greater capitalized interest which was partially offset by interest expense as a result of rate increases on our variable rate debt.

Income Taxes. Our effective tax rate for the three months ended June 30, 2023 was an expense of 19.3%, compared to a benefit of 62.5% for the three months ended June 30, 2022. The effective tax rate for the three months ended June 30, 2023 was lower than the statutory rate primarily due to excess tax benefits associated with our stock-based compensation arrangements. The increase in the estimated annual tax rate for the six months ended June 30, 2022, as compared to the estimated annual effective rate for the first quarter of 2022, resulted in an income tax benefit for the three months ended June 30, 2022.

Results of Operations

Six Months Ended June 30, 2023 Compared to Six Months Ended June 30, 2022

Operating Revenues

	Six Months Ended June 30,		Change	
	2023	2022	2023 vs. 2022	
Operating revenues (\$ in millions):				
Passenger	\$ 1,775	\$ 1,478	\$ 297	20 %
Other	40	36	4	11 %
Total operating revenues	\$ 1,815	\$ 1,514	\$ 301	20 %
Operating statistics:				
ASMs (millions)	18,112	15,036	3,076	20 %
Revenue passenger miles (millions)	15,226	11,912	3,314	28 %
Average stage length (miles)	1,045	977	68	7 %
Load factor	84.1%	79.2%	4.9 pts	N/A
RASM (¢)	10.02	10.07	(0.05)	— %
Total ancillary revenue per passenger (\$)	79.78	72.38	7.40	10 %
Total revenue per passenger (\$)	125.83	126.71	(0.88)	(1)%
Passengers (thousands)	14,422	11,946	2,476	21 %

Total operating revenue increased \$301 million, or 20%, during the six months ended June 30, 2023 compared to the six months ended June 30, 2022, as we experienced increased demand for leisure travel. Revenue was favorably impacted by 20% capacity growth, as measured by ASMs, during the six months ended June 30, 2023 as compared to the six months ended June 30, 2022. This was driven by an 11% increase in average aircraft in service during the six months ended June 30, 2023, as compared to the six months ended June 30, 2022, as well as a 6% increase in average daily aircraft utilization to 11.4 hours per day for the six months ended June 30, 2023, as compared to 10.8 hours per day for the corresponding prior year period. RASM remained consistent for the six months ended June 30, 2023 as compared to the six months ended June 30, 2022, as load factor increased 4.9 pts. and ancillary revenue per passenger increased 10%, partially offset by a 7% increase in average stage length and a 1% decrease in total revenue per passenger.

Operating Expenses

	Six Months Ended June 30,		Change		Cost per ASM		Change		
	2023	2022	2023 vs. 2022		2023	2022	2023 vs. 2022		
Operating expenses (\$ in millions):^(a)									
Aircraft fuel	\$ 536	\$ 550	\$ (14)	(3)%	2.96 ¢	3.66 ¢		(19)%	
Salaries, wages and benefits	414	346	68	20 %	2.29	2.30		— %	
Aircraft rent	279	261	18	7 %	1.54	1.74		(11)%	
Station operations	248	225	23	10 %	1.37	1.50		(9)%	
Sales and marketing	84	78	6	8 %	0.46	0.52		(12)%	
Maintenance, materials and repairs	97	65	32	49 %	0.54	0.43		26 %	
Depreciation and amortization	23	28	(5)	(18)%	0.13	0.19		(32)%	
Transaction and merger-related costs	1	20	(19)	(95)%	0.01	0.13		(92)%	
Other operating expenses	79	87	(8)	(9)%	0.42	0.57		(26)%	
Total operating expenses	\$ 1,761	\$ 1,660	\$ 101	6 %	9.72 ¢	11.04 ¢		(12)%	
Operating statistics:									
ASMs (millions)	18,112	15,036	3,076	20 %					
Average stage length (miles)	1,045	977	68	7 %					
Passengers (thousands)	14,422	11,946	2,476	21 %					
Departures	88,120	79,413	8,707	11 %					
CASM (excluding fuel) (¢) ^(b)	6.77	7.38	(0.61)	(8)%					
Adjusted CASM (excluding fuel) (¢) ^(b)	6.76	7.19	(0.43)	(6)%					
Fuel cost per gallon (\$)	3.06	3.72	(0.66)	(18)%					
Fuel gallons consumed (thousands)	174,966	147,993	26,973	18 %					

N/M = Not meaningful

(a) Cost per ASM figures may not recalculate due to rounding.

(b) These metrics are not calculated in accordance with GAAP. See the reconciliation to corresponding GAAP measures provided below.

Reconciliation of CASM to CASM (excluding fuel), Adjusted CASM (excluding fuel), Adjusted CASM, Adjusted CASM including net interest and CASM including net interest

	Six Months Ended June 30,			
	2023		2022	
	(\$ in millions)	Per ASM (¢)	(\$ in millions)	Per ASM (¢)
Non-GAAP financial data:^(a)				
CASM		9.72		11.04
Aircraft fuel	(536)	(2.95)	(550)	(3.66)
CASM (excluding fuel)^(b)		6.77		7.38
Transaction and merger-related costs ^(c)				
	(1)	(0.01)	(20)	(0.13)
Asset impairment ^(d)	—	—	(7)	(0.05)
Collective bargaining contract ratification ^(e)	—	—	(1)	(0.01)
Adjusted CASM (excluding fuel)^(b)		6.76		7.19
Aircraft fuel	536	2.95	550	3.66
Adjusted CASM^(f)		9.71		10.85
Net interest expense (income)	(17)	(0.09)	7	0.05
CARES Act - write-off of deferred financing costs due to paydown of loan ^(g)	—	—	(7)	(0.05)
Adjusted CASM + net interest^(h)		9.62		10.85
CASM		9.72		11.04
Net interest expense (income)	(17)	(0.09)	7	0.05
CASM + net interest^(h)		9.63		11.09

(a) Cost per ASM figures may not recalculate due to rounding.

(b) CASM (excluding fuel) and Adjusted CASM (excluding fuel) are included as supplemental disclosures because we believe that excluding aircraft fuel is useful to investors as it provides an additional measure of management's performance excluding the effects of a significant cost item over which management has limited influence. The price of fuel, over which we have limited control, impacts the comparability of period-to-period financial performance, and excluding the price of fuel allows management an additional tool to understand and analyze our non-fuel costs and core operating performance, and increases comparability with other airlines that also provide a similar metric. CASM (excluding fuel) and Adjusted CASM (excluding fuel) are not determined in accordance with GAAP and should not be considered in isolation or as a substitute for performance measures calculated in accordance with GAAP.

(c) Represents \$1 million in employee retention costs incurred in connection with the terminated Merger with Spirit for the six months ended June 30, 2023. Represents \$12 million in transaction costs, including banking, legal and accounting fees, and \$8 million in employee retention costs incurred in connection with the terminated Merger with Spirit for the six months ended June 30, 2022.

(d) Represents a write-off of \$7 million in capitalized software development costs as a result of a termination of a vendor arrangement.

(e) Represents \$1 million of costs related to a one-time contract ratification incentive, plus payroll-related taxes earned through May 2023 and committed to by us as part of an agreement with the union representing our aircraft technicians that was ratified and became effective in May 2022.

(f) Adjusted CASM is included as supplemental disclosure because we believe it is a useful metric to properly compare our cost management and performance to other peers, as derivations of Adjusted CASM are well-recognized performance measurements in the airline industry that are frequently used by our management, as well as by investors, securities analysts and other interested parties in comparing the operating performance of companies in the airline industry. Additionally, we believe this metric is useful because it removes certain items that may not be indicative of base operating performance or future results. Adjusted CASM is not determined in accordance with GAAP, may not be comparable across all carriers and should not be considered in isolation or as a substitute for performance measures calculated in accordance with GAAP.

- (g) On February 2, 2022, we repaid the Treasury Loan, which resulted in a one-time write-off of the remaining \$7 million in unamortized deferred financing costs related to the Treasury Loan. This amount is a component of interest expense.
- (h) Adjusted CASM including net interest and CASM including net interest are included as supplemental disclosures because we believe they are useful metrics to properly compare our cost management and performance to other peers that may have different capital structures and financing strategies, particularly as it relates to financing primary operating assets such as aircraft and engines. Additionally, we believe these metrics are useful because they remove certain items that may not be indicative of base operating performance or future results. Adjusted CASM including net interest and CASM including net interest are not determined in accordance with GAAP, may not be comparable across all carriers and should not be considered in isolation or as a substitute for performance measures calculated in accordance with GAAP.

Aircraft Fuel. Aircraft fuel expense decreased by \$14 million, or 3%, during the six months ended June 30, 2023, as compared to the six months ended June 30, 2022. The decrease was primarily due to an 18% decrease in fuel rates, partially offset by the 18% increase in gallons consumed, driven by our higher capacity.

Salaries, Wages and Benefits. Salaries, wages and benefits expense increased by \$68 million, or 20%, during the six months ended June 30, 2023, as compared to the six months ended June 30, 2022. The increase was primarily due to higher crew costs, primarily from pilots, driven by elevated credit hours and other benefit costs, and an increased headcount of salaried support staff for the six months ended June 30, 2023, as compared to the six months ended June 30, 2022.

Aircraft Rent. Aircraft rent expense increased by \$18 million, or 7%, during the six months ended June 30, 2023, as compared to the six months ended June 30, 2022, primarily due to a larger fleet, partially offset by the reversal of \$18 million of previously accrued lease return costs due to a four-year lease extension of two of our aircraft.

Station Operations. Station operations expense increased by \$23 million, or 10%, during the six months ended June 30, 2023, as compared to the six months ended June 30, 2022, primarily due to a 21% and 11% increase in passengers and departures, respectively, as well as higher station agent commissions costs partially offset by lower passenger reaccommodation expenses.

Sales and Marketing. Sales and marketing expense increased by \$6 million, or 8%, during the six months ended June 30, 2023, as compared to the six months ended June 30, 2022, primarily due to higher credit card fees resulting from the 20% increase in revenue, partially offset by a reduction in media advertising. The following table presents our distribution channel mix:

Distribution Channel	Six Months Ended June 30,		Change
	2023	2022	2023 vs. 2022
Our website, mobile app and other direct channels	71 %	69 %	2 pts
Third-party channels	29 %	31 %	(2) pts

Maintenance, Materials and Repairs. Maintenance, materials and repair expense increased by \$32 million, or 49%, during the six months ended June 30, 2023, as compared to the six months ended June 30, 2022. This was primarily due to more average aircraft in service and higher average daily utilization per aircraft, which resulted in higher maintenance costs, including higher aircraft materials and airframe check expenses, as well as associated contract labor costs.

Depreciation and Amortization. Depreciation and amortization expense decreased by \$5 million, or 18%, during the six months ended June 30, 2023, as compared to the six months ended June 30, 2022, primarily due to a loss on asset disposal during the six months ended June 30, 2023, partially offset by an increase in capital maintenance.

Transaction and Merger-Related Costs. Transaction and merger-related costs decreased by \$19 million, or 95%, during the six months ended June 30, 2023, as compared to the six months ended June 30, 2022, as the Merger Agreement was terminated on July 27, 2022.

Other Operating Expenses. Other operating expenses decreased by \$8 million, or 9%, during the six months ended June 30, 2023, as compared to the six months ended June 30, 2022. The decrease was primarily driven by \$29 million in additional sale-leaseback gains, partially offset by increases to supplies and general and administrative costs, including IT and professional services, as well as increases to travel expenses relating to crew accommodations, driven by an increase in capacity.

Other Income (Expense). Other income increased by \$24 million during the six months ended June 30, 2023, as compared to the six months ended June 30, 2022. Higher interest rates and increased balances in our interest-bearing cash accounts contributed to an increase in interest income. Additionally, higher interest rates contributed to greater capitalized interest which was partially offset by interest expense as a result of rate increases on our variable rate debt, and during the six months ended June 30, 2022, there was a \$7 million loss from the extinguishment of debt related to the write-off of unamortized deferred financing costs associated with the Treasury Loan.

Income Taxes. Our effective tax rate for the six months ended June 30, 2023 was an expense of 18.3%, compared to a benefit of 29.4% for six months ended June 30, 2022. The effective tax rate for the six months ended June 30, 2023 was lower than the statutory rate primarily due to excess tax benefits associated with our stock-based compensation arrangements. The effective tax rate for the six months ended June 30, 2022 is higher than the statutory rate due to the non-deductibility of certain executive compensation costs and other employee benefits.

Reconciliation of Pre-Tax Income (Loss) to Adjusted Pre-Tax Income (Loss), Net Income (Loss) to Adjusted Net Income (Loss) and to EBITDA, EBITDAR, Adjusted EBITDA, and Adjusted EBITDAR

	Three Months Ended June 30,		Six Months Ended June 30,					
	2023	2022	2023	2022				
	(in millions)		(in millions)					
Non-GAAP financial data (unaudited):								
Adjusted pre-tax income (loss) ^(a)	\$	88	\$	25	\$	72	\$	(118)
Adjusted net income (loss) ^(a)	\$	71	\$	20	\$	59	\$	(89)
EBITDA ^(a)	\$	91	\$	22	\$	77	\$	(118)
EBITDAR ^(b)	\$	239	\$	155	\$	356	\$	143
Adjusted EBITDA ^(a)	\$	91	\$	32	\$	78	\$	(97)
Adjusted EBITDAR ^(b)	\$	239	\$	165	\$	357	\$	164

(a) Adjusted pre-tax income (loss), adjusted net income (loss), EBITDA and adjusted EBITDA are included as supplemental disclosures because we believe they are useful indicators of our operating performance. Derivations of pre-tax income, net income and EBITDA are well-recognized performance measurements in the airline industry that are frequently used by our management, as well as by investors, securities analysts and other interested parties in comparing the operating performance of companies in our industry.

Adjusted pre-tax income (loss), adjusted net income (loss), EBITDA and adjusted EBITDA have limitations as analytical tools. Some of the limitations applicable to these measures include: adjusted pre-tax income (loss), adjusted net income (loss), EBITDA and adjusted EBITDA do not reflect the impact of certain cash charges resulting from matters we consider not to be indicative of our ongoing operations; adjusted pre-tax income (loss), adjusted net income (loss), EBITDA and adjusted EBITDA do not reflect our cash expenditures, or future requirements, for capital expenditures or contractual commitments; EBITDA and adjusted EBITDA do not reflect changes in, or cash requirements for, our working capital needs; EBITDA, and adjusted EBITDA do not reflect the interest expense, or the cash requirements necessary to service interest or principal payments, on our indebtedness or possible cash requirements related to our warrants; although depreciation and amortization are non-cash charges, the assets being depreciated and amortized will often have to be replaced in the future, and EBITDA and adjusted EBITDA do not reflect any cash requirements for such replacements; and other companies in our industry may calculate adjusted pre-tax income (loss), adjusted net income (loss), EBITDA and adjusted EBITDA differently than we do, limiting their usefulness as comparative measures. Because of these limitations, adjusted pre-tax income (loss), adjusted net income (loss), EBITDA and adjusted EBITDA should not be considered in isolation from or as a substitute for performance measures calculated in accordance with GAAP. In addition, because derivations of adjusted pre-tax income (loss), adjusted net income (loss), EBITDA and adjusted EBITDA are not determined in accordance with GAAP, such measures are susceptible to varying calculations and not all companies calculate the measures in the same manner. As a result, derivations of pre-tax income (loss), net income (loss) and EBITDA, including adjusted pre-tax income (loss), adjusted net income (loss) and adjusted EBITDA, as presented may not be directly comparable to similarly titled measures presented by other companies.

For the foregoing reasons, each of adjusted pre-tax income (loss), adjusted net income (loss), EBITDA and adjusted EBITDA has significant limitations which affect its use as an indicator of our profitability. Accordingly, you are cautioned not to place undue reliance on this information.

(b) EBITDAR and adjusted EBITDAR are included as a supplemental disclosure because we believe them to be useful solely as valuation metrics for airlines as their calculations isolate the effects of financing in general, the accounting effects of capital spending and acquisitions (primarily aircraft, which may be acquired directly, directly subject to acquisition debt, by capital lease or by operating lease, each of which is presented differently for accounting purposes), and income taxes, which may vary significantly between periods and for different airlines for reasons unrelated to the underlying value of a particular airline. However, EBITDAR and adjusted EBITDAR are not determined in accordance with GAAP, are susceptible to varying calculations and not all companies calculate the measure in the same manner. As a result, EBITDAR and adjusted EBITDAR, as presented, may not be directly comparable to similarly titled measures presented by other companies. In addition, EBITDAR and adjusted EBITDAR should not be viewed as a measure of overall performance since they exclude aircraft rent, which is a normal, recurring cash operating expense that is necessary to operate our business. Accordingly, you are cautioned not to place undue reliance on this information.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
	(in millions)		(in millions)	
Adjusted net income (loss) reconciliation (unaudited):				
Net income (loss)	\$ 71	\$ 13	\$ 58	\$ (108)
Non-GAAP Adjustments ^(a) :				
Transaction and merger-related costs	—	9	1	20
Asset impairment	—	7	—	7
Collective bargaining contract ratification	—	1	—	1
CARES Act - write-off of deferred financing costs due to paydown of loan	—	—	—	7
Pre-tax impact	—	17	1	35
Tax benefit (expense) related to non-GAAP adjustments	—	(10)	—	(16)
Adjusted net income (loss)	\$ 71	\$ 20	\$ 59	\$ (89)
Adjusted pre-tax income (loss) reconciliation (unaudited):				
Income (loss) before income taxes	\$ 88	\$ 8	\$ 71	\$ (153)
Pre-tax impact	—	17	1	35
Adjusted pre-tax income (loss)	\$ 88	\$ 25	\$ 72	\$ (118)
EBITDA, EBITDAR, Adjusted EBITDA and Adjusted EBITDAR reconciliation (unaudited):				
Net income (loss)	\$ 71	\$ 13	\$ 58	\$ (108)
Plus (minus):				
Interest expense	7	3	13	12
Capitalized interest	(6)	(2)	(12)	(3)
Interest income and other	(10)	(2)	(18)	(2)
Income tax expense (benefit)	17	(5)	13	(45)
Depreciation and amortization	12	15	23	28
EBITDA	91	22	77	(118)
Plus: Aircraft rent	148	133	279	261
EBITDAR	\$ 239	\$ 155	\$ 356	\$ 143
EBITDA	\$ 91	\$ 22	\$ 77	\$ (118)
Plus (minus) ^(a) :				
Transaction and merger-related costs	—	9	1	20
Collective bargaining contract ratification	—	1	—	1
Adjusted EBITDA	91	32	78	(97)
Plus: Aircraft rent	148	133	279	261
Adjusted EBITDAR	\$ 239	\$ 165	\$ 357	\$ 164

(a) See “Reconciliation of CASM to CASM (excluding fuel), Adjusted CASM (excluding fuel), Adjusted CASM, Adjusted CASM including net interest and CASM including net interest” above for discussion on adjusting items.

Comparative Operating Statistics

The following table sets forth our operating statistics for the three and six months ended June 30, 2023 and 2022. These operating statistics are provided because they are commonly used in the airline industry and, as such, allow readers to compare our performance against our results for the corresponding prior year period, as well as against the performance of our peers.

	Three Months Ended June 30,		Percent Change	Six Months Ended June 30,		Percent Change
	2023	2022		2023	2022	
Operating statistics (unaudited)^(a)						
ASMs (millions)	9,337	7,594	23 %	18,112	15,036	20 %
Departures	45,408	40,829	11 %	88,120	79,413	11 %
Average stage length (miles)	1,038	960	8 %	1,045	977	7 %
Block hours	128,854	109,074	18 %	251,824	215,611	17 %
Average aircraft in service	123	110	12 %	122	110	11 %
Aircraft – end of period	126	114	11 %	126	114	11 %
Average daily aircraft utilization (hours)	11.5	10.9	6 %	11.4	10.8	6 %
Passengers (thousands)	7,596	6,518	17 %	14,422	11,946	21 %
Average seats per departure	198	193	3 %	197	193	2 %
RPMs (millions)	7,964	6,388	25 %	15,226	11,912	28 %
Load Factor	85.3 %	84.1 %	1.2 pts	84.1 %	79.2 %	4.9 pts
Fare revenue per passenger (\$)	47.59	64.44	(26) %	46.05	54.33	(15) %
Non-fare passenger revenue per passenger (\$)	76.89	72.01	7 %	77.06	69.36	11 %
Other revenue per passenger (\$)	2.75	2.95	(7) %	2.72	3.02	(10) %
Total ancillary revenue per passenger (\$)	79.64	74.96	6 %	79.78	72.38	10 %
Total revenue per passenger (\$)	127.23	139.40	(9) %	125.83	126.71	(1) %
RASM (¢)	10.35	11.97	(14) %	10.02	10.07	— %
CASM (¢)	9.51	11.87	(20) %	9.72	11.04	(12) %
CASM (excluding fuel) (¢) ^(b)	6.90	7.46	(8) %	6.77	7.38	(8) %
CASM + net interest (¢) ^(b)	9.41	11.87	(21) %	9.63	11.09	(13) %
Adjusted CASM (¢) ^(b)	9.51	11.65	(18) %	9.71	10.85	(11) %
Adjusted CASM (excluding fuel) (¢) ^(b)	6.90	7.24	(5) %	6.76	7.19	(6) %
Adjusted CASM + net interest (¢) ^(b)	9.41	11.64	(19) %	9.62	10.85	(11) %
Fuel cost per gallon (\$)	2.69	4.41	(39) %	3.06	3.72	(18) %
Fuel gallons consumed (thousands)	90,379	76,000	19 %	174,966	147,993	18 %
Full-time equivalent employees (FTEs)	6,692	5,712	17 %	6,692	5,712	17 %

(a) See “Glossary of Airline Terms” for definitions of terms used in this table.

(b) These metrics are not calculated in accordance with GAAP. For the reconciliation to corresponding GAAP measures, see “Results of Operations—Reconciliation of CASM to CASM (excluding fuel), Adjusted CASM (excluding fuel), Adjusted CASM, Adjusted CASM including net interest and CASM including net interest.”

Liquidity, Capital Resources and Financial Position

Overview

As of June 30, 2023, we had \$780 million in total available liquidity, made up of cash and cash equivalents. We had \$430 million of total debt, net, of which \$237 million is short-term. Our total debt, net is comprised of our \$270 million pre-delivery payment (“PDP”) facility (“PDP Financing Facility”), \$80 million pre-purchased miles facility with Barclays Bank Delaware (“Barclays”), \$66 million in 10-year, low-interest loans from the Treasury (the “PSP Promissory Notes”) and \$17 million in secured indebtedness for our headquarters building, partially offset by \$3 million in deferred debt acquisition costs and other discounts.

On February 2, 2022, we repaid the Treasury Loan, which included the \$150 million principal balance along with accrued interest and associated fees of \$1 million. As a result, we recognized a \$7 million non-cash charge from the write-off of unamortized deferred financing costs associated with the Treasury Loan for the six months ended June 30, 2022.

In connection with the PSP Promissory Notes and Treasury Loan, we issued to the Treasury warrants to purchase 3,117,940 shares of our common stock at a weighted-average price of \$6.95 per share. We have the intent and ability to settle the warrants issued to the Treasury in common shares and we have classified the warrant liability to additional paid-in-capital on our condensed consolidated balance sheet. The Treasury has not exercised any warrants as of June 30, 2023.

We continue to monitor our covenant compliance with various parties, including, but not limited to, our lenders and credit card processors. As of the date of this report, we are in compliance with all of our covenants.

The following table presents the major indicators of our financial condition and liquidity:

	June 30, 2023	December 31, 2022	
	(\$ in millions)		
Cash and cash equivalents	\$	780	\$ 761
Total current assets, excluding cash and cash equivalents	\$	229	\$ 259
Total current liabilities, excluding current maturities of long-term debt and operating leases	\$	911	\$ 933
Current maturities of long-term debt, net	\$	237	\$ 157
Long-term debt, net	\$	193	\$ 272
Stockholders' equity	\$	566	\$ 509
Debt to capital ratio		43 %	46 %
Debt to capital ratio, including operating lease obligations		84 %	85 %

Use of Cash and Future Obligations

We expect to meet our cash requirements for the next twelve months through use of our available cash and cash equivalents, our PDP Financing Facility and cash flows from operating activities. We expect to meet our long-term cash requirements with cash flows from operating and financing activities, including, but not limited to, potential future borrowings on our PDP Financing Facility and/or potential issuances of debt or equity. Our primary uses of cash are for working capital, aircraft PDPs, debt repayments and capital expenditures.

Our single largest capital commitment relates to the acquisition of aircraft. As of June 30, 2023, we operated all of our 126 aircraft under operating leases. PDPs relating to future deliveries under our agreement with Airbus are required at various times prior to each aircraft's delivery date. As of June 30, 2023, we had \$380 million of PDPs held by Airbus which have been partially financed by our PDP Financing Facility. As of June 30, 2023, our PDP Financing Facility, which allows us to draw up to an aggregate of \$270 million, had \$270 million outstanding. As of June 30, 2023, we had a firm obligation to purchase 217 A320neo family aircraft and 17 additional spare engines to be delivered by 2029. Of our aircraft commitments, four had committed operating leases for 2023 deliveries, and we are evaluating financing options for the remaining aircraft. As of June 30, 2023, we had signed lease agreements with two of our leasing partners to add ten additional A321neo aircraft through direct leases. Five deliveries occurred in the six months ended June 30, 2023, with the remaining five deliveries continuing into the third quarter of 2023, based on the latest delivery schedule. These direct lease aircraft are not included in the 217 aircraft subject to the purchase agreements with Airbus discussed above.

Additionally, we are required by some of our aircraft lease agreements to pay maintenance reserves to our respective aircraft lessors in advance of the performance of major maintenance activities; these payments act as collateral for the lessors to ensure aircraft are returned in the agreed upon condition at the end of the lease period. Qualifying payments that are expected to be recovered from lessors are recorded as aircraft maintenance deposits on our condensed consolidated balance sheets. During the six months ended June 30, 2023 and 2022, we made \$9 million and \$10 million, respectively, in maintenance deposit payments to our lessors. As of June 30, 2023, we had \$109 million in recoverable aircraft maintenance deposits on our condensed consolidated balance sheet, of which \$24 million was included in accounts receivable because the eligible maintenance had been performed and the remaining \$85 million was included within aircraft maintenance deposits.

The following table summarizes current and long-term material cash requirements as of June 30, 2023, which we expect to fund primarily with operating and financing cash flows (in millions):

Material Cash Requirements								
	Remainder of 2023	2024	2025	2026	2027	Thereafter	Total	
Debt obligations ^(a)	\$ 102	\$ 163	\$ 22	\$ —	\$ —	\$ 146	\$	433
Interest commitments ^(b)	12	12	7	7	7	7	7	52
Operating lease obligations ^(c)	254	505	491	427	362	1,295	3,334	3,334
Flight equipment purchase obligations ^(d)	417	1,448	2,437	2,357	2,447	3,757	12,863	12,863
Maintenance deposit obligations ^(e)	2	3	3	3	4	5	20	20
Total	\$ 787	\$ 2,131	\$ 2,960	\$ 2,794	\$ 2,820	\$ 5,210	\$	16,702

(a) Includes principal commitments only associated with our PDP Financing Facility pertaining to deliveries through 2025, our floating rate building note through December 2023, our affinity card unsecured debt due through 2029 and the PSP Promissory Notes due through 2031. See “Notes to Condensed Consolidated Financial Statements — 6. Debt”.

(b) Represents interest on debt obligations.

(c) Represents gross cash payments related to our operating lease obligations that are not subject to discount as compared to the obligations measured on our condensed consolidated balance sheets. See “Notes to Condensed Consolidated Financial Statements — 7. Operating Leases”.

(d) Represents purchase commitments for aircraft and engines. See “Notes to Condensed Consolidated Financial Statements — 9. Commitments and Contingencies”.

(e) Represents fixed maintenance reserve payments for aircraft including estimated amounts for contractual price escalations. See “Notes to Condensed Consolidated Financial Statements — 7. Operating Leases”.

Cash Flows

The following table presents information regarding our cash flows in the six months ended June 30, 2023 and 2022:

	Six Months Ended June 30,	
	2023	2022
	(in millions)	
Net cash used in operating activities	\$ (34)	\$ (67)
Net cash used in investing activities	(33)	(57)
Net cash provided by (used in) financing activities	86	(28)
Net increase (decrease) in cash, cash equivalents and restricted cash	19	(152)
Cash, cash equivalents and restricted cash at beginning of period	761	918
Cash, cash equivalents and restricted cash at end of period	\$ 780	\$ 766

Operating Activities

During the six months ended June 30, 2023, net cash used in operating activities totaled \$34 million, which was driven by \$79 million of outflows from changes in operating assets and liabilities and non-cash adjustments totaling \$13 million, partially offset by \$58 million of net income.

The \$79 million of outflows from changes in operating assets and liabilities include:

- \$93 million increase in other long-term assets driven by increases in capitalized maintenance, prepaid maintenance, prepaid bonuses and capitalized interest;
- \$60 million decrease in other liabilities driven primarily by leased aircraft return payments and decreased return costs, and other related accruals; and
- \$9 million increase in aircraft maintenance deposits; partially offset by
- \$40 million increase in our air traffic liability;
- \$28 million decrease in accounts receivable due to station and credit card receivables;
- \$9 million decrease in supplies and other current assets; and
- \$6 million increase in accounts payable.

Our net income of \$58 million was also adjusted by the following non-cash items to arrive at cash used in operating activities:

- \$57 million gain recognized on sale-leaseback transactions; partially offset by
- \$23 million depreciation and amortization;
- \$13 million deferred tax expense;
- \$7 million stock-based compensation expense; and
- \$1 million in amortization of swaption cash flow hedges, net of tax.

During the six months ended June 30, 2022, net cash used in operating activities totaled \$67 million, which was driven by a \$108 million net loss and non-cash adjustments totaling \$30 million, partially offset by inflows from changes in operating assets and liabilities of \$71 million.

The \$71 million of inflows from changes in operating assets and liabilities include:

- \$99 million increase in our air traffic liability as a result of increased bookings;
- \$56 million increase in other liabilities driven by growth in the business, reflected primarily through increases in our accrued fuel of \$30 million, leased aircraft return costs of \$30 million and passenger tax accounts of \$26 million, partially offset by a \$26 million payment to FAPAInvest LLC for their phantom equity units; and

- \$8 million increase in accounts payable; partially offset by
- \$42 million increase in other long-term assets driven by increases in deferred taxes and prepaid maintenance;
- \$34 million increase in supplies and other current assets driven by growth in the business, including increased fuel balances;
- \$10 million increase in aircraft maintenance deposits; and
- \$6 million increase in accounts receivable driven by increases in bookings.

Our net loss of \$108 million was also adjusted by the following non-cash items to arrive at cash used in operating activities:

- \$45 million deferred tax benefits; and
- \$28 million gain recognized on sale-leaseback transactions; partially offset by
- \$28 million depreciation and amortization;
- \$7 million losses from the extinguishment of debt;
- \$7 million stock-based compensation expense; and
- \$1 million in amortization of swaption cash flow hedges, net of tax.

As of June 30, 2023, we did not have any other off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on our results of operations, financial condition or cash flows.

Investing Activities

During the six months ended June 30, 2023, net cash used in investing activities totaled \$33 million, driven by:

- \$23 million cash outflows for capital expenditures;
- \$9 million net outflows for PDP activity; and
- \$1 million cash proceeds relating to other investing activity.

During the six months ended June 30, 2022, net cash used in investing activities totaled \$57 million, driven by:

- \$41 million net payments for pre-delivery deposit activity;
- \$14 million cash outflows for capital expenditures; and
- \$2 million cash outflows relating to other investing activity.

Financing Activities

During the six months ended June 30, 2023, net cash provided by financing activities was \$86 million, primarily driven by:

- \$89 million cash inflows from sale-leaseback transactions related to A320neo family aircraft and spare engines delivered during the six months ended June 30, 2023; and
- \$52 million cash proceeds from debt issuances, consisting of \$44 million draws on our PDP Financing Facility and \$9 million draws on our Barclays facility, net of issuance costs; partially offset by
- \$51 million cash outflows from principal repayments on our PDP Financing Facility; and
- \$5 million cash outflows for payments related to minimum tax withholdings of share-based awards.

During the six months ended June 30, 2022, net cash used in financing activities was \$28 million, primarily driven by:

- \$189 million cash outflows from principal repayments on long-term debt; which includes the paydown of the \$150 million Treasury Loan and \$39 million in PDP Financing Facility payments; and
- \$3 million cash outflows for payments related to minimum tax withholdings of share-based awards; partially offset by
- \$141 million cash proceeds from debt issuances, made up of a \$56 million draw on our Barclays facility and \$85 million in draws on our PDP Financing Facility, net of issuance costs; and
- \$23 million in cash inflows from sale-leaseback transactions related to A320neo family aircraft and spare engine delivered during the six months ended June 30, 2022.

Critical Accounting Policies and Estimates

For information regarding all other critical accounting policies and estimates, see “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Critical Accounting Policies and Estimates” contained in our 2022 Annual Report.

Recently Adopted Accounting Pronouncements

See “Notes to Consolidated Financial Statements —1. Summary of Significant Accounting Policies” included in Part II, Item 8 of our 2022 Annual Report for a discussion of recent accounting pronouncements.

GLOSSARY OF AIRLINE TERMS

Set forth below is a glossary of industry terms:

“A320 family” means, collectively, the Airbus series of single-aisle aircraft, including the A320ceo, A320neo, A321ceo and A321neo aircraft.

“A320neo family” means, collectively, the Airbus series of single-aisle aircraft that feature the new engine option, including the A320neo and A321neo aircraft.

“Adjusted CASM” is a non-GAAP measure and means operating expenses, excluding special items, divided by ASMs. For a discussion of such special items and a reconciliation of CASM to CASM (excluding fuel), Adjusted CASM (excluding fuel), Adjusted CASM, Adjusted CASM including net interest, and CASM including net interest, please see “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Results of Operations.”

“Adjusted CASM including net interest” or “Adjusted CASM + net interest” is a non-GAAP measure and means the sum of Adjusted CASM and net interest expense (income) excluding special items divided by ASMs. For a discussion of such special items and a reconciliation of CASM to CASM (excluding fuel), Adjusted CASM (excluding fuel), Adjusted CASM, Adjusted CASM including net interest, and CASM including net interest, please see “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Results of Operations.”

“Adjusted CASM (excluding fuel)” is a non-GAAP measure and means operating expenses less aircraft fuel expense, excluding special items, divided by ASMs. For a discussion of such special items and a reconciliation of CASM to CASM (excluding fuel), Adjusted CASM (excluding fuel), Adjusted CASM, Adjusted CASM including net interest, and CASM including net interest, please see “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Results of Operations.”

“Air traffic liability” means the value of tickets, unearned membership fees and other related fees sold in advance of travel.

“Ancillary revenue” means the sum of non-fare passenger revenue and other revenue.

“Available seat miles” or “ASMs” means the number of seats available for passengers multiplied by the number of miles the seats are flown.

“Average aircraft in service” means the average number of aircraft used in flight operations, as calculated on a daily basis.

“Average daily aircraft utilization” means block hours divided by number of days in the period divided by average aircraft.

“Average stage length” means the average number of miles flown per flight segment.

“Block hours” means the number of hours during which the aircraft is in revenue service, measured from the time of gate departure before take-off until the time of gate arrival at the destination.

“CASM” or “unit costs” means operating expenses divided by ASMs.

“CASM (excluding fuel)” is a non-GAAP measure and means operating expenses less aircraft fuel expense, divided by ASMs.

“CASM including net interest” or “CASM + net interest” is a non-GAAP measure and means the sum of CASM and net interest expense (income) divided by ASMs.

“DOT” means the United States Department of Transportation.

“Fare revenue” consists of base fares for air travel, including mileage credits redeemed under our frequent flyer program, unused and expired passenger credits, other redeemed or expired travel credits and revenue derived from charter flights.

“Fare revenue per passenger” means fare revenue divided by passengers.

“FTE” means full-time equivalent employee.

“Load factor” means the percentage of aircraft seat miles actually occupied on a flight (RPMs divided by ASMs).

“Net interest expenses (income)” means interest expense, capitalized interest, interest income and other.

“Non-fare passenger revenue” consists of fees related to certain ancillary items such as baggage, service fees, seat selection, and other passenger-related revenue that is not included as part of base fares for travel.

“Non-fare passenger revenue per passenger” means non-fare passenger revenue divided by passengers.

“Other revenue” consists primarily of services not directly related to providing transportation, such as the advertising, marketing and brand elements of the *Frontier Miles* affinity credit card program and commissions revenue from the sale of items such as rental cars and hotels.

“Other revenue per passenger” means other revenue divided by passengers.

“Passengers” means the total number of passengers flown on all flight segments.

“Passenger revenue” consists of fare revenue and non-fare passenger revenue.

“PDP” means pre-delivery deposit payments, which are payments required by aircraft manufacturers in advance of delivery of the aircraft.

“RASM” or “unit revenue” means total revenue divided by ASMs.

“Revenue passenger miles” or “RPMs” means the number of miles flown by passengers.

“Total ancillary revenue per passenger” means ancillary revenue divided by passengers.

“Total revenue per passenger” means the sum of fare revenue, non-fare passenger revenue, and other revenue (collectively, “Total Revenue”) divided by passengers.

“Treasury” means the U.S. Department of the Treasury.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK

We are subject to market risks in the ordinary course of our business. These risks include commodity price risk, with respect to aircraft fuel, as well as interest rate risk, specifically with respect to our floating rate obligations and interest rate swaps. The adverse effects of changes in these markets could pose a potential loss as discussed below. The sensitivity analysis provided does not consider the effects that such adverse changes may have on overall economic activity, nor does it consider additional actions we may take to mitigate our exposure to such changes. Actual results may differ.

Aircraft Fuel. Our results of operations can vary materially due to changes in the price and availability of aircraft fuel and are also impacted by the number of aircraft in use and the number of flights we operate. Aircraft fuel represented approximately 27%, 30%, 37% and 33% of total operating expenses for the three and six months ended June 30, 2023 and 2022, respectively. Unexpected changes in the pricing of aircraft fuel or a shortage or disruption in the supply could have a material adverse effect on our business, results of operations and financial condition. Based on our fuel consumption for the 12 months ended June 30, 2023, a hypothetical 10% increase in the average price per gallon of aircraft fuel would have increased aircraft fuel expense by approximately \$115 million.

Interest Rates. We are subject to market risk associated with changing interest rates, due to Secured Overnight Financing Rate ("SOFR") based interest rates on our PDP Financing Facility and our floating rate building note and Effective Federal Funds Rate ("EFFR") based interest rates on our affinity card advance purchase of mileage credits. During the six months ended June 30, 2023, as applied to our average debt balances, a hypothetical increase of 100 basis points in average annual interest rates on our variable-rate debt would have increased our annual interest expense by \$4 million.

We are exposed to interest rate risk through aircraft lease contracts for the time period between agreement of terms and commencement of the lease, where portions of the rental payments are adjusted and become fixed based on swap rates. As part of our risk management program, we enter into contracts in order to limit the exposure to fluctuations in interest rates. During the three and six months ended June 30, 2023, we did not enter into any swaps and, therefore, paid no upfront premiums for options. During the three and six months ended June 30, 2022, we paid upfront premiums of \$9 million for the option to enter into and exercise cash-settled swaps with a forward starting effective date for seven of our future aircraft deliveries. As of June 30, 2023, we had hedged \$295 million in aircraft rent payments for seven aircraft and two engines to be delivered by the end of 2023.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Management, with the participation of our principal executive officer and principal financial officer, evaluated the effectiveness of our disclosure controls and procedures as of June 30, 2023. The term "disclosure controls and procedures," as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, refers to the controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company's management, including its principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure. Based on such evaluation, our principal executive officer and principal financial officer concluded that, as of June 30, 2023, our disclosure controls and procedures were effective at the reasonable assurance level.

Changes in Internal Control Over Financial Reporting

During the three months ended June 30, 2023, there were no changes in our internal control over financial reporting that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II – OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

From time to time, we have been and will continue to be subject to commercial litigation claims and to administrative and regulatory proceedings and reviews that may be asserted or maintained. We believe the ultimate outcome of such lawsuits, proceedings and reviews is not reasonably likely, individually or in the aggregate, to have a material adverse effect on our business, results of operations and financial condition.

ITEM 1A. RISK FACTORS

There have been no material changes to the risk factors disclosed in Part I, Item 1A. "Risk Factors" contained in our 2022 Annual Report. Investors are urged to review such risk factors carefully.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

Unregistered Sales of Equity Securities

None.

Use of Proceeds

None.

Issuer Purchases of Equity Securities

We do not have a share repurchase program and no shares were repurchased during the second quarter of 2023.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5. OTHER INFORMATION

Rule 10b5-1 and Non-Rule 10b5-1 Trading Arrangements

During the fiscal quarter ended June 30, 2023, none of our directors or officers adopted, modified or terminated any contract, instruction or written plan for the purchase or sale of our securities that was intended to satisfy the affirmative defense conditions of Rule 10b5-1(c) or any other "non-Rule 10b5-1 trading arrangement," except as follows:

On May 24, 2023, Barry L. Biffle, our President and Chief Executive Officer, terminated two Rule 10b5-1(c) trading arrangements intended to satisfy the affirmative defense of Rule 10b5-1(c) originally adopted on (i) February 16, 2023 for the sale of up to 500,000 shares of our common stock until November 30, 2023 and (ii) May 23, 2022, as amended on December 8, 2022, for the sale of up to 950,000 shares of our common stock until August 31, 2023. On June 9, 2023, Mr. Biffle and Mr. Biffle's spouse, as trustee for a trust holding shares of our common stock for the benefit of Mr. Biffle's child (the "Biffle Trust"), adopted a Rule 10b5-1(c) trading arrangement that is intended to satisfy the affirmative defense of Rule 10b5-1(c) for the sale of up to 2,226,972 shares of our common stock by Mr. Biffle and up to 75,000 shares of our common stock by the Biffle Trust, until February 15, 2024.

ITEM 6. EXHIBITS

<u>Exhibit Number</u>	<u>Exhibit Description</u>	<u>Incorporated by Reference</u>				<u>Filed Herewith</u>
		<u>Form</u>	<u>File Number</u>	<u>Date</u>	<u>Number</u>	
3.1	Amended and Restated Certificate of Incorporation of Frontier Group Holdings, Inc.	8-K	001-40304	4/6/2021	3.1	
3.2	Amended and Restated Bylaws of Frontier Group Holdings, Inc.	10-K	001-40304	2/22/2023	3.2	
4.1	Form of Common Stock Certificate.	S-1	333-254004	3/8/2021	4.2	
10.1†	Amendment No. 15 to Airbus A320 Family Purchase Agreement, dated as of June 28, 2023, by and between Airbus S.A.S and Frontier Airlines, Inc.					X
10.2	Amendment No. 4 to Eighth Amended and Restated Credit Agreement, dated as of May 26, 2023, by and among Vertical Horizons, Ltd., as borrower, Citibank, N.A., as facility agent and arranger, Bank of Utah, not in its individual capacity but solely as security trustee, and each lender identified on the signature pages thereto.					X
10.3†	Fourth Amendment to Amended and Restated Step-In Agreement, dated as of May 26, 2023, by and among Vertical Horizons, Ltd., Bank of Utah, not in its individual capacity but solely as security trustee, and Airbus S.A.S.					X
10.4†	Fifth Amendment to Amended and Restated Step-In Agreement, dated as of June 28, 2023, by and among Vertical Horizons, Ltd., Bank of Utah, not in its individual capacity but solely as security trustee, and Airbus S.A.S.					X
10.5†	Master Service Agreement, dated April 26, 2023, by and among Frontier Airlines Holdings, Inc., on behalf of itself and Frontier Airlines, Inc., U.S. Bank National Association, U.S. Bank National Association, acting through its Canadian branch, Elavon Company Canada, and Elavon Inc.					X
10.6†	First Amendment to the Amended and Restated Frontier Airlines, Inc. Credit Card Affinity Agreement, dated as of June 29, 2021, by and between Barclays Bank Delaware and Frontier Airlines, Inc.					X
10.7†	Second Amendment to the Amended and Restated Frontier Airlines, Inc. Credit Card Affinity Agreement, dated as of May 23, 2023, by and between Barclays Bank Delaware and Frontier Airlines, Inc.					X
31.1	Certification of the Chief Executive Officer pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
31.2	Certification of the Chief Financial Officer pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
32.1*	Certification of the Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.					X
32.2*	Certification of the Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.					X
101.INS	Inline XBRL Instance Document – The instance document does not appear in the interactive data file because its XBRL tags are embedded within the Inline XBRL document.					X
101.SCH	Inline XBRL Taxonomy Extension Schema Document.					X
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document.					X

101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document.	X
101.LAB	Inline XBRL Taxonomy Extension Labels Linkbase Document.	X
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document.	X
104	Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101)	X

* The certifications furnished in Exhibits 32.1 and 32.2 hereto are deemed to accompany this Quarterly Report on Form 10-Q and are not deemed “filed” for purposes of Section 18 of the Exchange Act, or otherwise subject to the liability of that section, nor shall they be deemed incorporated by reference into any filing under the Securities Act or the Exchange Act, irrespective of any general incorporation language contained in such filing.

† Certain portions of this document that constitute confidential information have been redacted in accordance with Regulation S-K, Item 601(b)(10).

SIGNATURE

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

FRONTIER GROUP HOLDINGS, INC.

Date: August 1, 2023

By: /s/ James G. Dempsey

James G. Dempsey

Executive Vice President and Chief Financial Officer (Duly Authorized Officer and Principal Financial Officer)

***] Certain information in this document has been excluded pursuant to Regulation S-K, Item 601(b)(10). Such excluded information is not material and would likely cause competitive harm to the registrant if publicly disclosed.

Exhibit 10.1

Amendment No. 15

This Amendment No. 15 (this "**Amendment**") is entered into as of June 28, 2023, between Airbus S.A.S., a *société par actions simplifiée* organized and existing under the laws of France, having its registered office located at 2, Rond-Point Emile Dewoitine, 31700 Blagnac, France (the "**Seller**"), and Frontier Airlines, Inc., a corporation organized and existing under the laws of the State of Colorado, United States of America, having its principal corporate offices located at 4545 Airport Way, Denver, Colorado 80239 USA (the "**Buyer**" and, together with the Seller, the "**Parties**").

WITNESSETH

WHEREAS, the Buyer and the Seller entered into an A320 Family Aircraft Purchase Agreement dated as of September 30, 2011 (as amended, supplemented and modified from time to time prior to the date hereof, the "**Agreement**"); and

WHEREAS, the Buyer and the Seller wish to amend certain terms of the Agreement as provided herein.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE SELLER AND THE BUYER AGREE AS FOLLOWS:

Capitalized terms used herein and not otherwise defined herein will have the meanings assigned to them in the Agreement. The terms "herein," "hereof" and "hereunder" and words of similar import refer to this Amendment.

1. PROPULSION SYSTEMS

Clause 2.3.5 of the Agreement is deleted in its entirety and replaced with the following quoted text:

“2.3.5 As of the date of Amendment No. 15 the Buyer has not selected the propulsion system or Propulsion System Manufacturer for the Supplemental Aircraft. The Buyer shall notify the Seller in writing of its selection of the Propulsion System for [***].”

Clause 2.3.5 as amended by Clause 3.1 of Appendix B of Amendment 11 of the Agreement is deleted in its entirety and replaced with the following quoted text:

“2.3.5 As of the date of Amendment No. 15 the Buyer has not selected the propulsion system or Propulsion System Manufacturer for the Supplemental Aircraft. The Buyer shall notify the Seller in writing of its selection of the Propulsion System for [***].”

2. AMENDMENT NO. 7 – [***]

2.1 Paragraph 13 of Amendment No. 7 to the Agreement is hereby deleted in its entirety and replaced with the following:

“13. [***]

[***]

2.2 The parties agree that each and every reference to [***] in the Agreement shall be deemed to be a reference to [***].

3. EFFECT OF AMENDMENT

The Agreement will be deemed to be amended to the extent herein provided and, except as specifically amended hereby, will continue in full force and effect in accordance with its terms. Except as otherwise provided by the terms and conditions hereof, this Amendment contains the entire agreement of the Parties with respect to the subject matter hereof and supersedes any previous understandings, commitments, or representations whatsoever, whether oral or written, related to the subject matter of this Amendment.

Both Parties agree that this Amendment will constitute an integral, non-severable part of the Agreement and will be governed by its provisions, except that if the Agreement and this Amendment have specific provisions that are inconsistent, the specific provisions contained in this Amendment will govern.

4. MISCELLANEOUS

This Amendment is subject to the provisions of Clauses 21, 22.6 and 22.11 of the Agreement.

5. COUNTERPARTS

This Amendment may be signed by the Parties in counterparts, which when signed and delivered will each be an original and together constitute but one and the same instrument. Counterparts may be delivered in original, faxed or emailed form, with originals to be delivered in due course.

IN WITNESS WHEREOF, the Parties have caused this Amendment to be signed by their respective duly authorized officers or agents as of the day and year first above written.

Airbus S.A.S.

By: /s/ Benoît de Saint-Exupéry

Name: Benoît de Saint-Exupéry

Title: Executive Vice President, Contracts

Frontier Airlines, Inc.

By: /s/ Howard Diamond

Name: Howard Diamond

Title: General Counsel

C L I F F O R D
C H A N C E

EXECUTION VERSION

DATED AS OF MAY 26, 2023
VERTICAL HORIZONS, LTD.,
AS BORROWER

EACH LENDER
IDENTIFIED ON THE SIGNATURE PAGE HERETO
AS LENDERS

CITIBANK, N.A.,
AS FACILITY AGENT

CITIBANK, N.A.,
AS ARRANGER

BANK OF UTAH,
NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY
AS SECURITY TRUSTEE

AMENDMENT NO. 4 TO EIGHTH AMENDED AND RESTATED CREDIT
AGREEMENT DATED AS OF JUNE 30, 2022
IN RESPECT OF THE PDP FINANCING OF
TWENTY-ONE (21) AIRBUS A320NEO AIRCRAFT AND SIXTY-THREE (63)
AIRBUS A321NEO AIRCRAFT

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THIS AMENDMENT NO. 4 TO EIGHTH AMENDED AND RESTATED CREDIT AGREEMENT dated as of May 26, 2023 (this "**Amendment**") is among

- (1) **VERTICAL HORIZONS, LTD.**, a Cayman Islands exempted company (the "**Borrower**");
- (2) **EACH LENDER IDENTIFIED ON THE SIGNATURE PAGE HERETO**;
- (3) **CITIBANK, N.A.**, as the Facility Agent acting on behalf of the Lenders;
- (4) **CITIBANK, N.A.**, in its capacity as the Arranger (the "**Arranger**"); and
- (5) **BANK OF UTAH**, not in its individual capacity but solely as Security Trustee acting on behalf of the Facility Agent and the Lenders.

WHEREAS, certain parties hereto entered into the eighth amended and restated credit agreement dated as of June 30, 2022 (as amended by that certain Amendment No. 1 dated December 29, 2022, as further amended by that certain Amendment No. 2 dated March 1, 2023, as further amended by that certain Amendment No. 3 dated March 31, 2023 and as further amended, supplemented and otherwise modified from time to time, the "**Credit Agreement**"), among the Borrower, each Lender identified on Schedule I thereto, the Facility Agent, the Arranger and the Security Trustee, pursuant to which the Lenders made Loans available with respect to the Aircraft;

WHEREAS, the parties hereto now wish to amend the Credit Agreement as more particularly set forth herein; and

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties hereto agree as follows:

1. CERTAIN DEFINITIONS

- 1.1 Except as otherwise defined in this Amendment, terms used herein in capitalized form shall have the meanings attributed thereto in the Credit Agreement.
- 1.2 Unless the context otherwise requires, any reference herein to any of the Operative Documents refers to such document as it may be modified, amended or supplemented from time to time in accordance with its terms and the terms of each other agreement restricting the modification, amendment or supplement thereof.

2. AMENDMENTS

As of the date on which all of the conditions precedent listed in Clause 3 are either satisfied or waived in writing by the Facility Agent (hereinafter referred to as, the "**Effective Date**") the Credit Agreement shall be amended as follows:

- 2.1 Schedule III of the Credit Agreement is hereby deleted in its entirety and replaced in the form of Schedule III attached hereto.

3. CONDITIONS PRECEDENT

It is agreed that the effectiveness of this Amendment is subject to the fulfillment of the following conditions precedent:

- 3.1 this Amendment shall have been duly authorized, executed and delivered by the parties hereto, shall each be satisfactory in form and substance to the Facility Agent and shall be in full force and effect and executed counterparts shall have been delivered to the Facility Agent and its counsel;
- 3.2 no Default or Event of Default shall have occurred and be continuing;
- 3.3 each Guarantee shall be in full force and effect after giving effect to this Amendment; and
- 3.4 the Loans have not become due and payable or will, with the passing of time, become due and payable pursuant to clause 5.9(c), (d), or (e) of the Credit Agreement.

4. REFERENCE TO AND EFFECT ON THE CREDIT AGREEMENT

The Credit Agreement, as specifically amended by this Amendment, shall continue to be in full force and effect. This Amendment shall not constitute an amendment or waiver of any other provision of the Credit Agreement or the other Operative Documents not expressly referred to herein.

5. MISCELLANEOUS

- 5.1 This Amendment shall in all respects be governed by, and construed in accordance with, the law of the State of New York.
- 5.2 This Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement by e-mail (PDF) or telecopy shall be effective as delivery of a manually executed counterpart of this Agreement. A party's electronic signature (complying with the New York Electronic Signatures and Records Act (N.Y. State Tech. §§ 301-309), as amended from time to time, or other applicable law) shall have the same validity and effect as a signature affixed by the party's hand.
- 5.3 The provisions of the Credit Agreement with respect to delivery of notices, jurisdiction, service of process, waiver of trial by jury, venue and inconvenient forum are incorporated in this Amendment by reference as if such provisions were set forth herein.
- 5.4 This Amendment shall be deemed an "Operative Document" as such term is defined in Annex A to the Credit Agreement.

[signature pages follow]

Amendment No. 4 to Eighth Amended and Restated Credit Agreement (Citi/Frontier PDP)

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

BORROWER
VERTICAL HORIZONS, LTD., Borrower

By: /s/ Rachel Fisher
Name: Rachel Fisher
Title: Director

SECURITY TRUSTEE

BANK OF UTAH, not in its individual capacity but solely as Security Trustee

By: /s/ Kade Baird
Name: Kade Baird
Title: Assistant Vice President

Amendment No. 4 to Eighth Amended and Restated Credit Agreement (Citi/Frontier PDP)

FACILITY AGENT

CITIBANK, N.A., as Facility Agent

By: /s/ Joseph Shanahan
Name: Joseph Shanahan
Title: Vice President

LENDERS

CITIBANK, N.A., as Citi Lender, Lender and Arranger

By: /s/ Joseph Shanahan
Name: Joseph Shanahan
Title: Vice President

Amendment No. 4 to Eighth Amended and Restated Credit Agreement (Citi/Frontier PDP)

DEUTSCHE BANK AG NEW YORK BRANCH, as a Lender

By: /s/ Philip Tancorra
Name: Philip Tancorra
Title: Director

By: /s/ Lauren Danbury
Name: Lauren Danbury
Title: Vice President

Amendment No. 4 to Eighth Amended and Restated Credit Agreement (Citi/Frontier PDP)

BARCLAYS BANK PLC, as a Lender

By: /s/ Charlene Saldanha

Name: Charlene Saldanha

Title: Vice President

Amendment No. 4 to Eighth Amended and Restated Credit Agreement (Citi/Frontier PDP)

MORGAN STANLEY SENIOR FUNDING INC., as a Lender

By: /s/ Daniel Lee 5/24/2023

Name: Daniel Lee

Title: Vice President

Amendment No. 4 to Eighth Amended and Restated Credit Agreement (Citi/Frontier PDP)

Each Guarantor hereby acknowledges and agrees that notwithstanding the amendments contemplated by this Amendment, each Guarantee shall remain in full force and effect and shall be a guarantee of the Borrower's obligations as amended by this Amendment.

Acknowledged and agreed:

GUARANTORS

FRONTIER AIRLINES HOLDINGS, INC., as a Guarantor

By: /s/ Howard Diamond
Name: Howard Diamond
Title: SVP, General Counsel & Secretary

FRONTIER AIRLINES, INC., as a Guarantor

By: /s/ Howard Diamond
Name: Howard Diamond
Title: SVP, General Counsel & Secretary

FRONTIER GROUP HOLDINGS, INC., as a Guarantor

By: /s/ Howard Diamond
Name: Howard Diamond
Title: SVP, General Counsel & Secretary

**SCHEDULE III
ADVANCES**

Amendment No. 4 to Eighth Amended and Restated Credit Agreement (Citi/Frontier PDP)

May 26, 2023

Fourth Amendment to Amended and Restated Step-In Agreement

between

Vertical Horizons, Ltd.

and

Bank of Utah
(not in its individual capacity but solely as security trustee)

and

Airbus S.A.S.

in respect of
an Amended and Restated Step-In Agreement dated 28 December 2021

THIS FOURTH AMENDMENT TO AMENDED AND RESTATED STEP-IN AGREEMENT (this “**Agreement**”) is made on May 26, 2023

BETWEEN

- 1) **Vertical Horizons, Ltd.**, an exempted company incorporated with limited liability and existing under the laws of the Cayman Islands whose registered address and principal place of business is at the offices of Intertrust SPV (Cayman) Limited, One Nexus Way, Camana Bay, Grand Cayman, KY1-9005, Cayman Islands (the “**Buyer**”);
 - 2) **Bank of Utah**, not in its individual capacity but solely as security trustee for the Facility Agent and the Lenders (the “**Security Trustee**”); and
 - 3) **Airbus S.A.S.**, a company created under the laws of France and having its registered office at 2, rond-point Emile Dewoitine, 31700 Blagnac, France (“**Airbus**”)
- (the Buyer, the Security Trustee and Airbus, together the “**Parties**” and each a “**Party**”).

RECITALS

- A. The Parties entered into an amended and restated step-in agreement dated 28 December 2021 in relation to pre-delivery payment financing of certain aircraft (as amended pursuant to the Amendment Agreement dated 31 March 2022 among the Parties, the Second Amendment Agreement dated 30 June 2022 among the Parties and the Third Amendment Agreement dated 31 March 2023 among the Parties, the “**Step-In Agreement**”).
- B. Now the Parties wish to amend the Step-In Agreement as provided below.

IT IS AGREED AS FOLLOWS:

1. Definitions

In this Agreement, unless the context otherwise requires, (i) the capitalised terms used but not defined herein shall have the meaning set forth in the Step-In Agreement and (ii) the following term shall have the meaning set forth below:

“**Affected Aircraft**” means the Aircraft bearing CAC-IDs [***].

2. Amendment to the Step-In Agreement (except for Schedule 4)

To the extent relating to the Affected Aircraft, Part B (*A321neo Aircraft*) of Schedule 1 (*Pre-Delivery Payments, Scheduled Delivery Months*) to the Step-In Agreement shall be amended and restated as quoted in Appendix 1 hereto.

3. Amendment to Schedule 4 to the Step-In Agreement

- 3.1 To the extent relating to the Affected Aircraft, the delivery schedule table in Clause 9.1 of Schedule 4 (*Form of Replacement Purchase Agreement*) to the Step-In Agreement shall be amended and restated as quoted in Appendix 2 hereto.
- 3.2 To the extent relating to the Affected Aircraft, the schedule set out in Exhibit D (*Pre-Delivery Payments*) in Schedule 4 (*Form of Replacement Purchase Agreement*) to the Step-In Agreement shall be amended and restated as quoted in Appendix 3 hereto.

4. REPRESENTATIONS AND WARRANTIES.

Each Party repeats on the date of this Agreement the representations and warranties made by it under clause 2 (*Representations and Warranties*) of the Step-In Agreement, provided that any references therein to any other capitalized terms shall be to such terms as amended from time to time.

5. Miscellaneous

Clauses 14 (*Confidentiality*), 16 (*Amendments*), 17 (*Further Assurance*), 20 (*Counterparts*) and 22 (*Governing Law and Jurisdiction*) of the Step-In Agreement shall apply to this Agreement *mutatis mutandis*.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement on the day and year first above written.

Appendix 1
Amendment Agreement

*Fourth Amendment to Amended and Restated Step-In Agreement
Vertical Horizons / Bank of Utah / Airbus*

Appendix 2
Amendment Agreement

*Fourth Amendment to Amended and Restated Step-In Agreement
Vertical Horizons / Bank of Utah / Airbus*

Appendix 3
Amendment Agreement

*Fourth Amendment to Amended and Restated Step-In Agreement
Vertical Horizons / Bank of Utah / Airbus*

**Execution Page – Buyer
Amendment Agreement**

For and on behalf of VERTICAL HORIZONS, LTD.

/s/ Ellen Christian
Name: Ellen Christian
Title: Director

*Fourth Amendment to Amended and Restated Step-In Agreement
Vertical Horizons / Bank of Utah / Airbus*

**Execution Page - Security Trustee
Amendment Agreement**

For and on behalf of BANK OF UTAH (not in its individual capacity but solely as security trustee)

/s/ Kade Baird

Name: Kade Baird

Title: Assistant Vice President

*Fourth Amendment to Amended and Restated Step-In Agreement
Vertical Horizons / Bank of Utah / Airbus*

**Execution Page - Airbus
Amendment Agreement**

For and on behalf of AIRBUS S.A.S

/s/ Paul Meijers

Name: Paul Meijers

Title: Executive Vice President

Aircraft Leasing, Trading and Financing

*Fourth Amendment to Amended and Restated Step-In Agreement
Vertical Horizons / Bank of Utah / Airbus*

June 28, 2023

Fifth Amendment to Amended and Restated Step-In Agreement

between

Vertical Horizons, Ltd.

and

Bank of Utah
(not in its individual capacity but solely as security trustee)

and

Airbus S.A.S.

in respect of
an Amended and Restated Step-In Agreement dated 28 December 2021

THIS FIFTH AMENDMENT TO AMENDED AND RESTATED STEP-IN AGREEMENT (this “**Agreement**”) is made on June 28, 2023

BETWEEN

- 1) **Vertical Horizons, Ltd.**, an exempted company incorporated with limited liability and existing under the laws of the Cayman Islands whose registered address and principal place of business is at the offices of Intertrust SPV (Cayman) Limited, One Nexus Way, Camana Bay, Grand Cayman, KY1-9005, Cayman Islands (the “**Buyer**”);
- 2) **Bank of Utah**, not in its individual capacity but solely as security trustee for the Facility Agent and the Lenders (the “**Security Trustee**”); and
- 3) **Airbus S.A.S.**, a company created under the laws of France and having its registered office at 2, rond-point Emile Dewoitine, 31700 Blagnac, France (“**Airbus**”)

(the Buyer, the Security Trustee and Airbus, together the “**Parties**” and each a “**Party**”).

RECITALS

- A. The Parties entered into an amended and restated step-in agreement dated 28 December 2021 in relation to pre-delivery payment financing of certain aircraft (as amended pursuant to the Amendment Agreement dated 31 March 2022 among the Parties, the Second Amendment Agreement dated 30 June 2022 among the Parties, the Third Amendment Agreement dated 31 March 2023 and the Fourth Amendment Agreement dated May 26 2023 among the Parties, the “**Step-In Agreement**”).
- B. Now the Parties wish to amend the Step-In Agreement as provided below.

IT IS AGREED AS FOLLOWS:

1. AMENDMENT TO SCHEDULE 4 TO THE STEP-IN AGREEMENT

Clause 2.3 (*Propulsion System*) of Schedule 4 (*Form of Replacement Purchase Agreement*) to the Step-In Agreement shall be amended and restated as quoted below:

QUOTE

Each A320 Airframe shall be equipped with a set of two (2) CFM International LEAP-1A26 engines or two (2) International Aero Engines, LLC model PW1127G-JM engines (upon selection such set, the “**A320 Propulsion Systems**”).

Each A321 Airframe shall be equipped with a set of two (2) CFM International LEAP-1A32 engines, two (2) CFM International LEAP-1A33B2 engines, two (2) IAE PW1133G-JM engines, two (2) IAE PW1133G1-JM engines or [***] engines (upon selection such set, the “**A321 Propulsion Systems**”), provided however, [***].

For Aircraft identified in Clause 9.1.1 as having an “Aircraft Rank” from 72 to and including 80, the Buyer has selected the CFM International LEAP-1A26 engines as the A320 Propulsion Systems.

For Aircraft identified in Clause 9.1.1 having an “Aircraft Rank” 87, 88, 92, 93, 101, 102 and 103 the Buyer has selected the [***] engines as the A321 Propulsion Systems.

For Aircraft identified in Clause 9.1.1 having an “Aircraft Rank” 94, 98, 99, 100, 104, 105, 106, 107,109, 110, 112, 113, 114, 116, 117, 127, 128 and 129 the Buyer has selected the IAE PW1133G1-JM engines as the A321 Propulsion Systems.

For Aircraft identified in Clause 9.1.1 having an “Aircraft Rank” 118 to 121, 123, 124, 126 and 130 to 132 the Buyer has selected the IAE PW 1133-JM engines as the A321 Propulsion Systems.

For Aircraft identified in Clause 9.1.1 having an “Aircraft Rank” 215, 216, 217, 218, 219, 220 and 221 the Buyer shall notify the Seller in writing, no later than [***], of its selection of Propulsion Systems for such Aircraft.

UNQUOTE

2. REPRESENTATIONS AND WARRANTIES.

Each Party repeats on the date of this Agreement the representations and warranties made by it under clause 2 (*Representations and Warranties*) of the Step-In Agreement, provided that any references therein to any other capitalized terms shall be to such terms as amended from time to time.

3. MISCELLANEOUS

Clauses 14 (*Confidentiality*), 16 (*Amendments*), 17 (*Further Assurance*), 20 (*Counterparts*) and 22 (*Governing Law and Jurisdiction*) of the Step-In Agreement shall apply to this Agreement *mutatis mutandis*.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement on the day and year first above written.

*Fifth Amendment to Amended and Restated Step-In Agreement
Vertical Horizons / Bank of Utah / Airbus*

**Execution Page – Buyer
Amendment Agreement**

For and on behalf of VERTICAL HORIZONS, LTD.

/s/ Rachel Fisher
Name: Rachel Fisher
Title: Director

*Fifth Amendment to Amended and Restated Step-In Agreement
Vertical Horizons / Bank of Utah / Airbus*

**Execution Page – Security Trustee
Amendment Agreement**

For and on behalf of BANK OF UTAH (not in its individual capacity but solely as security trustee)

/s/ Kade Baird

Name: Kade Baird

Title: Assistant Vice President

*Fifth Amendment to Amended and Restated Step-In Agreement
Vertical Horizons / Bank of Utah / Airbus*

**Execution Page – Airbus
Amendment Agreement**

For and on behalf of AIRBUS S.A.S

/s/ Benoît de Saint-Exupéry

Name: Benoît de Saint-Exupéry

Title: Executive Vice President, Contracts

*Fifth Amendment to Amended and Restated Step-In Agreement
Vertical Horizons / Bank of Utah / Airbus*

[***] Certain information in this document has been excluded pursuant to Regulation S-K, Item 601(b)(10). Such excluded information is not material and would likely cause competitive harm to the registrant if publicly disclosed.

MASTER SERVICES AGREEMENT

This Master Services Agreement (“Agreement”) is by and among the entity identified as Company in the signature block below (together with any Affiliated Entity listed on Schedule B, “Company”), and each Provider that is a signatory in the signature page below or that is a signatory in any supplemental joinder substantially in the form of Appendix 2 attached hereto (“Supplemental Joinder”) that is subsequently executed (collectively, the “Providers,” and each a “Provider”).

The Agreement will be effective as of the “Effective Date,” which shall be: January 1, 2023.

Each reference to “Provider” in the Agreement shall be to, as appropriate: (i) the applicable Member(s) with respect to Services provided by such Member(s); (ii) Elavon with respect to Services provided by Elavon or (iii) to the applicable Member(s) and Elavon collectively (in each case to the extent each is a signatory to the Agreement). Company and each Provider shall be collectively referred to as the “Parties” and individually each a “Party.” For the avoidance of doubt, references to “Parties” shall refer to, as appropriate, Company and each Provider, Company and each Member or Company and Elavon.

The Agreement consists of: this signature page; the General Terms and Conditions; Appendix 1 – Definitions; Schedule A – Fee Schedule; Schedule B – Affiliated Entities; Schedule C – Applicable Countries; Schedule D – Exposure Protection Schedule; Schedule E – Form of Flight Data Report; the following schedules for which the preceding box is marked with an “X”:

- Schedule F – Other Card Networks;
- Schedule G – Chargeback Services Terms;

and other schedules and any applicable Statements of Work entered into under the Agreement from time to time.

Each of the terms in schedules that are or become part of the Agreement are incorporated herein by reference.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the Parties have caused the Agreement to be executed and attested to by their duly authorized officers as of the day and year written.

COMPANY, on behalf of itself and each Affiliated Entity, if any, listed on Schedule B

FRONTIER AIRLINES HOLDINGS, INC.

By (Print Name): Howard Diamond

Address:

Signature: /s/ Howard Diamond

—

Title: General Counsel

—

Date: 4/26/2023

(name of Month, day, year)

Attention:

Company is receiving processing services for transactions conducted in the United States of America.

U.S. BANK NATIONAL ASSOCIATION

By (Print Name): Brett Turner

Signature: /s/ Brett Turner

Title: Its Authorized Representative

Date: 4/25/2023

(name of Month, day, year)

Company is receiving processing services for VISA transactions conducted in Canada and the Provider below is a Party to the Agreement for all purposes.

U.S. BANK NATIONAL ASSOCIATION, acting through its Canadian branch

By (Print Name): Brett Turner

Signature: /s/ Brett Turner

Title: Its Authorized Representative

Date: 4/25/2023

(name of Month, day, year)

Company is receiving processing services for MasterCard transactions conducted in Canada and the Provider below is a Party to the Agreement for all purposes.

ELAVON CANADA COMPANY

By (Print Name): Brian Mahony

Signature: /s/ Brian Mahony

Title: Its Authorized Representative

Date: 4/26/2023
(name of Month, day, year)

Company is receiving services provided by Elavon.

ELAVON INC.

By (Print Name): Brett Turner

Signature: /s/ Brett Turner

Title: Its Authorized Representative

Date: 4/25/2023
(name of Month, day, year)

GENERAL TERMS AND CONDITIONS

1. **Defined Terms.** Capitalized terms used in the Agreement will have the meanings stated in Appendix 1.
2. **Scope of Agreement.** The Agreement governs Company's receipt and use of the Services provided for in the Schedules hereto. In addition to the terms of the Agreement, Company agrees to comply with the applicable provisions of the Operating Guide in all material respects (provided, that all references in the Operating Guide that refer to "Elavon" will be deemed to refer to Providers) and any Documentation that Provider provides to Company in writing from time to time that is applicable to the Services. The parties agree and acknowledge that this Agreement is non-exclusive.
3. **Affiliated Entities.** Company's Affiliated Entities may use the Services so long as they comply with all restrictions, obligations, and requirements imposed on Company. Company will remain fully responsible for any use of the Services by any Affiliated Entities, will cause Affiliated Entities that use the Services to comply with the terms and conditions of the Agreement, and will be liable for the acts and omissions of each Affiliated Entity with respect to their use of the Services hereunder, in each case, as though each Affiliated Entity were Company. Affiliated Entities may not directly enforce the terms of the Agreement against Provider, and any enforcement by Provider related to acts or omissions of any Affiliated Entities must be brought exclusively to and through Company. The Parties may add Affiliated Entities to Schedule B after the Effective Date by substituting a new Schedule B that is in writing and signed by Company. Company will promptly notify Provider in writing if any entity on Schedule B no longer qualifies as an Affiliated Entity that Company allows to use the Services. For any acts or omissions of an Affiliated Entity giving rise to a termination right by Provider, Provider may terminate the Agreement with respect to (i) only such breaching Affiliated Entity, or (ii) Company and all Affiliated Entities. Any termination of the Agreement as to Company will result in the termination of the Agreement with respect to Affiliated Entities.
4. **Term and Termination.**
 - 4.1. **Term.** The initial term of the Agreement will be as specified in Schedule A, and thereafter shall automatically renew for successive renewal terms each in the length specified in Schedule A (if any)
 - 4.2. **Termination.** The provisions of this Section 4.2 shall apply if any Party hereto shall commit a material default in the performance of its obligations under the Agreement, including any of the defaults specified in this Section 4.2 as reasons for termination of the Agreement.
 - (a) Company may terminate the Agreement on [***] written notice to Provider (i) if Provider shall commit a material default under the Agreement and shall fail or refuse to remedy such material default within [***] after receipt of written notice specifying the nature of such default, or to commence to remedy such material default within such period if the same is curable but cannot reasonably be remedied within such period, or shall fail to complete within [***] after receipt of such written notice any remedy commenced during the original [***] notice period, or (ii) the occurrence of any Insolvency Event involving the Provider.
 - (b) [Reserved]
 - (c) Provider may terminate the Agreement without notice to Company upon (i) Company's commitment of or participation in any material systematic, systemic or recurring fraudulent activity which is directed or approved by senior management of Company (ii) Company's failure to notify Provider of the occurrence of a material default in accordance with Section 10.5 and such failure remains uncured for a period of [***], or (iii) the occurrence of any Insolvency Event involving the Company.

- (d) Provider may terminate the Agreement on [***] written notice to Company if:
- (i) Company (i) fails to maintain those licenses, permits and certificates necessary for it to conduct flight operations in the United States and Canada or (ii) materially breaches any requirement of any Payment Network Regulations, and in each instance Company fails or refuses to remedy any of the foregoing defaults within [***] after receipt by Company of written notice from Provider specifying the nature of such default, or to commence to remedy such default within such period if the same is curable but cannot reasonably be remedied within such period, or shall fail to complete within [***] after receipt of such written notice any remedy commenced during the original [***] notice period.
 - (ii) Any representation or warranty expressly set forth in this Agreement or in any certificate provided under this Company made by Company proves to be incorrect when made in any material respect, to the extent such default is curable, and Company fails or refuses to remedy such default within [***] after receipt by Company of written notice from Provider specifying the nature of such default, or to commence to remedy such material default within such period if the same is curable but cannot reasonably be remedied within such period, or shall fail to complete within [***] after receipt of such written notice any remedy commenced during the original [***] notice period.
 - (iii) Any of the following occurs: (A) the imposition, or an attempted imposition, of a freeze or lien in favor of any person other than Provider, whether voluntary or involuntary, that is legally superior in priority or right of possession, in each case, on the Deposit or any portion thereof or any property of Company subject to the lien or security interest of Provider or any other Secured Party pursuant to the Agreement; (B) the imposition of any material restriction on or material impairment of any of Provider's rights under the Agreement, in each case, specific to Company and directly resulting from acts or omissions of the Company hereunder, including any restriction of the rights with respect to the Deposit provided pursuant to the Exposure Protection Schedule; or (C) failure by Company to pay any of the Obligations when due or required pursuant to the Agreement; (D) Company commences any legal proceeding against Provider relating to the Agreement or the processing services provided hereunder; or (E) for any calendar week, less than [***] of the Sales Records delivered by Company for processing hereunder that constitute sales of flights consist of Tested Sales; provided, that, Provider shall not terminate the Agreement pursuant to this Section 4(d)(iii) if Company cures such default within [***] after receipt of written notice from Provider specifying the nature of such default.
 - (iv) Company shall commit any other material default under the Agreement and shall fail or refuse to remedy such material default within [***] after receipt of written notice specifying the nature of such default, or to commence to remedy such material default within such period if the same is curable but cannot reasonably be remedied within such period, or shall fail to complete within [***] after receipt of such written notice any remedy commenced during the original [***] notice period.
- (e) No waiver of any provision hereunder shall be binding unless such waiver shall be in writing and signed by the Party alleged to have waived such provisions
- (f) If Company is receiving Professional Services, Provider and Company will have the termination rights set out in Schedule 1 or any related Schedules or Statements of Work for the applicable Professional Services.
- (g) Company acknowledges that Provider may take up to [***] following Provider's receipt of written notice of termination to complete processing of Transactions submitted to it, and that Chargebacks may be submitted after that time, and that refunds may be

submitted after that time and Provider may decide to process them. All obligations of a Party regarding Transactions serviced prior to termination or afterward as described above will survive termination.

- (h) For the avoidance of doubt: (i) if multiple Members are Parties to the Agreement, termination or expiration of the Agreement with respect to one Member will not automatically result in termination of the Agreement with respect to other Members; (ii) if Elavon is a Party to the Agreement, termination or expiration of the Agreement with respect to Professional Services will not automatically result in termination of the Agreement with respect to Processing Services; and (iii) if Elavon is a Party to the Agreement, termination or expiration of the Agreement with respect to Processing Services will result in automatic termination of the Agreement with respect to all Professional Services.
- (i) Provider may modify the Services (other than Processing Services) or particular components of the Services (other than Processing Services) from time to time and will use commercially reasonable efforts to notify Company of any material modifications. If Provider ceases to make a Service (other than Processing Services) selected by Company generally available to its airline customers (a “Discontinued Service”), Provider may cease providing such Discontinued Service to Company on the date that is [***] after the date that Provider provides Company advance written notice of such Discontinued Service. Provider will not be liable to Company or to any third party for any modification or discontinuance of such Services as described in this Section 4.2(i).
- (j) If Company terminates the Agreement before the end of the Initial Term (except for termination for Provider’s uncurd default as stated in Section 4.2(a)), termination pursuant to Section 4.2(c) or (d), discontinuance of Discontinued Services as stated in Section 4.2(i) or as a result of fee increases as stated in Section 17.3), as Provider’s exclusive recourse for such termination Company will immediately pay Provider an Early Termination Fee. Company acknowledges that the Early Termination Fee is not a penalty, but rather a reasonable estimate of the damages Provider sustained because of Company’s termination of the Agreement before the end of the Initial Term. “Early Termination Fee” means an amount equal to the sum of: (i) the greater of (A) the [***], and (B) [***]. If Company terminates the Services provided by one or more Providers before the Initial Term, subject to the exceptions set forth above, the Company shall pay an Early Termination Fee based solely upon the fees due and that would be due with respect to the Services provided by the terminated Provider or Providers.

5. Authorized Users; Access; Security of Passwords and User IDs.

- 5.1. Company will be responsible for the distribution of all passwords and user IDs issued in connection with the Services, if any (“Credentials”) to any Authorized User and for maintaining the confidentiality and security of Credentials. Company will ensure that the access granted to each Authorized User to the Services is limited to only the access and information necessary for the Authorized User to perform his or her job functions on behalf of Company (Least Privilege Access). Company agrees to take such Commercially Reasonable Efforts to ensure that all Authorized Users will be trained and qualified to access and use the Services in accordance with the terms of the Agreement, the Operating Guide and any Documentation. Company is responsible for its Authorized Users’ compliance with the terms of the Agreement, the Operating Guide and the Documentation, for all acts or omissions of the Authorized Users, and for all use of any Credentials other than by Provider or Provider’s third party contractors or use by third parties of user IDs and passwords obtained by such third parties from Provider or Provider’s third party contractors.
- 5.2. Company will not, and the Company is responsible for ensuring that its Authorized Users do not:
 - (a) Access or use the Services for any purposes other than for the Company’s own internal business purposes as disclosed to Provider in writing (except as authorized in writing by Provider);

- (b) Modify, reverse engineer, disassemble or decompile any part of the Services or Provider Materials;
 - (c) Knowingly transmit any data that contains software viruses, time bombs, worms, Trojan horses, spyware, disabling devices, malicious code, or other harmful or deleterious computer code, files or programs to or through the Services; provided, that Company will use commercially reasonable measures (at least industry standard) to screen for the foregoing;
 - (d) Interfere with or disrupt the servers or networks connected to or providing the Services;
 - (e) Remove, change or obliterate the copyright, trademark or other proprietary protection legends or notices that appear in connection with access to and use of the Services or any Provider Materials; or
 - (f) Copy, re-sell, republish, download, frame or transmit the Services or Provider Materials, including in order to act as a consultant for any third party or, unless otherwise permitted under the Agreement, as a service bureau, outsourcing or application service provider for any third parties, or otherwise allow any third party to use or access the Services.
- 5.3. Company is responsible for changing Credentials if it believes that any of those Credentials have been stolen or might otherwise be misused and for disabling any Authorized User's Credentials promptly upon the termination of employment of such Authorized User or the cessation of such Authorized User's need to access the Services. Company will promptly notify Provider if Company believes the Services or Provider's databases have been compromised by use of Credentials associated with the Services.

6. Compliance with Laws and Payment Network Regulations.

- 6.1. **General.** Provider and Company will comply with all Laws in all material respects and Payment Network Regulations applicable to the selected Services where such services are provided.
- 6.2. **Anti-Corruption Laws; Sanctions.** Company acknowledges that Provider cannot provide products or services to Company or its Customers hereunder during such time that Company is in material contravention of Anti-Corruption Laws, applicable Sanctions or other Laws (a) of the United States of America (including the Laws promulgated by OFAC or the United States Department of the Treasury or any successor thereto) or (b) any other government authority of any other jurisdiction applicable to Provider; provided, that performance by Provider is excused under this clause (b) only in such other jurisdictions while such contravention has occurred and is continuing. Each of Company and its subsidiaries shall comply in all material respects with all Anti-Corruption Laws and applicable Sanctions, and will obtain all permits, licenses and approvals required by such laws, copies of which will be promptly provided to Provider upon request.
- 6.3. **Confirmation of Compliance.**
- (a) Company acknowledges and agrees that certain Laws may require that Company and its subsidiaries affirmatively cooperate with Provider to confirm compliance by Company and its subsidiaries with Laws. Among other things, this may involve actions required by the Company that include: (i) adopting and implementing policies and procedures to achieve an acceptable level of compliance with Laws; (ii) training for employees, agents and representatives; and (iii) cooperating with Provider or governmental officials in the investigation of possible violations of Laws. For purposes of clarity, Company acknowledges that an acceptable level of compliance required hereunder may change from time to time.
 - (b) Upon prior written request, Company will deliver to Provider all documents Provider reasonably deems necessary to verify Company's compliance with Laws (including without limitation Anti-Corruption Laws and applicable Sanctions) and Payment Network Regulations.

6.4. Export Laws Compliance.

- (a) **U.S. Export Laws.** To the degree applicable: (1) Company will comply with all United States export Laws governing the export and re-export of hardware, software or technology applicable to the Services and Equipment, including United States Department of State International Traffic In Arms Regulations (ITAR), United States Foreign Corrupt Practices Act, United States Commerce Department's Export Administration Regulations, OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and Laws promulgated by OFAC or the United States Department of the Treasury or any successor thereto;; (2) Company will not, and will not make any demands that require Provider to, export, directly or indirectly, any technical data pursuant to the Agreement or any product using any such data to any country for which the United States Government or any agency thereof at the time of export requires an export license or other governmental approval without first obtaining such license or approval.
- (b) **Canada Export Laws.** To the degree applicable, Company agrees that at such time that it commences and continues to conduct commercial flight operations to or from Canada (1) Company will comply with all Canadian export Laws, including the list and guide maintained by Export Controls Division of Foreign Affairs, Trade and Development Canada, the Corruption of Foreign Public Officials Act (Canada) and OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, governing the export and re-export of hardware, software or technology applicable to the Services and Equipment; and (2) Company will not, and will not make demands to require Provider to, export, directly or indirectly, any technical data pursuant to the Agreement or any product using any such data to any country for which the Canadian government or any agency thereof at the time of export requires an export license or other governmental approval without first obtaining such license or approval. Provider acknowledges and agrees that as of the date hereof the Company does not conduct flight operations to Canada and may never do so during the term of the Agreement. Company makes no representation, warranty or assurance as to its past, present or future operations with or into or from Canada.

- 6.5. **Customer Identification.** To help the United States Government fight the funding of terrorism and money laundering activities, federal law requires financial institutions and their affiliates to obtain, verify, and record information that identifies each person who opens an account. Accordingly, Company will provide certain information and identifying documents requested by Provider to allow Provider to identify Company.

7. Confidentiality; Data Security and Use.

7.1. Confidentiality.

- (a) **Confidential Information Generally.** Each Party will protect the confidentiality and security of the other Party's Confidential Information disclosed to it from unauthorized disclosure, publication, or dissemination with the same standard of care and discretion it employs with similar information of its own, but in no event less than reasonable care, and will not use, reproduce, distribute, disclose, or otherwise disseminate Confidential Information of the other Party disclosed to it except in connection with the performance of its obligations or rights under the Agreement or as permitted by the Agreement. The Receiving Party acknowledges that any breach of this Section 7.1 by the Receiving Party may result in irreparable harm to the Disclosing Party for which monetary damages may not provide a sufficient remedy. The Disclosing Party may seek both monetary damages and equitable relief with respect to any such breach without any obligation to post a bond.
- (b) **Disclosure of Confidential Information.** If the Receiving Party or its agents become legally required or compelled (by any publicly filed and noticed deposition, interrogatory, request for documents, civil subpoena, civil investigative demand or by any similar process or court or administrative order, or by any regulatory authorities having jurisdiction over the Receiving Party) to disclose Confidential Information, then the

Receiving Party if permitted will provide the Disclosing Party with prompt prior written notice of such legal requirement so that the Disclosing Party may seek a protective order or other appropriate remedy. If the Disclosing Party does not obtain a protective order or other remedy, the Receiving Party agrees to disclose only that portion of the Confidential Information which the Receiving Party is legally required to disclose and to use reasonable efforts to obtain assurances that confidential treatment will be accorded such Confidential Information. Neither Party will be obligated to notify the other of the receipt of any non-public or confidential investigative demand, summons, or grand jury subpoena or other similar process that requires confidentiality on the part of the applicable Party, or of any request from a regulatory body exercising supervisory jurisdiction over such Party, or to the degree providing such notice would be prohibited by Laws. A Party shall not incur any liability to the other Party by reason of any disclosure permitted by this Section 7.1(b).

- (c) **Obligations.** Receiving Party shall use commercially reasonable efforts to assure that the Confidential Information disclosed regarding the Agreement, the Payment Network Regulations and information about Disclosing Party's operations, affairs and financial condition, may not generally be disclosed to the public or to trade and other creditor and shall be used only for the purposes of the Agreement, and any other relationship between Provider and Company and shall not be divulged to any person other than Company, its affiliates and their respective officers, directors, employees and agents that have a need to know consistent with the use of such information that is authorized under the Agreement, except: (a) to their attorneys, accountants and professional advisors in connection with the Agreement; (b) for due diligence purposes in connection with significant transactions or dealings involving Company and that are outside the ordinary course of Company's business, including investments, acquisitions or financing, to other potential parties to such dealings or transactions or their professional advisors, subject to confidentiality agreements no less protective than these confidentiality provisions and redaction of such information as Provider may deem proprietary to Provider; or (c) in connection with the enforcement of the rights of Company hereunder or otherwise in connection with applicable litigation. Company shall not incur any liability to Provider by reason of any disclosure permitted by this Section 7.1(c).
- (d) **Company Information.** Notwithstanding anything in Section 7.1: (1) Company hereby authorizes Provider to disclose to the applicable Payment Networks Company's name and address and any and all other information as may be required pursuant to any Payment Network Regulations, and to list Company as one of its customers, (2) upon Company's prior written consent, Company hereby authorizes Provider to use the name and logo of Company in marketing Provider's products and services to other parties, and (3) any Confidential Information or other information regarding Company, its principals, Affiliates, or agents that Provider obtains in connection with the Agreement (including information about Company and its operations, affairs and financial condition not generally disclosed to the public or to trade and other creditors) may be (to the degree necessary, appropriate and allowed under Laws, and provided that any recipients who are not subject to a statutory duty of confidentiality have agreed to maintain such data in confidence in accordance with terms not less stringent than those set forth in the Agreement):
- (i) Used by Provider and its Affiliates, third party contractors, agents, employees and referral partners (a) to provide the Services and related functions to Company and to respond to any further application for Services, (b) for administrative purposes related to the provision or payment of the Services, including to maintain Company's account pursuant to the Agreement (including, where applicable, conducting identity checks on Company and where relevant, Company's officers, directors and controlling shareholders, and to conduct, monitor and analyze Provider's business or those of its Affiliates), (c) for Provider's internal fraud and compliance monitoring, (d) to conduct, monitor and analyze Provider's business or those of its Affiliates, (e) for due diligence purposes in connection with significant transactions or dealings involving Provider and that are outside the ordinary course of Provider's business,

including investments, acquisitions or financing, to other potential parties to such dealings or transactions or their professional advisors, subject to confidentiality agreements no less protective than these confidentiality provisions, (f) in connection with the enforcement of the rights of Provider hereunder or otherwise in connection with applicable litigation, (g) to market and sell to Company products and services offered by Provider or its Affiliates or (h) for obtaining financing for Provider's business, or negotiations in connection with that purpose;

- (ii) Disclosed by Provider to its attorneys, accountants or other professional advisors in connection with any of the forgoing;
- (iii) Disclosed and shared by Provider for reporting purposes to credit rating agencies and to the financial institution where the Settlement Account is maintained;
- (iv) Disclosed by Provider to regulatory bodies exercising supervisory jurisdiction;
- (v) Used by Provider to enhance or improve Provider's products or services hereunder;
- (vi) Used or disclosed by Provider to third party investors or potential investors in Provider or its Affiliates for due diligence purposes in the event of the proposed sale, disposal, merger or transfer of the business of Provider or its Affiliates or in the event of any reorganization or other change to the business of Provider or its Affiliates;
- (vii) Collected, used and disclosed by Provider as required by Laws (e.g., for tax reporting or in response to a subpoena) or by the Payment Network Regulations; and
- (viii) Retained for such periods of time as Provider requires to perform its obligations and exercise its rights under the Agreement.

Provider shall not incur any liability to Company by reason of any disclosure permitted by this Section 7.1(d).

- (e) **Duration of Obligations.** The non-disclosure obligations in this Section 7.1 will continue (i) with respect to Confidential Information that does not constitute a trade secret, for three (3) years following termination, and (ii) with respect to Confidential Information that is a trade secret under Laws, for the longer of three years after termination and such period as the information retains its status as a trade secret under Laws.
- (f) **Obligations on Termination.** At the request of the Disclosing Party upon the termination of the Agreement, the Receiving Party will promptly delete or return to the Disclosing Party all originals and copies containing or reflecting any Confidential Information of the Disclosing Party (other than those required to be retained by Law, Payment Network Regulations or the Receiving Party's information retention policies, or that would be unreasonably burdensome to destroy, such as archived computer records). If a dispute arises between the Parties in relation to the Confidential Information or the Agreement, the Receiving Party may retain a copy of such Confidential Information as the Receiving Party reasonably determines is necessary for its defense of the dispute. In all cases, any retained Confidential Information will continue to be subject to the terms of the Agreement.

7.2. Data Security and Use.

- (a) **Security Programs Compliance.** Each Party will comply with the applicable requirements of the Security Programs.

- (b) **PCI-DSS Attestation.** Company may review Provider's current PCI-DSS compliance status on the Payment Network websites as available. Provider will undergo an annual assessment of its compliance with the Security Programs and, if applicable to the Services provided under the Agreement, the Payment Application Data Security Standards. At Company's written request, Provider will provide to Company a written attestation of Provider's updated/renewed compliance with the security requirements related to Cardholder Data promulgated by the Payment Card Industry Security Standards Council.
- (c) **Provider Data Breach.** If Provider suffers a Provider Data Breach, then it agrees to comply with all Laws and Payment Network Regulations with respect to such Provider Data Breach, including providing the legally required reporting and forensic audits to the Payment Networks. Provider will not pass-through or require Company to be liable to Provider for any fees, fines, penalties, assessments, or charges levied against Provider by the Payment Networks in connection with a Provider Data Breach. Unless otherwise required or directed under Law, the Payment Network Regulations, or a Payment Network, Provider will not (i) contact or inform any Customer of whose data may have been the subject of a Provider Data Breach of the occurrence of the Provider Data Breach, or (ii) publicly disclose that information provided by Company to Provider was the subject in any part of a Provider Data Breach. If Provider is legally obligated or the Payment Network Regulations or Payment Networks require Provider to contact Customers as part of a Provider Data Breach, Provider will limit the notices to such Customers to those required by the legal obligation, the Payment Network Regulations, or the Payment Networks, or as approved by Company. In case of a confirmed Provider Data Breach then Provider must notify Company promptly, but no later than [***]; provided, however, failure to comply with this notice requirement shall not be a material breach.
- (d) **Protected Information.**
- (i) Each Party will ensure the security of Cardholder Data, Transaction Information and other information by which individuals may be identified (collectively, "Protected Information") in accordance with all Laws and Payment Network Regulations and the Agreement. Each Party shall: (1) treat Protected Information as confidential information and protect such materials from disclosure to any third person, except as expressly permitted in the Agreement. And use reasonable measures to prevent the unauthorized processing, capture, transmission and use of Protected Information; and (2) at all times only store, process, transmit and use Protected Information in accordance with the requirements of any applicable data processing laws and Payment Network Regulations. Provider and Company shall retain Protected Information for the duration required by Laws and the Payment Network Regulations and thereafter will destroy, in a manner that will render the information unreadable, all such information that is no longer necessary or appropriate to maintain for ordinary business purposes.
 - (ii) Company's processing of any personal data within the meaning of applicable data protection legislation ("Personal Data") received by it in performance of the Agreement shall comply with applicable data protection legislation and all Laws.
 - (iii) Company will not disclose Protected Information to any third party without the consent of the Cardholder, except to a Service Provider, or as otherwise permitted by Laws and the Payment Network Regulations. Company will not retain or store magnetic stripe or CVV2/CVC2/CID data after authorization for any purpose. After authorization, Company will retain only the Customer account number, name, and card expiration date if Company has a reasonable business purpose to retain such information and is otherwise in compliance with the Agreement. If there is a failure or other suspension of Company's business operations, including any Insolvency Event involving Company, Company will

not sell, transfer, or disclose Cardholder Data or Transaction Information to third parties, and Company will (a) return this information to Provider, or (b) provide acceptable proof of destruction of this information to Provider.

- (iv) Provider acknowledges that Company may collect information about Company's Customers as part of a Company sales transaction (e.g., price paid, time, store identifier, SKU information) regardless of the Customer's payment type and not in connection with the Services, and that the Agreement does not restrict Company's retention, use or disclosure of such information even though some of that information may overlap with elements of Transaction Information.
- (v) Company and Provider each acknowledge and agrees that Personal Data provided by Company may be transferred outside of the United States, Canada or the European Economic Area (as applicable) for any purpose authorized by the Agreement, provided that proper precautions to maintain the confidentiality of the Personal Data are taken.
- (vi) Company acknowledges that some of Provider's affiliates, service providers or other third parties are located outside of the jurisdiction(s) where Provider's operations are located. Company acknowledges that as a result of the foregoing, Personal Data may be accessible to regulatory authorities in accordance with the Laws of these jurisdictions. Provider agrees to use commercially reasonable efforts to maintain physical, electronic, and procedural safeguards that comply with Laws in applicable jurisdictions with respect to safeguarding Personal Data, and Provider agrees to maintain data breach insurance policies for the same. Subject to Laws in any applicable jurisdiction, Provider shall require third parties to whom it discloses Personal Data to protect the information in a manner that is consistent with this Agreement.
- (vii) Notwithstanding anything in the Agreement to the contrary, any Protected Information that Provider obtains in connection with the Agreement may be:
 - (1) Used and disclosed by Provider and its Affiliates, third party contractors, agents and employees to provide the Services and related functions to Company and solely for the purpose of performing under the Agreement and in compliance with the Payment Network Regulations and applicable requirements of Laws;
 - (2) Disclosed to Company's agents, employees and representatives, network providers or Card processors for the purpose of assisting Company in completing the Transaction;
 - (3) Collected, used and disclosed by Provider as required by Laws or by the applicable Payment Networks or Issuers in compliance with the Agreement and the Payment Network Regulations; and
 - (4) Retained for such periods of time as Provider requires to perform its obligations and exercise its rights under the Agreement.

8. Third-Party Services

- 8.1. Company has disclosed in writing to Provider all Third-Party Services being provided to Company and will disclose in writing to Provider any new Third-Party Services to be provided to Company after the Effective Date prior to using the same. All Third-Party Services shall comply with all applicable requirements of Laws, the Payment Network Regulations and the Agreement, including PCI. Company will comply with the requirements of PCI and any modifications to, or replacements of PCI that may occur from time to time, be liable for the acts and omissions of each third party offering such Third-Party Services and will be responsible for ensuring compliance by the third party offering such Third-Party Services with all applicable requirements of Laws, the

Payment Network Regulations and the Agreement, including PCI. Company will indemnify and hold harmless Provider from and against any loss, cost, or expense incurred in connection with or by reason of Company's use of any Third-Party Services. Provider will not be responsible for the Third-Party Services not provided by it nor shall Provider be responsible for any Transaction until it receives data for the Transaction in the format required by it and uses such data in connection with processing performed by it under the Agreement.

- 8.2. If Company uses Third-Party Services for the purposes of data capture, electronic submission or authorization, Company agrees: (a) that the third party providing such services will be its agent in the delivery of Transactions to Provider via a data processing system or network similar to Provider's; and (b) to assume full responsibility and liability for any failure of that third party to comply with applicable requirements of Law and the Payment Network Regulations or the Agreement. Provider will not be responsible for any losses or additional fees incurred by Company as a result of any error by a third party agent or by a malfunction in a third party Terminal. Provider is not responsible for any Transaction until it receives data for the Transaction in the format required by it and Provider uses such data in connection with processing performed by it under the Agreement.
- 8.3. If required by Provider, Company will cause each provider of Third-Party Services and applicable Company Resource to undergo testing, approval and certification by Provider before Company uses such provider in connection with accessing or using the Services which shall not be unreasonably withheld, conditioned, or denied. Company will use Commercially Reasonable Efforts to ensure that each provider of Third-Party Services or Company Resource maintains certification and compatibility with the Services and that each provider of Third-Party Services and Company Resource is fully compliant with all Laws, Payment Network Regulations, and Security Programs. Failure of Company's systems, including Company's point-of-sale system or property management system, or any provider of Third-Party Services systems to maintain certification under this section or to be compatible and function with the most recent version of the Services as provided by Provider, Provider is excused from all liability and all of its obligations under the Agreement to the extent that Provider's provision of the Services is impaired by such failure, and such failure shall not be considered a material breach of the Agreement on the part of Company.
- 8.4. Provider may suspend access to or ability to integrate with Provider's products, services, and systems of any provider of Third-Party Services immediately without prior notice if the suspension results from:
 - (a) such Third Party's breach of any Laws, Payment Network Regulations or the Agreement,
 - (b) the requirement of any court order or Payment Network or application of Payment Network Regulations to the Services,
 - (c) Provider's reasonable determination that such Third Party poses an unacceptable security risk to Provider, Company or any Payment Network, or
 - (d) such Third Party's failure to maintain certification to Provider or the expiration or termination of any agreement between Provider and such provider specific to certification requirements to Provider with respect to the Services.

Promptly following any permitted suspension of services under this Section 8.4, Provider shall promptly notify Company of such suspension and the basis thereof, in reasonable detail.

- 8.5. In the event Company uses a third party to provide or otherwise manage its passenger service system (a "PSS Provider"), Company will notify such PSS Provider that Provider has an interest in the information in the possession of such PSS Provider concerning travel services that are the subject of Transactions, and the Company shall, at the request of Provider, make such information available to Provider, even after Company ceases to provide air transportation services during the term hereof or an Insolvency Event has occurred with respect to Company. At Provider's request,

Company shall use Commercially Reasonable Efforts to require that its PSS Provider provide written evidence to Provider of its agreement to the requirements of this Section 8.5.

- 8.6. Provider may use third party contractors in connection with the performance of its obligations under the Agreement. Provider will be responsible for the performance of its obligations hereunder notwithstanding any use of or delegation of any responsibility to any Provider third party contractor. Provider is responsible for any violations of the Agreement that result from the acts or omissions of its third party contractors in connection with those obligations delegated by Provider as permitted hereunder.

9. Assessment and Audit.

- 9.1. Provider agrees to engage independent, qualified, external auditors (the "Provider Auditors") from time to time to assess the internal controls and information security measures in place related to the Services ("Internal Controls Assessment"). The Internal Controls Assessment will conform with Laws, applicable Payment Network Regulations and industry standards, including generally accepted auditing standards such as the Statement on Standards for Attestation Engagements Number 16 "Reporting on Controls at a Service Organization" issued by the Auditing Standards Board of the American Institute of Certified Public Accountants (the "SSAE 16"). The frequency of the Internal Controls Assessment will be consistent with industry standards. Upon Company's written request, but not more frequently than [***], Provider will provide an electronic copy of its most recent SSAE 16 SOC 1 report, which will be deemed Provider's Confidential Information.
- 9.2. If Provider reasonably suspects that it is subject to a financial or reputational risk due to Company's acts or omissions, Provider shall provide written notice specifying in reasonable detail Provider's basis hereunder and provide an opportunity for the Parties to discuss Provider's reasonable suspicion and desire to perform an audit. Notwithstanding the foregoing, Company authorizes Provider and its agents to perform an audit or inspection of Company's operations and records to confirm Company's compliance with the Agreement upon reasonable advance notice, during normal business hours, and at Provider's expense (unless Provider reasonably determines based on such audit that Company is not in compliance with the Agreement, in which case Company will bear the cost). Company agrees to maintain complete and accurate records of its performance under the Agreement. Company will execute and deliver to Provider all documents Provider reasonably deems necessary to verify Company's compliance with Section 6.
- 9.3. In the event of reasonable suspicion that Company or any of its officers, employees or agents are involved in any fraudulent or unlawful activity connected with the Agreement, Provider shall provide written notice specifying in reasonable detail Provider's basis hereunder, and Provider shall have the right to inspect Company's Transaction records relating to the Agreement, in connection with which Company authorizes Provider and its authorized agent(s) to examine or audit such records.
- 9.4. (a) If Provider reasonably suspects that Company is not in compliance with Laws or that Provider is not or will not be in compliance with Laws due to Company's acts or omissions, Provider shall provide written notice specifying in reasonable detail Provider's basis hereunder, and Company authorizes Provider and its agents to perform an audit or inspection of Company's operations and records to determine such compliance upon reasonable advance notice, during normal business hours, and at Provider's expense (unless Provider reasonably determines based on such audit that Company is not in compliance with Laws or that Provider is not or will not be in compliance with Laws due to Company's acts or omissions, in which case Company will bear the cost). Company agrees to cooperate, in good faith, with any such audit. (b) If Company reasonably suspects that Provider is not in compliance with Laws in providing the Services hereunder or that Company is not or will not be in compliance with Laws due to Provider's acts or omissions, Company shall provide written notice specifying in reasonable detail Company's basis hereunder, and unless Provider otherwise objects to Company's assessment the Provider shall be deemed to have authorized the Company and its agents to perform an audit or inspection of those operations and records of Provider related to the Services in question to determine such compliance upon reasonable advance notice, during normal business hours, and at Company's expense (unless Company reasonably determines based on such audit that Provider is not in compliance with Laws or that Company is not or will not be in compliance with Laws due to Provider's acts or

omissions, in which case Provider will bear the cost). Provider agrees to cooperate, in good faith, with any such audit.

- 9.5. During the term hereof and for [***] thereafter, Company and Provider shall have the right at reasonable times and upon reasonable notice to audit, copy or make extracts of the records of the other pertaining to the transactions between or among them under the Agreement to determine the accuracy of the amounts that have been or are to be paid, refunded or credited by one Party to the other in accordance with the provisions of the Agreement.
 - 9.6. Should any review by Company of records relating to amounts that have been paid by Company in accordance with the Agreement reveal that Company was overcharged or it overpaid any amount under the Agreement with respect to the Services, Provider shall, upon receipt of such review, promptly refund and remit such overcharge and/or overpayment to Company. No such refund shall take place with respect to any amount charged or paid more than [***] before the date Provider receives notice thereof and a copy of the related review. Any such review shall be at the Company's sole cost and expense.
 - 9.7. Company shall obtain an audit from a third party acceptable to Provider, which should not be unreasonably denied, of those physical security, information security and operational facets of Company's business related to the Services and provide to Provider and, if applicable, the requesting applicable Payment Network, a copy of the audit report resulting therefrom (a) upon Provider's request, or upon the request of an applicable Payment Network, promptly following any security breach on Company's system at Company's expense, (b) at any time upon request of an applicable Payment Network at Company's expense and (c) if no security breach has occurred on Company's system, upon request of Provider, at Provider's expense; provided that, with respect to this clause (c), such an audit may not be required more than [***] per calendar year
10. **Reporting.** Until any obligation of Provider to perform hereunder shall have expired or been terminated and all obligations of Company to Provider hereunder shall have been satisfied, Company shall furnish to Provider the following reports, notices and financial statements, which shall be in English and shall be stated in United States dollars unless an alternative currency is indicated in the Agreement and all of which shall constitute Confidential Information of Company and, notwithstanding anything in Section 7.1 to the contrary, may not be shared or disclosed except for clauses (ii) and (viii) thereof.
- 10.1. Within [***] after the end of each fiscal year of Company, the consolidated financial statements of Company and its subsidiaries for the immediately preceding fiscal year, consisting of at least statements of income, cash flow and changes in stockholders' equity, and a consolidated balance sheet as at the end of such year, setting forth in each case in comparative form corresponding figures from the previous annual audit and stating Company's unrestricted cash (including cash equivalents) balance, certified without qualification by independent certified public accountants of recognized standing selected by Company and acceptable to Provider.
 - 10.2. Within [***] after the end of each fiscal quarter, consolidated statements of income, cash flow and changes in stockholders' equity for Company and its subsidiaries, if any, for such quarter and for the period from the beginning of such fiscal year to the end of such quarter, and a consolidated balance sheet of Company and its subsidiaries, if any, as at the end of such quarter, setting forth in comparative form figures for the corresponding period for the preceding fiscal year and stating Company's unrestricted cash (including cash equivalents) balance, accompanied by consolidating statements for such period and a certificate signed by the chief financial officer of Company (a) stating that such financial statements present fairly the financial condition of Company and its subsidiaries and that the same have been prepared in accordance with generally accepted accounting principles or international financial reporting standards, as applicable, and (b) certifying as to Company's compliance with all statutes and regulations applicable to Company, respectively, except noncompliance that could not reasonably be expected to have a material adverse effect on the financial condition or business operations of Company.
 - 10.3. Upon request of Provider, on or before the [***] of each month, a flight data report for the preceding month, in the form of and containing the information required by Schedule E.

- 10.4. Within [***] of one of the following officers of Company becoming aware of any cancellation of [***] or more of Company's scheduled flights during any consecutive [***] period or longer or Company publicly announcing that the same shall occur, notice thereof: Chief Financial Officer, Treasurer, Treasury Director, and Shared Services Director.
- 10.5. Within [***] one of the following officers of Company becoming aware of any material default by Company under this Agreement, a notice from Company describing the nature thereof: Chief Financial Officer, Chief Accounting Officer or Treasurer. The notice shall include a summary of actions Company proposes to take with respect to such default, subject to any confidentiality obligations that Company may have.
- 10.6. Within [***] of one of the following officers of Company becoming aware of the same, notice of any pending or threatened action, suit or proceeding at law or equity, or before or by any Relevant Authority against Company or any of its property which, if determined adversely to Company could materially adversely affect the present or prospective financial condition of Company or affect its ability to perform under the Agreement: Chief Financial Officer, Chief Accounting Officer, Chief Legal Officer or Treasurer.
- 10.7. If applicable, within [***] after any (a) termination or suspension of any Billing Settlement Plan or any other agreement that is relevant to Company's flight operations or performance under the Agreement, or any of Company's rights or benefits thereunder, or any agreement that Company has with any Relevant Authorities, (b) modification of Billing Settlement Plan or any other agreement that Company has with any Relevant Authorities in the that could materially adversely affect the present or prospective financial condition of Company or impair its ability to perform its payment obligations hereunder or (c) receipt by Company of notice from any Relevant Authorities or a Billing Settlement Plan of such Relevant Authorities' or Billing Settlement Plan's intention to terminate, suspend or modify agreement with Company, a notice from Company shall be provided to Provider of such termination, modification or receipt of notice and such information with respect to the same as Provider may request. Such notice shall be provided whether Company is a party to an agreement with any Relevant Authorities or a Billing Settlement Plan on the Effective Date or thereafter becomes party to an agreement with any Relevant Authorities or a Billing Settlement Plan.
- 10.8. Immediately upon the occurrence of an Insolvency Event involving Company, Company shall include Provider on the list and matrix of creditors filed with any insolvency authority whether or not a claim may exist at the time of filing, and provide Provider with notice thereof.
- 10.9. Promptly upon the failure to pay, whether by acceleration or otherwise, any payment obligation of Company pursuant to any aircraft lease or other financing, which failure would have a material adverse effect on the Company, notice of such failure and information concerning the amount of the obligation and the Company's good faith estimation of the actual or likely consequences of such failure.
- 10.10. Within [***] after the merger or consolidation of Company, or entry by Company into any analogous reorganization or transaction, with any other corporation, company or other entity or the sale, transfer, lease or other conveyance of all or any substantial part of Company's assets, notice of such event, including a description of the parties involved and the structure of the reorganization or transaction.
- 10.11. Immediately upon the Chief Financial Officer or Treasurer of Company becoming aware of any material adverse change in the condition or operations, financial or otherwise, of Company notice of such material adverse change.
- 10.12. Upon written request of the Provider from time to time, within [***] after the end of the month in which such request is made, a report of the dollar amount of Vouchers that have been issued but not used as of the end of such month.
- 10.13. A compliance certificate in the form of and on such terms as described in the Exposure Protection Schedule.

10.14. Such other information with respect to the financial condition and operations of Company as Provider may reasonably request.

11. **Proprietary Rights.**

- 11.1. As between Provider and Company, Provider retains all right, title and interest in and to the Services, Provider Materials, Updates, Customizations, and all Intellectual Property Rights in any of the foregoing. Company will not acquire any ownership interest or license rights (except such rights as are expressly stated in the Agreement) in or to the Services, Provider Materials, Updates, Customizations, or Intellectual Property Rights in any of the foregoing. If any right, title or interest in and to any Customization is deemed to vest in Company, Company hereby assigns and agrees to assign to Provider all worldwide right, title, and interest in and to such Customization, including all Intellectual Property Rights therein. All rights not otherwise stated in the Agreement are reserved to Provider. The rights granted to Company under the Agreement are non-exclusive and nothing in the Agreement will limit the ability of Provider to market, sell, offer for sale, license or otherwise exploit the Services, Provider Materials, Updates, Customizations or Intellectual Property Rights in any of the foregoing to any third parties or to appoint or authorize any other person or entity to do the same.
- 11.2. Except for mere reference to the name and logo of Company in presentations to other merchants for the provision of processing services by Provider, Provider shall not display or show the trademarks, service marks, logos, or company names of Company in promotion, advertising, press releases, or otherwise without first having obtained Company's written consent.
- 11.3. Company may indicate in any advertisement, display or notice that the services of a specific applicable Payment Network are available. Notwithstanding anything in the Agreement to the contrary, any use of applicable Payment Network trademarks and service marks by Company must be in compliance with the Payment Network Regulations. Company's promotional materials shall not indicate, directly or indirectly, that any applicable Payment Network or Provider endorses or guarantees any of Company's goods or services.
- 11.4. Company and Provider acknowledge that no Party hereto will acquire any right, title or interest in or to any other Party's trademarks, service marks, logos or company names and such properties shall remain the exclusive property of the respective Parties or their affiliates. Upon termination of the Agreement, the Parties hereto will discontinue all reference to or display of the other Party's trademarks, service marks, logos and company names.

12. **General Representations.**

- 12.1. **Provider Representations.** Provider represents and warrants to Company the following:
 - (a) It has full and complete power and authority to enter into and perform under the Agreement and has obtained, and there remain in effect, all necessary licenses, resolutions and filings which are necessary for it to perform its obligations under the Agreement.
 - (b) Provider has the power to execute and perform the Agreement. The person executing the Agreement is duly authorized to bind Provider to all provisions of the Agreement and such person is authorized to execute any document and to take any action on Provider's behalf which may be required to carry out the Agreement. Further, the signing and performing in accordance with the Agreement will not violate any Laws or materially conflict with any other agreement to which Provider is subject.
 - (c) Its execution and performance of the Agreement will not violate any provision of its organizational or charter documents. Further, the signing and performing in accordance with the Agreement do not violate the express terms of any other agreement to which Provider, or to Provider's knowledge, a Member is subject. The Agreement constitutes its legal, valid and binding obligation, enforceable in accordance with the terms of the Agreement.

- (d) It is duly organized and in good standing under laws of the jurisdiction of its organization and is qualified to do business in each jurisdiction where the nature of its activities or the character of its properties makes such qualification necessary or desirable and the failure to so qualify would have a material adverse effect on its assets or operations; and has all authority, qualifications, licenses and registrations necessary to perform the Services and otherwise conduct its business in compliance with all Laws and Payment Network Regulations.
- (e) Each of Provider, its subsidiaries, and their respective officers and employees and to the knowledge of Provider, its directors and agents and those of its subsidiaries, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of Provider, any subsidiary or to the knowledge of Provider any of their respective directors, officers or employees is a Sanctioned Person. Provider and its subsidiaries are in compliance in all material respects with the USA Patriot Act.
- (f) Neither Provider, or to Provider's knowledge, any Member (i) is a person whose property or interest in property is blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)), (ii) to the knowledge of any officer of Provider engages in any dealings or transactions prohibited by Section 2 of such executive order, or is otherwise, to the knowledge of any officer, associated with any such person in any manner violative of such Section 2, or (iii) is a person on the list of Specially Designated Nationals and Blocked Persons or subject to the limitations or prohibitions under any other United States Department of Treasury's Office of Foreign Assets Control regulation or executive order.

12.2. **Company Representations.** Company represents and warrants to Provider that:

- (a) Company is duly incorporated and is validly existing and in good standing under the laws of the jurisdiction in which it was incorporated, with all authority, qualifications, licenses and registrations necessary to conduct its business and perform its obligations under the Agreement, and is qualified to do business in each jurisdiction where the nature of its activities or the character of its properties makes such qualification necessary or desirable and the failure to so qualify would have a material adverse effect on its assets or operations. Company is in compliance with all Laws and Payment Network Regulations. All written information provided by Company to Provider is true and complete and properly reflects the business, financial condition and ownership of Company in all, material respects.
- (b) Company has the power to execute and perform the Agreement. The person executing the Agreement is duly authorized to bind Company and each Affiliated Entity to all provisions of the Agreement as if each Affiliated Entity had executed the Agreement, and such person is authorized to execute any document and to take any action on behalf of Company that Provider requires to carry out the Agreement. Further, the signing and performing in accordance with the Agreement will not violate any Laws, or violate the express terms of any other agreement to which Company is subject. Company has obtained, and there remains in effect, all necessary licenses and filings from and with Relevant Authorities that are necessary for Company to perform its obligations under the Agreement.
- (c) Company's execution and performance of the Agreement will not violate any provision of Company's organizational or charter documents, and the Agreement constitutes the legal, valid and binding obligation of Company, enforceable in accordance with its terms.
- (d) Company's and its subsidiaries' (if any) audited, consolidated financial statements and its unaudited, consolidated financial statements, as heretofore furnished to Provider, have been prepared in accordance with generally accepted accounting principles or international financial reporting standards, as applicable, applied on a basis consistent with those of the preceding year, and fairly present the financial condition of Company as

of such date and the result of its operations and the changes in financial position for the period then ended. There have been no material adverse changes in the condition or operations, financial or otherwise, of Company since the date of the financial statements furnished to Provider prior to the execution of the Agreement, except as previously disclosed to Provider in writing. Neither the financial statements described herein nor any other certificate, written statement, budget, exhibit or report, including information and reports relating to Card sales for Travel Costs, furnished by or on behalf of Company in connection with or pursuant to the Agreement contains any untrue statement of a material fact or omits to state any material fact necessary in order to make statements contained therein not misleading. Certificates or statements furnished by or on behalf of Company to Provider consisting of projections or forecasts of future results or events have been prepared in good faith and based on good faith estimates and assumptions of the management of Company and Company has no reason to believe that such projections or forecasts are not reasonable. All factual information hereafter furnished to Provider by Company or its agents will be true and accurate in all material respects on the date as of which such information is dated or certified and no such information will contain any material misstatement of fact or will omit to state a material fact or any fact necessary to make the statements contained therein not misleading.

- (e) There is no action, suit or proceeding at law or equity, or before or by any Relevant Authority pending or to the knowledge of Company, threatened against Company or any of its property which, if determined adversely to Company could materially adversely affect the present or prospective financial condition of Company or affect its ability to perform hereunder, and Company is not in default with respect to any final judgment, writ, injunction, decree, rule or regulation of any Relevant Authority that specifically names or is otherwise specific to Company or its operations and where the effect of such default could materially adversely affect the present or prospective financial condition of Company.
- (f) No consideration other than as set out in the Agreement has been provided by Company in return for entering into the Agreement.
- (g) Each of the Company, its subsidiaries, and their respective officers and employees and to the knowledge of the Company, its directors and agents and those of its subsidiaries, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of Company, any subsidiary or to the knowledge of any Company any of their respective directors, officers or employees is a Sanctioned Person. Company and its subsidiaries are in compliance in all material respects with the USA Patriot Act.
- (h) Neither Company nor any of its subsidiaries (i) is a person whose property or interest in property is blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)), (ii) to the knowledge of any officer of Company engages in any dealings or transactions prohibited by Section 2 of such executive order, or is otherwise, to the knowledge of any officer, associated with any such person in any manner violative of such Section 2, or (iii) is a person on the list of Specially Designated Nationals and Blocked Persons or subject to the limitations or prohibitions under any other United States Department of Treasury's Office of Foreign Assets Control regulation or executive order.
- (i) Company is obtaining and using the Services from Provider to facilitate lawful business Transactions between Company and its Customers.

13. Indemnification.

- 13.1. Providers will indemnify and defend Company, its Affiliates, and their respective employees, officers, directors, and agents against losses, damages, liabilities, fines, judgements and expenses (including all reasonable attorneys' fees) (collectively, "**Losses**") in connection with claims, actions, demands or proceedings (made or threatened) brought by a third-party ("**Claims**") arising

out of (a) Provider's breach of the Agreement; (b) Provider's or its third party contractors' gross negligence or willful misconduct; (c) Provider's or its third party contractors' violation of Laws or Payment Network Regulations; (d) subject to Section 13.3, Provider's alleged infringement or other violation of a patent, copyright or trademark of a third party by the Services in the form delivered or Company's use thereof (an "**Infringement Claim**"); or (e) any personal injury or real or tangible personal property damage to the extent caused by Provider or its third party contractors.

- 13.2. Company will indemnify and defend Providers, their Affiliates, and their respective employees, officers, directors, and agents against Losses in connection with Claims arising out of (a) any sale of goods or services resulting in a Transaction processed under the Agreement; (b) Company's breach of the Agreement; (c) all use of any user ID and password other than by Provider or Provider's third-party contractors; (d) Company's or its Service Providers' gross negligence or willful misconduct; (e) Company's; or its Service Providers' violation of Laws or Payment Network Regulations; or (f) any personal injury or real or tangible personal property damage to the extent caused by Company or its Service Providers, except that no Losses are payable by Company hereunder to the extent that Company complied with Provider's Provider Materials, Updates, or Customizations.
- 13.3. Subject to Provider's defense obligations as provided in this Section 13.3, indemnification for any Infringement Claim will be limited to [***] resulting from such Infringement Claim in a final judgment by a court of competent jurisdiction, including [***]. If any part of the Services or the use of the Services becomes, or in Provider's opinion is likely to become, the subject of an Infringement Claim, and as a result of such Infringement Claim Company's use of the Services may be enjoined or interfered with, then Provider will, at its option and expense, either, and in addition to defending Company and paying the final amount of damages as provided for in this section, (i) obtain a license for Company to continue using the alleged infringing components of the Services; (ii) modify the alleged infringing components of the Services to avoid the infringement in a manner that still permits the Services to perform in all material respects in accordance with the Agreement; or (iii) replace the alleged infringing components of the Services with compatible, functionally equivalent, and non-infringing components. Provider will use commercially reasonable efforts to accomplish the remedies identified in this section in a manner that minimizes the disruption to Company's business operations. If Provider is not able to accomplish the above remedies within a commercially reasonable time frame and on commercially reasonable terms, Provider may terminate the Agreement upon written notice to Company. Upon such termination, Provider will promptly refund any fees paid for Services not performed as of the date of termination. SECTIONS 13.3 AND 13.4 SET FORTH THE EXCLUSIVE REMEDY OF COMPANY AND THE SOLE AND COMPLETE LIABILITY OF PROVIDER WITH RESPECT TO ANY INFRINGEMENT CLAIM.
- 13.4. Provider will have no liability for any Infringement Claim to the extent caused by (i) access to or use of the Services other than as specified under the Agreement and the related Documentation, (ii) combination or use of the Services with non-Provider products or services (whether or not provided to Company by Provider), (iii) any hardware, devices, software, services or other resources not provided by Provider, (iv) failure or refusal by Company to install, implement or use any Update or correction provided by Provider, (v) modification or alteration of the Services by anyone other than Provider without Provider's prior written consent, or (vi) Company's goods or services.
- 13.5. Any Party seeking indemnification from Company will promptly notify Company of any such claim and allow Company the right to assume the defense of any such claim; provided, that, legal advisors retained by Company shall be reasonably acceptable to Provider. Provider will not settle any such claim without Company's written consent. In the event that Company does not assume the defense of any such claim, Company must assist in the collection of information, preparation, negotiation and the defense of any such claim. Nothing herein shall limit Provider's right of Chargeback pursuant the Agreement.
- 13.6. Any other provisions contained herein to the contrary notwithstanding, it is hereby agreed that the indemnity provisions set forth in this Section 13 shall survive termination of the Agreement and

remain in effect with respect to any occurrence or claim arising out of or in connection with the Agreement.

14. **Disclaimer of Warranties.** THIS AGREEMENT IS A SERVICE AGREEMENT, AND EXCEPT AS OTHERWISE EXPRESSLY STATED IN THE AGREEMENT, (A) THE SERVICES AND PROVIDER MATERIALS ARE PROVIDED "AS IS," (B) COMPANY AND PROVIDER DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, AND ANY REPRESENTATIONS OR WARRANTIES REGARDING THE SERVICES, PROVIDER MATERIALS, EQUIPMENT, SOFTWARE, DOCUMENTATION, AND COMPANY'S USE OF THIRD-PARTY SERVICES, EQUIPMENT, SOFTWARE, OR DATA TRANSMITTED IN CONNECTION WITH THE SERVICES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, ACCURACY, SATISFACTORY QUALITY, TITLE, SECURITY, NONINFRINGEMENT, UNINTERRUPTED OR ERROR-FREE USE, AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, USAGE OR TRADE.
15. **Limitation of Liability.**
 - 15.1. Neither party or its agents, officers, directors, or employees will be liable to the other party for indirect, exemplary, punitive, special, consequential or other speculative damages in connection with the Agreement under any theory of law or equity (whether in contract, tort, negligence, strict liability, by statute, or otherwise); provided, that nothing in this Section 15.1 shall limit Company's liability for any Early Termination Fee.
 - 15.2. Company acknowledges that fees for the Services are very small in relation to the funds conditionally credited to Company for Transactions, and, consequently, Provider's willingness to provide these Services is based on the liability limitations contained in the Agreement. Therefore, Provider's aggregate liability for any Losses, regardless of the form of action, arising out of the Agreement or Provider's performance or non-performance of Services under any theory of law or equity (whether in contract, tort, negligence, strict liability, by statute, or otherwise), will not exceed, in the aggregate, the greater of (a) [***], and (b) [***].
 - 15.3. Notwithstanding the limitations set forth in Section 15.2 and the disclaimers in Section 15.1, Provider will be liable to Company for Company's documented and incurred Provider Data Breach Losses, up to an aggregate amount not to exceed the greater of (a) [***], and (b) [***]. The foregoing limitation will not apply to Losses arising out of Elavon's gross negligence, willful misconduct, or fraud. NOTWITHSTANDING ANYTHING IN THE AGREEMENT TO THE CONTRARY, SECTION 7.2(c) AND THIS SECTION 15.3 SET FORTH COMPANY'S EXCLUSIVE REMEDY AND THE SOLE AND COMPLETE LIABILITY OF PROVIDER WITH RESPECT TO DAMAGES, PENALTIES, COSTS, EXPENSES, OR LOSSES ARISING FROM A DATA BREACH.
16. **Costs and Expenses.** Each Party hereto shall reimburse the other Party for all costs and expenses, including reasonable attorneys' fees and expenses of outside counsel such other Party actually paid by such other Party in connection with the enforcement or preservation of such Party's rights hereunder. All costs and expenses to be paid hereunder shall be payable on demand. Costs and expenses to be paid by Company to Provider: (a) are secured by the Deposit and all collateral pledged to Provider hereunder; and (b) Provider, at its option, may deduct the amounts owed to it from any amount otherwise due Company from Provider or apply, set off against or recoup from the Deposit such amount necessary to satisfy Company's obligations hereunder. This Section shall survive termination of the Agreement.
17. **Fees; Reimbursement; Amounts Owed.**
 - 17.1. Fees for the Services provided pursuant to the Agreement shall be at the rates set forth in the Fee Schedule and the schedules to this Agreement. The fees specified in the Fee Schedule are premised upon the assumption that all transactions are sent to Provider via an accredited pathway.
 - 17.2. Any fees received or settled through the Settlement Account by Provider will be without any deduction for or on account of any tax or other withholdings imposed by any governmental, fiscal

or other authority, unless otherwise required by law. If Company is obliged by law to make any such deduction, it will pay to Provider, or Provider will deduct from its daily settlement with Company or through the Settlement Account, such additional amounts as are necessary to ensure receipt by Provider of the full amount of fees Provider would have received in the absence of this obligation.

- 17.3. RESERVED.
- 17.4. Reserved.
- 17.5. Reserved.
- 17.6. Company will promptly pay or reimburse Provider for any fees, charges, fines, assessments, penalties, Chargebacks and other amounts that Provider may be required to pay a Payment Network or may incur with regard to any Transaction(s) processed pursuant to the Agreement and solely to the extent arising out of any failure of Company to perform in compliance with applicable Payment Network Regulations, Laws, the requirements of PCI, the Agreement or any act or omission by any third party service provider to Company or any other party to a contract with Company. Without limiting the generality of the foregoing, Company will pay or reimburse Provider for Chargebacks (if applicable), Credit Records and other amounts required to be paid by Provider by virtue of applicable Payment Network Regulations as such Payment Network Regulations may be applied by and charged against Provider from the applicable Payment Networks. Any losses suffered by Provider on account of delay by Provider in processing Chargebacks shall be paid or reimbursed by Company with respect to Chargebacks processed by Provider subsequent to cessation or substantial curtailment of flight operations of Company. Calculation and payment of amounts paid or reimbursed by Company under this Section 17.6 shall be included in the determination of Net Activity.
- 17.7. Provider may debit amounts due from Company to Provider hereunder from the Settlement Account. If such debit does not fully reimburse Provider for the amount owed, Company will promptly pay Provider such amount upon demand.
- 17.8. Each Provider shall have the right to deduct, set off against, or recoup from the amount of any reimbursement to such Provider hereunder from any payment otherwise due to Company from any Provider under the Agreement, regardless of whether the amount of such reimbursement and the amount of such payment are denominated in the same currency. If Provider is unable to so collect such amount, Company shall pay Provider on demand, the full amount or any undisputed and uncollected part thereof. Provider, at its option, may apply, set off against or recoup from the Deposit amount (if any) such amount necessary to satisfy Company's obligations hereunder, regardless of whether the Company's obligations are owed to the Provider that established or maintains the Deposit and regardless of whether the Deposit or any portion thereof are denominated in the same currency. Where any deduction, recoupment or set off requires the conversion of one currency into another, Provider shall be entitled to effect such conversion in accordance with its prevailing practice and Company shall bear all exchange risks, losses, commissions and other bank charges which may thereafter arise. In the case of any payment made to a third party for which Company reimbursed Provider, Company may choose to recover the amount involved or otherwise resolve the cause of the reimbursement in its sole discretion; provided, that, Provider shall have no obligation to recover such amount or take any other actions relating thereto. Without limiting the foregoing, Company acknowledges that Reserved Funds are funds provisionally credited to Provider pursuant to the Payment Network Regulations, subject to Chargeback as provided therein, and that pursuant to the Exposure Protection Schedule such funds will not be credited (provisionally or otherwise) to Company but will be held by Provider subject to subsequent credit as provided in the Exposure Protection Schedule and are subject to Chargeback in accordance with the Payment Network Regulations as such Payment Network Regulations may be applied by the applicable Payment Network.
- 17.9. Company will, upon demand by Provider and to the degree permitted by Laws, pay interest on any amount due from Company to Provider under the Agreement for the period such amount remains unpaid calculated at a per annum rate equal to [***] and commencing to accrue on the [***]

following the date that a written notices is received by Company from Provider regarding such amount due hereunder.

- 17.10. Company is responsible to pay all taxes and other charges imposed against it by any governmental authority on the Services and Equipment provided under the Agreement, excluding any taxes based on Provider's property or net income. If Company is a tax-exempt entity, Company will provide Provider with an appropriate certificate of tax exemption.
 - 17.11. With respect to Transactions processed by Provider (other than for American Express Transactions), Provider will qualify Company for the most Company favorable and best available Card Network interchange rate based on the data provided by Company, subject to submission of Sales Records in the format required by the Agreement.
 - 17.12. If Company's total [***] Card Sales Value during the most recent twelve month period ("**Actual Volume**") are less than the volume projection specified in the Fee Schedule ("**Projected Volume**"), Company will upon demand of Provider pay to Provider an amount equal to [***]. Notwithstanding the foregoing, in the event of a Force Majeure involving Company, Company will not be required to pay the [***] to Provider.
18. **Purchased Equipment.** Provider will ship to Company the Purchased Equipment described in any Statement of Work, application, setup, or order forms, or any addenda or schedules mutually agreed upon in writing by Provider and Company for the purchase price stated thereon. Unless otherwise agreed by the Parties or stated in the Statement of Work, Company will be responsible for all shipping costs, insurance, import and export duties and similar taxes and amounts.
 19. **Processing Services.**
 - 19.1. Company desires to engage the Members that are signatories to the Agreement to process Transactions conducted in the Applicable Countries (collectively, the "Applicable Transactions") on behalf of Company for Cards bearing the service marks of VISA, MasterCard or other card networks indicated from time to time, if any (collectively, the "Card Networks"), and each such Member has agreed to undertake such processing.
 - 19.2. To the extent multiple Members are or become Parties to the Agreement: (i) each Member shall be deemed an agent of each other for purposes of perfecting any liens, if any, under the Agreement; and (ii) Company shall have no responsibility for any relationship between such Parties and may treat U.S. Member (or International Member to the degree U.S. Member is not a Party to the Agreement, or Canada VISA Member to the extent neither U.S. Member nor International Member is a Party to the Agreement) as the sole Member to the Agreement for all purposes. Company hereby requests that Member process Applicable Transactions on behalf of Company and provide the services described in the Agreement, and Member agrees to process, or cause to be processed, the Applicable Transactions and provide such services, or cause them to be provided, in compliance with the terms and conditions of the Agreement and with the Payment Network Regulations and Laws.
 20. **Applicable Countries.** The Applicable Countries for purposes of Processing Services shall be those listed in Schedule C. Provider may decline to process Transactions in an identified Applicable Country if Provider is not authorized or is not permitted under Laws or Payment Network Regulations to process such Transactions. If at any time Provider is processing Transactions in an identified Applicable Country and there are changes in Laws or Payment Network Regulations which result in Provider not being authorized or not being permitted to process such Transactions, Provider may upon written notice to Company cease to process such Transactions effective [***] following such notice or the date such changes in Laws or Payment Network Regulations become effective, whichever is sooner.
 21. **Settlement Account.** Company shall establish and maintain one Settlement Account for each currency permitted pursuant to the Agreement. Each Settlement Account shall be maintained in an office of the financial institution designated by Company that is acceptable to Provider, which should not be unreasonably denied, and shall be subject to Provider's customary practices and procedures applicable to

accounts of that nature and shall be subject to the terms of the Agreement. Company shall provide to Provider all information necessary to facilitate remittance of funds to each Settlement Account.

22. **Applicable File Specification.** All sales must be submitted to Provider in a format consistent with the Applicable File Specification. "Applicable File Specification" means the any file specification from time to time specified by Provider (or any modification or replacement thereof at any time provided to Company by Provider). Any sales submitted consistent with the Applicable File Specification shall be deemed accepted by Provider.
23. **Payment Network Regulations.**
- 23.1. Company acknowledges that Provider has entered into the Agreement in reliance upon the applicability of the Payment Network Regulations of applicable Card Networks to the transactions hereunder and Company's performance thereunder. To the extent there is a conflict between applicable Payment Network Regulations and the terms of the Agreement, the Payment Network Regulations shall control. To the extent there is a conflict between Laws and applicable Payment Network Regulations, Laws shall control. For purposes of the foregoing, a conflict shall be deemed to exist only if (i) compliance with the terms of the Agreement is impossible without a breach of the applicable Payment Network Regulations or (ii) compliance with the applicable Payment Network Regulations is impossible without a breach of Laws.
- 23.2. Company and Provider shall each be responsible for any liability or losses arising out of or related to its own failure to observe, perform or otherwise comply with the applicable provisions of the Payment Network Regulations.
24. **Effect of Termination.** No termination of the Agreement shall affect the rights or obligations of any Party which may have arisen or accrued prior to such termination, including without limitation claims of Provider for Chargebacks related to Transactions that occurred prior to any termination.
25. **Disputes with Cardholders.** Company is solely responsible to handle all claims or complaints by a Cardholder with regard to Travel Costs or Transactions. Any dispute between Company and a Cardholder arising out of the contract of air carriage shall be settled directly by Company without liability, cost, or loss to Provider. Company may undertake such activities in such manner as it deems reasonable and appropriate to protect its own interests, with no duties or obligations to Provider in connection therewith.
26. **Exposure Protection.** Provider may retain and hold all funds paid to it by a Card Network on account of Sales Records submitted by Company to Provider as Reserved Funds in accordance with the Exposure Protection Schedule attached to the Agreement as Schedule D.
27. **Notices.** All notices permitted or required by the Agreement shall be in writing and served by reputable express delivery service (including any courier service) or electronic mail if an applicable e-mail address is provided. Any written notice served by reputable express delivery service (including any courier service) will be deemed received upon the earlier of (a) actual receipt or (b) if deposited for delivery with a nationally recognized overnight carrier, two business days after being deposited for such delivery. Any written notice served by e-mail will be deemed received on the business day of confirmation of transmission or, if such e-mail is sent after the recipient's normal business hours or on a day that is not a business day, on the following business day.

Notices to Company will be addressed to Company's address indicated on the signature page hereto or to the most recent address for Company shown on Provider's records. All notices permitted or required to be sent to Provider pursuant to the Agreement shall be addressed as set forth below or such other address as Provider may indicate in writing:

To any Member:

U.S. Bank National Association
Mail Station BC-MN-H05M
800 Nicollet Mall
Minneapolis, Minnesota 55402

United States of America
Attention: Credit Manager
E-mail: USBANKAirlineCredit@usbank.com

With a copy to:

Elavon, Inc.
Two Concourse Parkway, Suite 800
Atlanta, Georgia 30328
United States of America
Attention: General Counsel
E-mail: AirlinesLRT@elavon.com

28. **Submission of Transactions by Company.** Company represents and warrants to Provider that:

- 28.1. Company's Transactions and credit refund procedures comply in all material respects with all Laws and that are pertinent to such Transactions or refunds and with the applicable Payment Network Regulations. All Transactions submitted for processing hereunder are bona fide, no Transaction involves the knowing use of a Card for any purpose other than the purchase of goods or services in the ordinary course of business from Company nor does it involve: (i) a Cardholder obtaining cash from Company or any Agent; (ii) Company accepting a Card to collect or refinance an existing debt or previous Card charges; or (iii) any collusion between Company and Cardholder with the intent of committing fraud.
- 28.2. Company is in compliance in all material respects with (a) its agreement with Relevant Authorities of those jurisdiction in which Company conducts flight operations and for which such Transactions relate and (b) Billing Settlement Plan.
- 28.3. Unless explicitly provided otherwise by the Agreement, any Transactions submitted under the Agreement shall not relate to the provision of services or goods to a country where there may be, or are, any restrictions, regulations, Sanctions or laws prohibiting or restricting the provision of any such services or goods applicable either to Provider or Company.

The foregoing representations and warranties and the representation and warranties contained in Section 12.2 of the Agreement shall be deemed to be made each time Company submits a Sales Record or Credit Record to Provider for processing.

29. **Representations of Providers.** Each Provider is a validly existing under the laws of its jurisdiction of organization, with all authority, qualifications, licenses and registrations necessary to conduct its business, in all jurisdictions where such Provider conducts business, in compliance with all Laws and Payment Network Regulations. Each Provider has the power to execute and perform the Agreement. The person executing the Agreement is duly authorized to bind the applicable Provider to all provisions of the Agreement and such person is authorized to execute any document and to take any action on such Provider's behalf which may be required to carry out the Agreement. Further, the signing and performing in accordance with the Agreement will not violate any Laws or conflict with any other agreement to which any Provider is subject.
30. **VMAS™/MATCH™ Listing.** Company acknowledges that Provider is required to report Company's business name to the Visa VMAS™ listing maintained by Visa or the MATCH™ listing maintained by MasterCard and accessed by Visa pursuant to the requirements of the Payment Network Regulations. Company specifically consents to the fulfillment of the obligations related to the listing by Provider, the listing itself, and Company waives and holds harmless Provider from all claims and liabilities it may have as a result of such reporting
31. **Honoring Cards.**
 - 31.1. Company shall use Commercially Reasonable Efforts to cause all Agents to permit Cardholders to charge Travel Costs in a manner that materially complies with the terms and conditions of the Agreement and in compliance with applicable Payment Network Regulations. Company shall use

Commercially Reasonable Efforts to cause compliance by Agents with all of the terms and conditions of the Agreement to be performed by Company or Agents. Notwithstanding any such reasonable efforts by Company, Company is responsible for: (i) any failure by any Agent in performing the applicable provisions of the Agreement; and (ii) the settlement of Sales Records and Credit Records completed by Agents.

- 31.2. Company or Agent shall obtain Authorization for the total amount of the Travel Costs before completing any Transaction. Such Authorization may be provided by any third party provider acceptable to Provider. Company or Agent will follow any instructions received during Authorization and shall not incur any liability hereunder for complying with such instructions. Upon receipt of Authorization, Company or Agent may consummate only the Transaction authorized and must note the Authorization code on the Sales Record.
- 31.3. Neither Company nor any Agent shall engage in a Transaction with any customer in any of the following circumstances (with the exception of ticket by mail, internet or telephone and ticket by automated machine or purchased through other CNP Transactions): (a) a Card is not presented at the time of sale; (b) for any Card without a EMV chip, the signature on the Sales Record does not appear to correspond to the signature appearing in the signature panel on the reverse side of the Card, or the Cardholder does not resemble the person depicted in any picture which appears on the Card; (c) for any Card without a EMV chip, the signature panel on the Card is blank and is not signed; and (d) no Authorization is received. If Company or any Agent completes a Transaction under the conditions in this Section 31.3, Company shall be responsible for such Sales Record or Credit Record regardless of any Authorization.
- 31.4. (a) Each Card sale shall be evidenced by a Sales Record.
- (b) Company shall include all items of Travel Costs purchased in a single Transaction in the total amount on a single Sales Record or Transaction record
- (c) Each Sales Record shall include on its face the items needed to complete the Settlement File required by Provider.
- (d) Company shall not effect a Transaction for only part of the amount due on a single Sales Record except when the balance of the amount due is paid by the Cardholder at the time of sale in cash, by check, with another card or Card, or any combination thereof.
- (e) If Company or Agent honors a Card, Company or Agent honoring the Card is required to make available to the customer a true and completed copy of the Sales Record, in accordance with the Operating Guide.
- 31.5. Company further acknowledges that certain Card products may not be accepted unless Company is participating in a 3D Secure™ System. As part of such participation, Company will:
- (a) Participate in the 3D Secure™ and acquire the right to use the MPI by agreement with an approved seller of MPI software;
- (b) have Provider host an MPI, or such other merchant plug-in software product designated by Provider from time to time, on Company's behalf on the terms set forth by Provider and communicated to Company; or
- (c) Procure for Company's own use a merchant plug-in software product of equivalent functionality to the MPI with the prior written consent of Provider.

For purposes of the Agreement, "3D Secure" means the Three-Domain Secure protocol developed by Visa and for the purposes of the Agreement includes Verified by Visa™ and MasterCard® SecureCode™ developed by MasterCard and such other programs notified to Company by Provider from time to time (and in each case shall include successive versions thereof) and the expression "3D Secure™ System" shall be construed accordingly. Company acknowledges that the Card Networks may require 3D Secure for the processing of certain Card products. Provider will

use reasonable endeavors to advise Company from time to time of those Card products that are not accepted without use of 3D Secure. If 3D Secure is required, Company will be provided reasonable time to comply with this requirement.

32. Submission of Sales Records and Credit Records.

- 32.1. All settlements with respect to Transactions submitted in the currency of a given Applicable Country shall be denominated in the lawful currency or currencies specified in the Agreement.
- 32.2. (a) Neither Company nor Agent may present for processing or entry to any Card Network, directly or indirectly, any Sales Record or Credit Record that was not originated as a result of a Transaction between the Cardholder and Company or that does not otherwise comply with the Operating Guide.
- (b) Company or Agent shall submit to Provider for processing each Sales Record in accordance with the timeframes required by the applicable Payment Network Regulations. The method of billing for all Sales Records and Credit Records processed through any Billing Settlement Plan must be by electronic transmission and shall include itinerary records consisting of departure dates or, with respect to Travel Costs that are memberships or passes, the expiration date of such memberships or passes.
- (c) Sales Records submitted to Provider will be credited to Net Activity only after expiration of the Settlement Period, if any, for such Sales Records.
- (d) Subject to any rights of Provider to retain and hold funds pursuant to the Agreement (including, without limitation, pursuant to the Exposure Protection Schedule), Provider will deposit, or cause to be deposited, on each Business Day, via electronic funds transfer or any other form of funds transfer acceptable to Provider in its sole discretion, into the applicable Settlement Account for each applicable currency, an amount equal to the amount of Net Activity relating to such currency for each Business Day.
- (e) At any time that the aggregate amount of Net Activity results in an amount due to Provider, the aggregate amount due may be deducted, recouped or set off from amounts subsequently payable to Company under the Agreement on account of Sales Records irrespective of the currency in which payment to Company is to be made; provided, that, Provider may, at its option (i) require an immediate wire transfer from Company in the amount due, or (ii) apply, set off against or recoup from any Deposit maintained pursuant to the Agreement the amount due from Company under the Agreement. Company acknowledges that the Agreement is a “net payment agreement” and that the right of Provider to net out obligations due from Company under the Agreement from amounts payable to Company hereunder (including from or as represented by the Deposit amount) is a right of recoupment. Company further acknowledges that Provider has entered into the Agreement in reliance upon such right.
- (f) Amounts deposited in a Settlement Account or otherwise credited to Company (including, without limitation, amounts credited against Company’s obligations to Provider for fees, costs and expenses hereunder) in respect of any Sales Record pursuant to the Agreement and Company’s right to payment of Reserved Funds shall be provisional until the payment made to Provider by the Card Network in respect of such Sales Record shall become final (i.e., all rights of Chargeback or other rights of the Cardholder or Issuer to obtain reimbursement of such payment from Provider shall have expired).
- (g) In the event that more than one Provider is a Party to the Agreement, amounts owed by Company to any Provider may be recovered by such Provider from amounts due to Company by any other Provider, including amounts attributable to any Deposit. Company authorizes each Provider to remit any amounts payable to Company by such Provider to any other Provider to pay Company’s obligations to such Provider thereunder.

- 32.3. At Company's request, Provider will make available to Company with Transaction reports each Business Day that correspond to Net Activity and that will summarize sales, returns (refunds), Chargebacks, processing fees, and adjustments, with adequate detail to all Company to perform account reconciliation.
- 32.4. Company shall cause Agents to submit Sales Records and Credit Records to Provider in the form of the Settlement File by electronic transmission as provided in the Operating Guide and Section 33 through Company's accounting office or the appropriate processing center of the area or Billing Settlement Plan of which Company is a Provider. Company or the appropriate processing center, as the case may be, shall submit the Sales Records and Credit Records to Provider in accordance with the terms of the Agreement. Company shall notify Provider of any proposed change to the form of Settlement File not less than [***] in advance of the proposed effective date of such change.
- 32.5. If Company utilizes Electronic Data Capture ("EDC") services pursuant to this Section 32.5 to transmit Sales Records and Credit Records for Transactions through a Terminal, Company agrees to utilize such EDC services in accordance with applicable Payment Network Regulations. Company may designate a third person as its agent to deliver to Provider or directly to Card Networks Transactions captured at the point of sale by such agent. If Company elects to designate such an agent, Company must provide Provider prior written notice of such election. Company understands and agrees that Provider is responsible to make payment to Company for only those Transaction amounts delivered by such agent to the Card Networks, less amounts withheld by Provider pursuant to the Agreement, and Company is responsible for any failure by such agent to comply with any Payment Network Regulations, including any such failure that results in a Chargeback.

33. **Transmission.**

- 33.1. When Sales Records and Credit Records are submitted to Provider, other than Sales Records and Credit Records originating from Terminals, and processed by Provider's Terminal processor, such Sales Records and Credit Records shall be submitted to Provider by means of a summary of all Travel Costs by electronic transmission compatible with the computer system of Provider and shall comply with Section 32.2 of the Agreement. Each such electronic transmission shall be made in the form of the Settlement File or any other format acceptable to Provider in its sole discretion. Company agrees that: (i) Company will not (and will ensure any third party services providers it uses with respect to data capture, electronic submission or authorization will not) change the method or format of electronic submissions (including without limitation the code or data value types associated with electronic submission) without first providing written notice to Provider of the same and obtaining Provider's prior consent and (ii) if Company requests a change in the method or format with respect to such electronic submissions, Provider may require regression testing or other testing of such electronic submissions (in the requested format) prior to consenting to such change in format, and Company will be responsible for Provider's costs and expenses (including fees for Provider's employees at their standard rates) in connection therewith; provided that such testing shall not constitute consent to such format change and shall not in any way limit Provider's right to withhold consent with respect to such format change.

If an electronic transmission of Travel Costs does not meet the requirements of the approved format, Provider shall use reasonable efforts to advise Company within eight hours of receipt of same, provided that with respect to electronic transmissions that do not meet the requirements of the approved format due to Company's failure to comply with its obligations in Section 33.1 regarding changes to the method or format of electronic transmission, Provider shall only be required to use reasonable efforts to advise Company of same promptly after Provider becomes aware that electronic transmissions that do not meet the requirements of the approved format. Any electronic transmission that does meet the requirement of the approved format shall be deemed accepted by Provider.

- 33.2. Any acceptance by Provider of an electronic transmission of Travel Costs that does not comply with the appropriate format or, if in the appropriate format, does not contain the information in respect to each Travel Cost summarized therein required by the terms of the Agreement, shall not constitute a waiver of, or preclude Provider from exercising, the right of Chargeback.

34. Returned Unused Travel Costs; Credit Adjustment.

- 34.1. Company will maintain and apply on a consistent basis a policy for the return or exchange of tickets or other Travel Costs for credit adjustments that Company, in its reasonable discretion, deems to be fair and uniform. On or promptly following the date Company accepts the return of unused tickets or other Travel Costs or otherwise allows an adjustment to the Travel Costs which were the subject of a previous Card sale, Company will date and otherwise properly complete a Credit Record and submit it to Provider for processing hereunder in accordance with the timeframes required by the Payment Network Regulations and Laws where the return or exchange is to occur, with the exception when airline credits are used, where Company will notify Provider promptly.
- 34.2. Company will make no cash refunds in connection with such credit adjustments, except to the extent it is required to effect a cash refund pursuant to the requirements of Laws.
- 34.3. The submission of a Credit Record will not impair the right of Chargeback of Provider against Company in an amount not to exceed the excess of (a) the amount of the Sales Record over, (b) the amount of the Credit Record submitted by Company.
- 34.4. Company shall not accept monies from a Cardholder for the purpose of preparing and depositing a credit voucher that will affect a deposit to the Cardholder's account. Company shall not process a Credit Record without having completed a previous purchase Transaction with the same Cardholder.
- 34.5. Provider may elect at any time to refuse to process any Credit Record relating to Transactions not originally processed by Provider, and under no circumstances will Provider's election to process such returns, refunds, or adjustments in any way obligate it to continue to process such items in the future.

35. Chargebacks. This Section shall apply solely to the extent Provider is providing Chargeback Services.

- 35.1. Provider is not obligated to accept any Sales Record that does not comply in every respect with the terms and conditions of the Agreement, or that does not comply in all respects with the applicable Payment Network Regulations.
- 35.2. Company agrees to pay Provider the amount of each Chargeback and, in the case of amounts that have not been paid to Company, acknowledges Company has no right to receive amounts attributable to Chargebacks. Provider may deduct and retain any amount due to Provider from Company on account of Chargebacks from amounts otherwise payable to Company under the Agreement. The provisions of Section 32.2 with respect to payment of Company's obligations to Provider will apply in the event the amount of Net Activity results in an amount due Provider.
- 35.3. So long as a Chargeback claim is in the process of dispute resolution pursuant to the Payment Network Regulations, Company shall not make any other claim or take any proceedings against the Cardholder in relation to the related Transaction or the underlying contract of sale or service.
- 35.4. In connection with the processing of Chargeback claims, Provider shall be entitled to rely and act on any agreements, requests, instructions, permissions, approvals, demands or other communications given on behalf of Company (whether orally, via email or in writing) and Provider shall not be liable to Company for any loss or damage incurred or suffered by it as a result of such action.
- 35.5. Subject to compliance with any applicable data processing laws and Section 7.2(d), Provider may provide Cardholder's name and address for each Chargeback when it is included in the Cardholder's documentation received by Provider.
- 35.6. Company acknowledges and agrees that the "Chargeback Handling Fee" described in the Fee Schedule constitutes reasonable compensation to Provider for the services provided by Provider in connection with the handling of Chargebacks, taking into account, among other things, the costs

and expenses, whether direct or indirect, and whether out-of-pocket or attributable to an increased administrative burden, incurred or suffered by Provider as a result of such Chargeback activity.

36. **Submission Currency, Settlement Currency.** All Transactions under the Agreement shall be submitted to Provider in a Submission Currency acceptable to the Provider and the applicable Card Network, and all settlements with respect to such Transactions shall be in the Submission Currency, unless Multi-Currency Conversion or another currency conversion agreement applies. If Multi-Currency Conversion or another currency conversion agreement applies, Company may request that Provider permit that Applicable Transactions be settled with a different Settlement Currency and such Transactions will only be settled in a different Settlement Currency if Provider is able to accommodate such request and affirmatively agrees to such settlement process.
37. **Currency Conversion.** If the Provider permits settlement with a Settlement Currency that is different than the Submission Currency, Company acknowledges and agrees that a currency conversion would be required for such Transactions and that for each such currency conversion, in addition to all other processing fees payable for such Transaction: (1) for any Transaction for which Multi-Currency Conversion services are provided, if any, Provider will employ the methodology described in the schedule regarding Multi-Currency Conversion; (2) for any other Transaction, Provider will employ its then applicable exchange rate methodology in making any such currency conversion and the costs associated with such conversion would be passed on to Company.
38. **[Intentionally Omitted].**
39. **[Intentionally Omitted].**
40. **Canada Processing.** This Section shall apply solely with respect to Transactions originating in Canada (if any).
 - 40.1. Company agrees to accept Canadian-issued Visa debit payment cards (“Visa Debit Cards”) and expressly authorizes VISA Member to process Transactions made with Visa Debit Cards. VISA Member agrees to include all Visa Debit Card activity on the monthly statements provided with respect to Transactions outside of Visa Debit Cards.
41. **Governing Law; Jurisdiction and Venue.**
 - 41.1. [Intentionally Omitted.]
 - 41.2. With respect to Transactions processed by U.S. Member:
 - (a) The Agreement and any matter arising from or in connection with it shall be governed by and construed in accordance with the internal laws of the State of New York, without regard to its conflict of law principles.
 - (b) Company and U.S. Member agree that any legal suit, action or proceeding arising out of or in connection with Transactions processed by U.S. Member may be brought in the Borough of Manhattan in the City of New York (or any appellate court therein), or the United States District Court for the Southern District of New York, and hereby submit to the non-exclusive jurisdiction of each such court. In addition, each of Company and U.S. Member hereby irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding brought in the State of New York, or the United States District Court for the Southern District of New York, and hereby further irrevocably waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum of and waives any objection to venue with respect to the actions brought in those courts.

41.3. With respect to Transactions processed by Canada VISA Member or Canada MasterCard Member:

- (a) The Agreement and any matter arising from or in connection with it shall be governed by and construed in accordance with the laws of the Province of Ontario, without regard to its conflict of law principles.
- (b) Company, Canada VISA Member and Canada MasterCard Member agree that any legal suit, action or proceeding arising out of or in connection with Transactions processed by Canada VISA Member or Canada MasterCard Member may be brought in any court of the Province of Ontario, and hereby submit to the non-exclusive jurisdiction of each such court. In addition, Company hereby irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding brought in any court of the Province of Ontario, and hereby further irrevocably waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum of and waives any objection to venue with respect to the actions brought in those courts.

41.4. With respect to the Professional Services provided by Elavon:

- (a) The Agreement and any matter arising from or in connection with it shall be governed by and construed in accordance with the internal laws of the State of New York, without regard to its conflict of law principles.
- (b) Company and Elavon agree that any legal suit, action or proceeding arising out of or in connection with Professional Services may be brought in any Borough of Manhattan in the City of New York, State of New York, or the United States District Court for the Southern District of New York, and hereby submit to the non-exclusive jurisdiction of each such court. In addition, Company hereby irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding brought in any District Court of the State of New York, or the United States District Court for the District of New York, and hereby further irrevocably waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum of and waives any objection to venue with respect to the actions brought in those courts.

41.5. The submission to jurisdictions by any Provider shall not (and shall not be construed as to) limit the right of such Provider to take proceedings against Company in whatsoever jurisdictions shall to it seem fit nor shall the initiating of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction.

42. **Insolvency Event.** Notwithstanding anything contained herein to the contrary, upon and after the occurrence of an Insolvency Event involving Company, Provider may, at its option, require as a condition to the processing of any Transactions submitted to it relating to sales made by Company prior to or after the institution of such proceedings, the entry of an order by the court having the jurisdiction of any such proceeding, authorizing Company to issue, and Provider to process, Transactions for sales made by Company prior to or after the institution of such proceeding, in form and substance satisfactory to Provider. Company acknowledges that the Agreement constitutes a contract to make a loan, or extend other debt financing or financial accommodations to, or for the benefit of Company, and, as such, cannot be assumed or assigned in the event of an Insolvency Event involving Company. Company will be responsible to Provider for any damages suffered by, and expenses incurred by, Provider due to an Insolvency Event involving Company.

43. **General Provisions.**

43.1. **Entire Agreement.** The Agreement (including the Operating Guide, all appendices, schedules, attachments, exhibits, addenda and other documents incorporated by reference) and any amendment or supplement to it, constitutes the entire agreement between the Parties, and all prior or other agreements, written or oral, are superseded by the Agreement. If a conflict exists between the documents comprising the Agreement, the following order of priority will apply:

- (a) Any schedules mutually agreed upon by the Parties, with respect to the subject matter thereof;
 - (b) Any signed Statement of Work;
 - (c) These General Terms and Conditions and attached Appendices;
 - (d) The Operating Guide; and
 - (e) Any Documentation provided to Company in writing by Provider.
- 43.2. **Construction.** The headings used in the Agreement are inserted for convenience only and will not affect the interpretation of any provision. Each provision is to be construed as if the parties drafted it jointly. The word “day” will mean “calendar day”, unless specifically stated otherwise.
- 43.3. **Assignability.** The Agreement shall inure to the benefit of and be binding upon the successors and assigns of the Parties hereto. Consent of Company shall not be required as to an assignment by Provider to any subsidiary, Affiliate or parent of Provider, any successor to Provider by reason of merger or consolidation, or any Person qualified under Payment Network Regulations to perform the obligations of Provider under the Agreement. No Party hereto shall make any other assignments of the Agreement without the prior written consent of the other Parties hereto, which consent shall not be unreasonably withheld. Provider in its sole discretion, without prior notice to Company, may designate and authorize any Affiliate(s) of Provider to take any action required or allowed by Provider or to undertake any duties or fulfill any of its obligations hereunder, and in such case such Affiliate(s) shall be entitled to the rights and benefits of Provider hereunder. Notwithstanding any such designation and authorization, Provider shall remain liable for any breach or failure to perform hereunder by any such Affiliate(s) of Provider hereunder. Company is entitled to rely on, and shall not be liable to any Affiliates of Provider for or arising from, any instruction or communication of Provider with respect to any permitted assignment of benefits or rights hereunder.
- 43.4. **Telephone Recording.** For quality assurance, training and fraud detection purposes, Company authorizes Provider to monitor and record customer service telephone conversations at any time, subject to Laws and applicable disclosures if required.
- 43.5. **Amendments.** Except as otherwise stated in the Agreement, the Agreement shall not be amended, supplemented, modified or changed in any manner, except as provided in writing, which writing must expressly state that it is an amendment or modification to the terms hereof, and signed by the applicable Parties hereto. If an amendment or modification to this Agreement is required as a result from changes in the Payment Network Regulations or Laws, Provider shall provide Company written notice to Company of such a change in the Payment Network Regulations or Laws, as applicable, in a periodic statement or other written notice, and such change will become effective as of the date provided in the statement or notice, but in no event earlier than [***] after the issuance of the statement or notice.
- 43.6. **Severability and Waiver.** If any provision of the Agreement is found to be invalid, illegal or otherwise unenforceable by a court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions of the Agreement will not in any way be affected or impaired thereby. None of the failure to exercise, the delay by any Party to exercise, or the partial exercise of any right under the Agreement will operate as a waiver or estoppel of such right, nor will such amend the Agreement. All waivers requested by a Party must be signed by the waiving Party.
- 43.7. **Remedies Cumulative.** All remedies, rights, powers, and privileges, either under the Agreement or by law or otherwise afforded to a Party, shall be cumulative and not exclusive of any other such remedies, rights, powers and privileges. Each Party may exercise all such remedies in any order of priority.

- 43.8. **Certain Relationships.** Provider and Company will be deemed independent contractors and neither Party will be considered an agent, joint venturer or partner of the other, unless and to the extent otherwise specifically stated in the Agreement. The Agreement has been entered into solely for the benefit of the Parties to the Agreement and is not intended to create an interest in any third party except where explicitly stated otherwise. Company agrees and acknowledges that Provider has no fiduciary relationship with or any fiduciary duty to Company arising out of or in connection with the Agreement, and Provider is not and will not be acting as an advisor, agent or fiduciary for Company. Company hereby waives and releases any claims that it may have against Provider with respect to any breach or alleged breach of agency or fiduciary duty in connection with the Agreement.
- 43.9. **Survival.** All of the obligations of each Party that by their nature should survive termination or expiration of the Agreement in order to achieve its purposes, will survive and remain binding upon and for the benefit of the Parties.
- 43.10. **Counterparts; Electronic Delivery.** The Agreement may be signed in one or more counterparts, each of which will constitute an original and all of which, taken together, will constitute one and the same agreement. Signed counterparts may be delivered by fax or electronic means (e.g., pdf documents via e-mail), and will constitute signed originals.
- 43.11. **Force Majeure.** Any delay in the performance by any Party hereto of its obligations (except for payment of monies when due) shall be excused during the period and to the extent that such performance is rendered impossible or impracticable due to Force Majeure. A “Force Majeure” means an act of God, natural disaster or weather condition, earthquake, war, act of terrorism, civil disturbance directly affecting the ability to perform, action (other than through a legislative or other law making process) by governmental entity, strike, boycotts, unavailability of parts, equipment or materials through normal supply sources, the failure of any utility to supply its services for reasons beyond the control of the Party whose performance is to be excused and other cause beyond such Party’s reasonable control. If a Force Majeure interrupts Provider’s provision of any Services, Company will continue to pay Provider the accrued but unpaid fees when due for the Services provided under the Agreement and Provider will make all reasonable efforts to restore such Services. If the Force Majeure continues for a more than [***], then Company may, upon notice to Provider, as its sole and exclusive remedy, abate payment to Provider to the extent Services are not performed and terminate the Agreement. If any Party is affected by a Force Majeure event, it shall immediately notify in writing the other Parties of the nature and extent of the circumstances and the Parties shall discuss in good faith towards agreement or resolution on the action to be taken.
- 43.12. **Business Continuity.** Provider will maintain and adhere to business continuity plans that are commercially reasonable within the industry for the Services.
- 43.13. **Judgment Currency.** Company agrees that any judgment concerning the Agreement granted in favor of Provider shall be paid in the currency such judgment is rendered in (the “Judgment Currency”). If Company fails to pay a judgment as described in the preceding sentence, Company agrees to indemnify Provider against any loss incurred by Provider as a result of the rate of exchange at which any amount recovered against Company (by way of recoupment, setoff or otherwise) is converted to the Judgment Currency. The foregoing indemnity shall constitute a separate and independent obligation of Company and shall apply irrespective of any indulgence granted to Company from time to time and shall continue in full force and effect notwithstanding any such judgment or order as aforesaid. The term “rate of exchange” shall include any premiums and costs of exchange payable in connection with the purchase of, or conversion into, the relevant currency
- 43.14. **Assistance.** No Party to the Agreement shall unreasonably withhold any documentation required by another Party to the Agreement in connection with the defense of any claim asserted in connection with the Agreement.
- 43.15. **Authorized Persons.** Company may from time to time provide to Provider in writing a list of directors, officers, agents or employees of Company (“Operational Personnel”) authorized to undertake certain functions or take certain actions on behalf of Company with respect to the

Services, as further described in such list. Company may provide updates to such list to Provider in writing from time to time. For the avoidance of doubt, the provision of any such list or updates to the same will not, by itself: (a) impose any obligations upon Provider to accept any instructions from Operational Personnel or (b) impose any liability on Provider for any failure to accept any instructions provided by Operational Personnel.

- 43.16. **Waiver of Trial by Jury.** EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES TO THE EXTENT PERMITTED BY LAW ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THE AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY.
- 43.17. **Waiver of Sovereign Immunity.** To the extent that Company may be entitled, in any jurisdiction in which judicial proceedings may at any time be commenced with respect to the Agreement, to claim for itself or its revenues, assets or properties sovereign immunity from suit, from the jurisdiction of any court (including but not limited to any court of the United States of America), from attachment prior to judgment, attachment in aid of execution of a judgment or from execution of judgment to the extent that in any such jurisdiction there may be attributed such sovereign immunity (whether or not claimed), Company hereby irrevocably agrees not to claim and hereby irrevocably waives such sovereign immunity in respect of suit, jurisdiction of any court, attachment prior to judgment, attachment in aid of execution of judgment and execution of a judgment.
44. **Canada Provisions.** The following provisions apply with respect to all performances and Transactions under the Agreement occurring in Canada.
- 44.1. Company agrees that the Agreement is a contract for the advance of credit to Company within the meaning of Section 11.01(b) of the *Companies' Creditors Arrangement Act* (Canada) and within the meaning of Section 65.1(4)(b) of the *Bankruptcy and Insolvency Act* (Canada) and cannot be assigned by Company in the event of an Insolvency Event relating to Company. Company hereby acknowledges that but for the agreement in the immediately preceding sentence, Provider would not have entered into the Agreement. Company will be responsible to Provider for any damages suffered by, and expenses incurred by, Provider due to a Company Insolvency Event.
- 44.2. Notwithstanding anything in the Agreement to the contrary: Provider will not amend the fees for the Services for the initial term of the Agreement except (i) as stated in Schedule A, or (ii) to pass through to Company increases in interchange, assessments, charges, or increased or new fees imposed by a third party; provided that, with respect to Credit Card and Debit Card Transactions, any such fee increases or new fees, other than in accordance with pre-determined fee schedules, if any, will be effective [***] after Company receives notice thereof. Notwithstanding the previous sentence, Provider may adjust the Processing Fees stated in Schedule A, without further consent or agreement from Company, to pass through any new fees imposed upon Provider by any third parties (including any Payment Network) in connection with the Processing Services; provided that, with respect to Credit Card and Debit Card Transactions, any such fee increases or new fees, other than in accordance with pre-determined fee schedules, if any, will be effective [***] after Company receives notice thereof.
- 44.3. Company authorizes Provider, and its vendors and agents to initiate debit and credit entries to any account specified by Company ("PAD Account") that is maintained by Company at an institution that is a member of the "Payments Canada" (meaning the national association that establishes standards, rules, and procedures and maintains a funds transfer system to enable depository financial institutions to exchange electronic payments), all in accordance with the Agreement, including those stated to be made by way of ACH. Company agrees that any withdrawal by Provider and its respective vendors and agents in accordance with the Agreement are pre-authorized debits ("PADs") for business purposes, as defined under Rule H1 of Payments Canada. Company hereby waives the right to receive advance notice from Provider and its respective vendors and agents of all such debits. This authorization will remain in effect after termination of the Agreement and until all of Company's obligations to Provider have been paid in full. If Company changes any PAD Account, this PAD authorization will apply to the new account and Company will provide Provider in writing such information regarding the new PAD Account as it deems necessary. It may take Provider up to [***] after Provider's receipt of a written notice from

Company to reflect in its system any change to Company's PAD Account. If Company changes the PAD Account, Company agrees that it is responsible for all costs Provider incurs in connection with Company's decision to change the PAD Account. Company may revoke the PAD authorization upon [***] prior written notice to Provider, but any such revocation will constitute a material breach of the Agreement. Company may obtain a sample cancellation form, as well as further information on Company's right to cancel a PAD authorization by contacting Company's financial institution or by visiting www.payments.ca. Company has certain recourse rights if any debit does not comply with the Agreement. For example, Company has the right to receive reimbursement for any debit that is not authorized or is not consistent with this PAD authorization. To obtain more information on Company's recourse rights, Company may contact its financial institution or visit www.payments.ca.

- 44.4. In addition to Company's other termination rights in the Agreement, the Agreement may be terminated by Company without penalty if Provider notifies Company of a fee increase, the introduction of a new fee or a reduction in applicable interchange rates; provided that Company may not terminate the Agreement in connection with new fees or fee increases made in accordance with pre-determined fee schedules, if any. Company will notify Provider of its intent to terminate the Agreement within [***] of receiving notice of the new fee, fee increases or reduction in applicable interchange rates from Provider.
- 44.5. In addition to the provisions of Section 17.6 of the Agreement, all fees or charges payable by Company to Provider as set forth in this Agreement, including the Schedules hereto, the Documentation or any exhibits, do not include goods and services tax, harmonized sales tax, Québec sales tax, value added tax, retail sales taxes and other similar taxes whether now imposed or to be imposed in the future. If any such tax (other than taxes based on Provider's income) is found to be applicable, the appropriate amount of tax shall be added to and shall be payable by Company to Provider at the same time and upon the same terms as apply to the fees and other charges.
- 44.6. The Parties hereby acknowledge that they have required the Agreement and all related documents to be drawn up in the English language. Les parties reconnaissent avoir demandé que le présent contrat ainsi que tous les documents qui s'y rattachent soient rédigés en langue anglaise.
- 44.7. In addition to the provisions of Section 7.2(d) of the Agreement, Company represents, covenants and agrees that it is in compliance with all applicable privacy Laws, including the *Personal Information Protection and Electronic Documents Act (Canada)* and any other similar provincial legislation, in all material respects and that any personal information of a Cardholder or an officer, director, agent or employee of Company that may be communicated or disclosed to Provider under or in connection with the Agreement or any Services to be provided by Provider to Company ("Personal Information") has been obtained in material compliance with such Laws and that Provider will knowingly not be in breach of any such Laws by receiving and using such information in connection with performing its obligations under or in connection with the Agreement or any Services to be provided by Provider to Company. Further, Company acknowledges that some of Provider's affiliates, service providers or other third parties are located outside of Canada. As a result, such personal information may be accessible to regulatory authorities in accordance with the Laws of these jurisdictions. Provider maintains physical, electronic, and procedural safeguards that comply with applicable Laws in applicable jurisdictions to guard personal information. Subject to applicable Laws in any applicable jurisdiction, Provider requires third parties to whom it discloses Personal Information to protect the information in a manner that is consistent with this Agreement. Company represents, covenants and agrees that it shall disclose to Cardholders and all affected officers, directors, agents or employees of Company the facts in the four immediately preceding sentences.

APPENDIX 1

DEFINITIONS

“**ACH**” means Automated Clearing House, the funds transfer system governed by the rules of NACHA. ACH allows financial institutions to clear interbank entries electronically.

“**ACH Network**” means the funds transfer system governed by the ACH Rules. The ACH Network allows participating depository financial institutions to clear interbank entries electronically.

“**ACH Rules**” means the NACHA Operating Rules and Operating Guidelines, which govern the interregional exchange and settlement of ACH transactions.

“**Affiliated Entity**” means (i) an Affiliate of Company, or (ii) a person or entity operating a franchise under one or more of Company’s brands pursuant to a written franchise agreement with Company whereby the franchisee consistently displays external identification prominently identifying itself with Company’s trademarks; in each case as listed on Schedule B or an exhibit to an applicable schedule mutually agreed upon by Company and Provider.

“**Affiliates**” means entities affiliated under the majority ownership or control of, under common ownership or control with, or which own or control, a Party. The term control (including the terms “controlled by” and “under common control with”) means the possession, directly, of the power to direct or cause the direction of the management and policies of the Person in question.

“**Agent**” means a business organization duly licensed (if so required) and authorized to perform functions of a travel agent who is not an employee of Company and who has been duly designated, appointed and authorized by Company to act as a travel agent on behalf of Company.

“**American Express**” means American Express Company and/or American Express Travel Related Services Company, Inc.

“**Anti-Corruption Laws**” means all laws, rules, and regulations of any jurisdiction applicable to Provider or to Company or its subsidiaries, if any, from time to time concerning or relating to bribery or corruption.

“**Applicable Countries**” means those countries listed in Schedule C.

“**Applicable Transactions**” has the meaning stated in Section 19.1.

“**Authorization**” means the process whereby Company requests permission for the Card to be used for a particular Transaction.

“**Authorized Users**” means Company’s employees or contractors designated by Company to access and use the Services.

“**Billing Settlement Plan**” means a bank settlement plan or similar system that aggregates Transactions for such regions or Applicable Countries as the Parties may mutually agree and submits Transactions on behalf of Company.

“**Business Day**” means with respect to Transactions submitted to Provider, any weekday, Monday through Friday, except when any such day is a legal holiday recognized by applicable Provider.

“**Card**” means a Credit Card or Debit Card.

“**Card Networks**” has the meaning stated in Section 19.1.

“**Cardholder**” means the individual in whose name a Payment Device has been issued and any authorized user of such Payment Device.

“**Cardholder Data**” has the meaning stated in the Payment Card Industry (PCI) Data Security Standard (DSS) and Payment Application Data Security Standard (PA-DSS) Glossary of Terms, Abbreviations, and Acronyms.

“Chargeback” means any amount claimed from or not paid to Provider or a refusal or reversal of any payment by a Card Issuer in relation to a Transaction for any reason stipulated in the Payment Network Regulations or any amount claimed from Company by Provider in relation to a Transaction as stipulated in the Payment Network Regulations, or, if the context so requires, the act of returning a previously processed Transaction or of asserting a claim for payment.

“Chip and PIN Terminal” means Terminals which comply with EMV Integrated Circuit Card Specifications for Payment Systems together with PIN Pads as appropriate.

“CNP Transactions” means a Transaction that is accepted and processed where the Cardholder is not present or the Card is not provided physically to Company at the time the Transaction occurs (for example, internet, mail order or telephone order).

“Commercially Reasonable Efforts” means the efforts that a prudent provider of commercial air flight operations and related air travel products and services Person desirous of achieving a result would undertake in similar circumstances to ensure that such result is achieved as expeditiously as practical on commercially reasonable terms and consistent with the past practices related to commercial air flight operations for the transport of travelers and other customers in the United States, Canada and Mexico, regulatory approval and compliance related thereto and similarly situated commercial air flight activities. The obligation or duty to exercise the degree of care hereunder to achieve a stated result shall not be deemed to guarantee that such stated result will occur or be achieved, and such Person shall not be deemed to have failed to perform its duties hereunder as a result of any delays of another Person not otherwise affiliated with the Person charged with such duties hereunder.

“Company” has the definition set out in the first page of the Agreement.

“Company Resources” means all equipment, communications devices, databases, services, systems and other resources that Company maintains or operates in Company’s or its third party hosting provider’s locations and which enable Company to access and use the Services.

“Company Website” means the website Company has established or may establish from time to time for the purpose of selling goods and services.

“Confidential Information” means all data and information, regardless of the form or media, relating to the business of the Disclosing Party of which the Receiving Party becomes aware as a consequence of, or through, the performance of its obligations under the Agreement, which has value to the Disclosing Party and is not generally known by its competitors, which is reasonably identified as confidential at the time of disclosure or which, under the circumstances surrounding disclosure, ought to be reasonably considered as confidential, including technical information, drawings, engineering data, performance specifications, cost and price information (except as provided otherwise in the Agreement), and other information, data and reports, and the terms and conditions of the Agreement. Confidential Information does not include any data or information which (i) is already known to the Receiving Party prior to disclosure by the Disclosing Party; (ii) has become generally known to the public through no wrongful act of the Receiving Party; (iii) has been received by the Receiving Party from a third party without restriction on disclosure and without, to the knowledge of the Receiving Party, a breach of an obligation of confidentiality running directly or indirectly to the other party; or (iv) is independently developed by the Receiving Party without use, directly or indirectly, of the Confidential Information received from the Disclosing Party. Cardholder Data and Transaction Information are not Confidential Information under this definition, and are addressed in Section 7.2(d).

“Credit Card” means a card or device bearing the symbol of any Credit Card Association and associated with a revolving line of credit that can be used to purchase goods and services from Company or to pay an amount due to Company.

“Credit Card Associations” means (i) Visa; (ii) MasterCard; (iii) American Express Travel Related Services Company, Inc.; (iv) Discover Network; (v) Diners Club International Ltd.; (vi) JCB International Co., Ltd.; (vi) China UnionPay Co., Ltd; and (viii) any other organization or association that hereafter contracts with Provider to authorize, capture, and settle Transactions effected with Credit Cards issued or sponsored by such organization or association, and any successor organization or association to any of the foregoing.

“Credit Record” means a record approved by Provider, which is used to evidence a refund or adjustment of a purchase made through the use of a Card, and which will be credited to a Cardholder account.

“Customer” means a client of Company who elects to conduct a payment Transaction with Company through presentation of a Payment Device (including a Cardholder).

“Customizations” means any works of authorship, work product, and any invention, process, method, development, design, schematic or technical information, whether patentable or not, including documentation, software or enhancements, improvements, alterations, or derivatives of the Services developed by Provider, either alone or jointly with others, in connection with the Agreement.

“Data Breach” means unauthorized access to, use, disclosure or exfiltration of any Cardholder Data or Transaction Information provided by Company and received by Provider in connection with Company’s use of the Services under the Agreement.

“Data Protection Rules” means, individually or collectively, all data protection, data security and data privacy requirements imposed by law, rule or regulations, including, the Data Protection Act 1998 or other national legislation implementing or replacing the EU Data Protection Directive 95/46/EC, Directive 97/66/EC concerning the processing of personal data and the protection of privacy in the telecommunications sector, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector, and the Privacy and Electronic Communications (EC Directive) Regulations 2003, the General Data Protection Regulation and all legislation that implements or is enacted in connection with the General Data Protection Regulation and other data protection or privacy legislation in force from time to time in any relevant jurisdiction which is applicable to the provision of services under the Agreement, together with any similar provisions of the Payment Network Regulations and regulatory guidance issued by a competent data protection authority.

“Debit Card” means a card or device bearing the symbols of one or more EFT Networks or Credit Card Associations, which may be used to purchase goods and services from Company or to pay an amount due to Company by an electronic debit to the Cardholder’s designated deposit account. A “Debit Card” includes (i) a card or device that bears the symbol of a Credit Card Association and may be used to conduct signature-based, offline debit Transactions; and (ii) a card or device that bears the symbol of an EFT Network and can be used to conduct PIN-based, online debit Transactions.

“Deposit” has the meaning stated in the Exposure Protection Schedule.

“Disclosing Party” means the Party providing the Confidential Information to the other Party directly or indirectly (via one or more third parties acting on behalf of and at the direction of the party providing its Confidential Information).

“Discover” means DFS Services LLC.

“Discover Network” means the payment network operated and maintained by Discover, which network shall include for the avoidance of doubt, Cards bearing the servicemarks of Discover and/or Diners Club International.

“Documentation” means the Provider’s standard written description for the Services, as applicable, that is delivered to Company under the Agreement, including user manuals and best practices guides, as may be amended by Provider from time to time, but not including marketing materials, proposals, demonstrations or other promotional information.

“EFT Networks” means (i) Interlink Network Inc., Maestro U.S.A., Inc., STAR Networks, Inc., NYCE Payments Network, LLC, PULSE Network LLC, ACCEL/Exchange Network, Alaska Option Services Corporation, Armed Forces Financial Network, Credit Union 24, Inc., NETS, Inc., and SHAZAM, Inc.; and (ii) any other organization or association that hereafter authorizes Provider or a third party designated by Company to authorize, capture, and settle Transactions effected with Debit Cards, and any successor organization or association to any of the foregoing.

“Elavon” means Elavon, Inc., a Georgia corporation, and an Affiliate of each Member. Elavon is a registered member service provider of each Member.

“**Electronic Data Capture**” or “**EDC**” means any means by which payment information (e.g. Sales Record or Credit Record) is transmitted electronically to Provider for processing.

“**Equipment**” means devices, equipment and hardware provided to Company under the Agreement, including, without limitation, Purchased Equipment.

“**Exposure Protection Schedule**” means the “Exposure Protection Schedule” attached hereto as Schedule D.

“**Fee Schedule**” means the “Fee Schedule” attached hereto as Schedule A.

“**Force Majeure**” means has the meaning stated in Section 43.11.

“**PSS Provider**” has the meaning stated in Section 8.5.

“**[***] Card Sales Value**” means [***]. Solely for purposes of calculating [***] Card Sales Value, the amount of Card Sales denominated in any currency other than U.S. Dollars shall be converted into U.S. Dollars.

“**[***] Exposure**” has the meaning stated in the Exposure Protection Schedule.

“**Guarantor**” means any Person which purports to guaranty the Obligations.

“**Initial Term**” means the initial term of the Agreement as provided in Section 4.1.

“**Intellectual Property Rights**” means patents, trade secrets, copyrights, trademarks, service marks, trade names, and all other intellectual property rights and proprietary rights, including all rights or causes of action for infringement or misappropriation of any of the foregoing.

“**Insolvency Event**” means (i) The commencement of any bankruptcy, insolvency, moratorium, liquidation, judicial reorganization proceeding, dissolution, arrangement, or proceeding under any creditors’ rights law or other similar proceeding by or against a Person, which if commenced against a Person without such Person’s consent or acquiescence is not discharged within [***], (ii) any application for, consent by a Person, or acquiescence by a Person in, the appointment of any trustee, receiver, or other custodian for a Person or a substantial part of its property, (iii) any appointment of a trustee, receiver or other custodian for a Person or a substantial part of its property, or (iv) any assignment by a Person for the benefit of creditors.

“**Internal Controls Assessment**” has the meaning stated in Section 9.1.

“**ISP**” means an internet service provider.

“**Issuer**” means the financial institution or other entity that is a member of an applicable Payment Network and that issued the Credit Card or Debit Card to the Cardholder.

“**Judgment Currency**” has the meaning stated in Section 43.1313.

“**Laws**” means all applicable statutes, regulations, ordinances, rules, and other binding law in effect from time to time, whether those of any United States federal, state or local government authority or a government authority of any other jurisdiction.

“**Market Base Rate**” means the base rate applicable to the Multi Currency-Conversion as determined by Provider or its Affiliates using market sources selected by Provider or its Affiliates from time to time, at a particular time on each day, provided that if rates are unavailable through Provider’s or its Affiliate’s standard process, the rate employed on the day prior to such date will be used.

“**MasterCard**” means MasterCard International Incorporated.

“**Member**” means: (1) Elavon International Services DAC (“International Member”) to the degree International Member is a party to the Agreement for purposes of Transactions under the Agreement originated in and/or processed in jurisdictions other than the United States or Canada; (2) U.S. Bank National Association (“U.S. Member”) to the degree U.S. Member is a party to the Agreement for purposes of Transactions under the

Agreement originated in and/or processed in the United States; (3) U.S. Bank National Association, acting through its Canadian branch (“Canada VISA Member”) to the degree Canada VISA Member is a party to the Agreement for purposes of Transactions other than MasterCard Transactions under the Agreement originated in and/or processed in Canada; and (4) Elavon Canada Company (“Canada MasterCard Member”) to the degree Canada MasterCard Member is a party to the Agreement for purposes of MasterCard Transactions under the Agreement originated in and/or processed in Canada.

“**MID**” means the unique Merchant Identification Number(s) assigned to the Company by the Provider.

“**MPI**” or “**Merchant Plug In**” means the software developed by a certified third party in accordance with the Payment Network Regulations for handling e-payment transactions in the 3D Secure™ System in accordance with the specifications published by a Card Network, and shall include successive versions thereof as may be implemented by Provider from time to time.

“**Multi-Currency Conversion**” means the process by which the Company is able to accept a Transaction in one currency and Provider will settle the Transaction to Company in a different currency. For the avoidance of doubt, Multi-Currency Conversion will only be included as a service if the Agreement incorporates a separate Multi-Currency Conversion schedule.

“**NACHA**” means the National Automated Clearing House Association, which establishes standards, rules, and procedures governing the ACH Network, including the ACH Rules.

“**Net Activity**” means for any day on which funds are to be remitted to Company under Section 32 with respect to Transactions to be settled in the same currency, the net aggregate amount of (i) the aggregate amount of the unpaid Sales Records submitted to Provider credited to Net Activity on such date pursuant to Section 32 that are to be settled to Company in the same currency (inclusive of any local withholding tax or other tax requirements applicable to the fees set forth in the Fee Schedule and elsewhere in this Agreement), plus (ii) adjustments in favor of Company in the same currency, minus (iii) outstanding Credit Records, Chargebacks to Company for which Provider has not been reimbursed, adjustments in favor of Provider and reimbursements to Provider with respect to Sales Records in the same currency, minus (iv) fees owed to Provider and the processing fees set out in the Fee Schedule and any other obligations of Company to Provider arising under the Agreement, minus (v) if applicable, any net addition to Reserved Funds on such date (or plus any net subtraction from Reserved Funds on such date).

“**Obligations**” has the meaning stated in the Exposure Protection Schedule.

“**OFAC**” means the U.S. Department of the Treasury’s Office of Foreign Assets Control, and any successor thereto.

“**Operating Guide**” means Provider’s Operating Guide, located at https://www.mypaymentsinsider.com/api/file/c/Operating_Guide_English (or such other website that Provider may specify), that prescribes rules and procedures governing Transactions and Company’s use of the Services. Provider may amend the Operating Guide from time to time, which amendments will be effective upon notice to Company.

“**Payment Device**” means any device or method used for the purpose of obtaining credit or debiting a designated account including a Credit Card, Debit Card, and any other financial transaction device or method, including a check (whether converted into electronic form or used as a source document for an electronic fund transfer), stored value card, “smart” card, or other device created to be used for the purpose of obtaining credit or debiting a designated account.

“**Payment Network**” means any Credit Card Association, EFT Network, or automated clearing house association, governmental agency or authority, and any other entity or association that issues or sponsors a Payment Device or PayPal Payment Device (as defined in the Operating Guide) or operates a network on which a Payment Device is processed.

“**Payment Network Regulations**” means the rules, Payment Network Regulations, guidelines, specifications and related or similar requirements of any Payment Network as amended or supplemented from time to time.

“**PCI-DSS**” or “**PCI**” means the Payment Card Industry Data Security Standards, including any amendments thereto or replacements thereof.

“Person” Any natural person, corporation, partnership, limited partnership, limited liability company, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision or any other entity, whether acting in an individual, fiduciary or other capacity.

“PIN” means personal identification number.

“PIN PAD” means a secure device with an alphanumeric keyboard that conforms with Laws, the Payment Network Regulations and requirements established from time to time by Provider and through which a Cardholder may enter a PIN.

“POS Device” means a terminal, software or other point-of-sale device at a Company location that conforms to the requirements established from time to time by Provider and the applicable Payment Network.

“Processing Services” means the Services described in Section 19.

“Professional Services” means the Services other than the Processing Services that Elavon performs for Company pursuant to the Agreement as further described in additional Schedules to the Agreement and/or Statements of Work.

“Provider Data Breach” means a Data Breach that (i) originated within data operating systems under the responsibility of or otherwise controlled by Provider, (ii) occurred due to a breach of the Agreement by Provider, (iii) was not attributable to any act or omission of Company or its Service Providers, and (iv) does not relate to any Company provided data in user defined fields not required by Provider or used to perform the Services.

“Provider Data Breach Losses” means (i) any fine, penalty, assessment, or charge levied by any Payment Network or regulatory authority against Company, and paid by Company, due to a Provider Data Breach; provided that, prior to any Payment Network or regulatory authority’s finalization of any fine, penalty, assessment, or charge for which Company will seek recovery from Provider, Company obtains for Provider the opportunity to discuss and attempt to negotiate such fine, penalty, assessment or charge with the applicable Payment Network or regulatory authority, (ii) amounts paid by Company to third parties to reimburse them for their direct losses resulting from or attributable to a Provider Data Breach, to the extent Company is required by Laws (including by a statutory or contractual obligation or court order) to make such payments (excluding amounts paid under clause (i) above), and (iii) Company’s direct costs incurred in providing 12 months of credit monitoring to Cardholders affected by a Provider Data Breach involving unauthorized access to unencrypted full primary account numbers (PANs) or social security numbers.

“Provider Materials” means the specifications, documentation (including Documentation), application programming interfaces (APIs) and other interfaces, nonpublic or proprietary data import routines, sample code and materials provided to Company to enable Company to perform its obligations or exercise its rights under the Agreement, including integration to the Services.

“Purchased Equipment” means the devices, equipment and hardware purchased by Company from Provider under the terms of the Agreement.

“Receiving Party” means the Party receiving Confidential Information from the other Party directly or indirectly (via one or more third parties acting on behalf of and at the direction of the Party providing its Confidential Information).

“Relevant Authorities” means any governmental or other agencies or any regulatory authorities with jurisdiction over, or otherwise material to, the business, assets, or operations of Company or Provider and related to the Services provided hereunder.

“Relevant Resolution Authority” means the resolution authority with the ability to exercise any Bail-in Powers in relation to Provider.

“Renewal Term” means any term for which the Agreement is renewed pursuant to Section 4.1.

“Reserved Funds” means all funds paid by a Card Network on account of Sales Records submitted to Provider by Company pursuant to the Agreement and held by Provider pursuant to the provisions of Section 32 or the Exposure Protection Schedule.

“**Sales Record**” means a record which is used to evidence Travel Costs purchased by a Cardholder through the use of a Card.

“**Sanctioned Country**” means at any time, any country or territory which is itself the subject or target of any comprehensive Sanctions.

“**Sanctioned Person**” means at any time, (a) any Person or group listed in any Sanctions-related list of designated Persons maintained by OFAC or the U.S. Department of State, the United Nations Security Council, the European Union or any EU member state, (b) any Person or group operating, organized or resident in a Sanctioned Country, (c) any agency, political subdivision or instrumentality of the government of a Sanctioned Country, or (d) any Person 50% or more owned, directly or indirectly, by any of the above.

“**Sanctions**” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State, (b) the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom or (c) a government authority of any other jurisdiction applicable to Provider or to Company or its subsidiaries, if any.

“**Secured Party**” has the meaning stated in the Exposure Protection Schedule.

“**Security Programs**” means the PCI-DSS, including the Cardholder Information Security Program (CISP) of Visa, the Site Data Protection Program (SDP) of MasterCard, the Data Security DISC Program and the PCI-DSS regulations of Discover Network, and the security programs of any other Payment Network, and any modifications to, or replacements of, such programs that may occur from time to time.

“**Service Provider**” means any entity that stores, processes, transmits or accesses Cardholder Data or Transaction Information on behalf of Company or that provides software to Company for transaction processing, storage, or transmission, except to the extent such services are performed by the entity in its capacity as a third party contractor of Provider performing Provider’s obligations under the Agreement.

“**Services**” means the services Provider provides to Company pursuant to the Agreement, and any additional services, software, and hardware Provider provides pursuant to a schedule or an addendum to the Agreement, mutually executed by the Parties in accordance with the terms of the Agreement.

“**Settlement Account**” means a deposit account at a financial institution designated by Company as the account to be debited or credited, as applicable, for Net Activity.

“**Settlement Currency**” means the currency or currencies Company desires to have Provider settle Transactions and as agreed to by the Parties as the Settlement Currency.

“**Settlement File**” means the settlement file summarizing Travel Costs and Transactions submitted by Company by electronic transmission to Provider in such form or format as the Parties may agree.

“**Settlement Period**” means the number of days identified by Provider (which may be changed by Provider in accordance with the Agreement) that must elapse after a Sales Record is submitted by Company to Provider before Provider is obligated to include such amount contained in the Sales Record as part of Net Activity.

“**SSAE 16**” has the meaning stated in Section 9.1.

“**Statement of Work**” means a statement of work for Services that references the Agreement and is agreed to by the Parties.

“**Submission Currency**” means the currency in which a Transaction is submitted to Provider by Company.

“**Term**” means the Initial Term and any Renewal Term.

“**Terminal**” means a point-of-transaction terminal that conforms with the requirements established from time to time by Provider and the applicable Card Network capable of (i) reading the account number encoded on the magnetic stripe or Chip and PIN Cards, (ii) comparing the last four digits of the encoded account number to the manually key-entered last four digits of the embossed account number, and (iii) transmitting the full, unaltered contents of the magnetic stripe in the Authorization message.

“**Tested Sales**” has the meaning stated in the Exposure Protection Schedule.

“**Third-Party Services**” means any product or service provided by a Services Provider unaffiliated with Provider for the primary purpose to assist Company in processing Transactions, including any product or service that participates in the flow of Transaction data.

“**Transaction**” means any action between Company and a Cardholder or Payment Network that results in transmission of Cardholder Data or Transaction Information (e.g. payment, purchase, refund, return, chargeback, authorization request, settlement submission, transaction inquiry, decryption, conversion to/from Tokens) pursuant to the Agreement.

“**Transaction Information**” means any data or information resulting from a Transaction. Transaction Information includes payment processing-related transactional information that may be collected or stored by Provider, including the price paid for products or services, date, time, approval, unique transaction number, store identifier, and Customer bank information relating to a Transaction.

“**Transaction Receipt**” means the record evidencing the purchase of goods or services from, or payment to, a Company by a Cardholder using a Payment Device.

“**Travel Costs**” means any one, or any combination, of the following items:

- (a) the purchase of a ticket for air travel for travel along any of Company’s routes;
- (b) the purchase of a ticket for air travel over the lines of other Companies;
- (c) the payment of airport taxes, fees and surcharges in connection with the purchase of any item specified in this section;
- (d) the payment of baggage charges;
- (e) the purchase of air freight and air cargo services offered by Company;
- (f) the purchase of small package delivery services offered by Company;
- (g) the purchase of travel services (including accommodation) on tours sold by or through Company in conjunction with the furnishing of air travel;
- (h) the purchase of air travel for pets on Company’s flights;
- (i) the payment of dues associated with Company’s airport or other club system;
- (j) the purchase of goods sold and delivered on, or in association with, Company’s flights;
- (k) the purchase of goods sold by the Company in flight;
- (l) the payment of ancillary fees; and
- (m) the purchase of Company’s pass or membership programs.

Travel Costs shall also mean such other goods or services as Company and Provider may agree to include in writing. Travel Costs shall not include charter services.

“**Unrestricted Cash**” means, as of the date of determination, the sum of (a) the amount of unrestricted cash and cash equivalents of Company, not subject to any Lien or purported Lien or other restriction, except for rights of setoff for customary returned items asserted by the depository institution in which such cash is deposited, as determined by GAAP, plus [***].

“**Updates**” means all updates, revisions, patches, fixes, new releases, and other improvements or changes to any Services provided to Company under the Agreement.

“**United States**” means the United States of America.

“**Visa**” means Visa U.S.A., Inc., Visa International, Inc., Visa Canada and Visa Europe Limited.

“**Voucher**” means any right, however labeled, described or documented, provided to a Cardholder by Company to fly on future flights of Company, which is not to exceed the amount of cash compensation provided to Company as a result of a purchase of a ticket in a Transaction.

In the Agreement unless the context otherwise requires: (1) any reference to a statute, statutory instrument, regulation or order shall be construed as a reference to such statute, statutory instrument, regulation or order as amended or re-enacted from time to time; and (2) the words “hereof,” “herein” and “hereunder” and words of similar impact when used in the Agreement shall refer to the Agreement as a whole and not to any particular provision of the Agreement. References to Sections, Schedules and like references are to the Agreement unless otherwise expressly provided. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” Unless the context in which used herein otherwise clearly requires “or” has the inclusive meaning represented by the phrase “and/or.”

APPENDIX 2

FORM OF SUPPLEMENTAL JOINDER

SUPPLEMENTAL JOINDER TO MASTER SERVICES AGREEMENT

Reference is made to that certain Master Services Agreement dated as of [__] [], 2023 (the “Agreement”) by and Frontier Airlines Holdings, Inc. (“Company”) and U.S. Bank National Association, U.S. Bank National Association, acting through its Canadian branch, Elavon Canada Company, and Elavon Inc. (collectively referred to as “Existing Provider”). Company, Existing Provider and the Provider(s) that are signatories hereto and hereby agree to add each additional Provider that is a signatory hereto as a Party to the Agreement, effective as of the last date set forth in the signature block below.

Company and the Provider(s) that are signatories hereto hereby also agree to the following:

[Additional Terms]

IN WITNESS WHEREOF, the Parties have caused this Supplemental Joinder to be executed and attested to by their duly authorized officers as of the day and year written.

COMPANY, on behalf of itself and each Affiliated Entity, if any, listed on Schedule B to the Agreement

FRONTIER AIRLINES HOLDINGS, INC.

By (Print Name):__

Signature:__

Title:__

Date:__

ADDITIONAL PROVIDER

[__]

By (Print Name):__

Signature:__

Title: Its Authorized Representative Date:

EXISTING PROVIDER

U.S. BANK NATIONAL ASSOCIATION, on behalf of itself and each other Existing Provider, if any

By (Print Name):__

Signature:__

Title: Its Authorized Representative

Date:__

SCHEDULE A
FEE SCHEDULE

SCHEDULE B
AFFILIATED ENTITIES

- Check one:
- Company named on page 1 only, and all locations will operate under Tax ID Number.
 - Company named on page 1, with Tax ID Number [_____] and the following Affiliates or franchisees (a separate Form W-9 or Form W-8BEN, as applicable, must be submitted for each entity identified below):

Name	Tax ID Number
<u>Frontier Airlines, Inc.</u>	

SCHEDULE C

APPLICABLE COUNTRIES

Applicable Countries	
If U.S. Member is a Party to the Agreement:	The United States.
If Canada VISA Member and/or Canada MasterCard Member is a Party to the Agreement:	Canada.

SCHEDULE D

EXPOSURE PROTECTION SCHEDULE

**ATTACHMENT 1 TO EXPOSURE PROTECTION SCHEDULE
FORM OF MONTHLY COMPLIANCE CERTIFICATE**

MONTHLY COMPLIANCE CERTIFICATE

SCHEDULE E
FORM OF FLIGHT DATA REPORT

Master Services Agreement (v.1.27.22) 51

SCHEDULE F

OTHER CARD NETWORKS

Only the sections below for which the preceding box is marked with an “X” shall apply to the Agreement.

X Discover Cards

“Discover Cards” shall refer to Cards issued under the payment network operated and maintained by Discover, which network shall include for the avoidance of doubt, Cards bearing the servicemarks of Discover and/or Diners Club International. International Member, U.S. Member and Canada VISA Member are qualified to sponsor contractual relationships with merchants such as Company who wish to honor Discover Cards (in the case of International Member, only in those countries in which International Member is eligible to process Discover Cards).

Discover shall be considered a Card Network for purposes of the Agreement, and transactions involving Discover Cards shall be considered “Applicable Transactions” for purposes of the Agreement.

Company acknowledges that Provider may be required to report Company’s business name and the name of Company’s principals to the Consortium Merchant Negative File maintained by Discover pursuant to the requirements of the Payment Network Regulations.

X American Express Cards

“American Express Cards” shall refer to Cards issued under American Express. International Member,

U.S. Member and Canada VISA Member are qualified to sponsor contractual relationships with merchants such as Company who wish to honor American Express Cards (in the case of International Member, only in those countries in which International Member is eligible to process American Express Cards).

American Express shall be considered a Card Network for purposes of the Agreement, and transactions involving American Express Cards shall be considered “Applicable Transactions” for purposes of the Agreement.

Provider will provide access to transaction routing services for American Express Transactions to the degree Company is approved by American Express and has entered into a separate agreement with American Express. Notwithstanding anything in the Agreement to the contrary, Provider shall not be responsible for funding American Express Transactions or capturing data for American Express Transactions, and will only be responsible for receiving and routing Transaction data for American Express Transactions.

JCB Cards

“JCB Cards” shall refer to Cards issued under JCB International Co., Ltd. (“JCB”). International Member,

U.S. Member and Canada VISA Member are qualified to sponsor contractual relationships with merchants such as Company who wish to honor JCB Cards (in the case of International Member, only in those countries in which International Member is eligible to process JCB Cards).

JCB shall be considered a Card Network for purposes of the Agreement, and transactions involving JCB Cards shall be considered “Applicable Transactions” for purposes of the Agreement.

UnionPay Cards

“UnionPay Cards” shall refer to Cards issued under China UnionPay Co., Ltd. (“UnionPay”). International Member is qualified to sponsor contractual relationships with merchants such as Company who wish to honor UnionPay Cards in those countries in which International Member is eligible to process UnionPay Cards.

UnionPay shall be considered a Card Network for purposes of the Agreement, and transactions involving UnionPay Cards shall be considered “Applicable Transactions” for purposes of the Agreement.

SCHEDULE G

CHARGEBACK SERVICES TERMS

This Schedule G shall apply to Chargeback Services (as defined below).

1. Provider has the ability to offer, and may offer, to Company the Professional Service described below (the “Chargeback Services”).
2. Provider shall make reasonable efforts to defend and represent all incoming Visa and MasterCard chargebacks on behalf of Company pursuant to the terms below. Provider will follow and comply with all applicable Payment Network Regulations.
3. Company understands that to properly render the Chargeback Services, Company will need to provide Provider access to certain of its information as set forth below. Failure by Company to provide such access shall be considered a material breach of the Agreement.
4. If Provider is unable to successfully defend and represent a chargeback on behalf of Company, Provider will provide Company with the originating Payment Network chargeback advice and corresponding financial debit in a mutually agreeable manner no later than [***] after original receipt of the chargeback advice and debit through the originating Payment Network. Company, at its discretion, will have the right to request the information Provider used in the initial defense of the filed chargeback.
5. Provider shall implement financial and managerial/billing reporting to support Chargeback Services. Reporting will be designed, implemented and delivered in a mutually agreeable manner. Parties may alter reporting from time-to-time with mutual consent.
6. Company shall: (a) provide Provider reasonable and monitored access to ticketing and other agreed internal administration systems to support Provider’s provision of Chargeback Services, provided Provider and Company may alter or enhance system access and processes to support the Chargeback Services from time to time by mutual agreement; (b) configure access rights for Provider Chargeback Services team to Company’s ticketing and other systems to permit chargeback resolution and representment processes to take place; (c) ensure systems are consistently available to Provider employees and agents providing the Chargeback Services; and (d) ensure system access rights are defined in a manner to permit access to travel data for all card products (e.g. VISA and MasterCard) supported by the Chargeback Services.
7. Company shall pay Provider its fees and reimburse it for its expenses in providing the Chargeback Services in immediately available funds when such amounts are assessed. [***]
8. Except for services performed by Company itself, as long as Chargeback Services are provided by Provider, Provider shall be the exclusive provider of such services to Company, and Company shall not enter into arrangements to acquire the same or substantially similar services from other third parties. Company may in any event utilize any provider of digital identity services that is not directly involved with chargeback disputes, *e.g.* Visa Verifi or Mastercard Ethoca). For the avoidance of doubt, Company may perform its own chargeback services. Notwithstanding the aforesaid, Provider reserves the right to enter into arrangements to provide the same, competing or different services to other customers, including competitors of Company.
9. Notwithstanding the foregoing, Company shall have the right to terminate the Chargeback Services provided by Provider on [***] prior written notice to Company; provided, however, that any such notice shall be provided by Company’s Chief Financial Officer or Treasurer.

Confidential
EXECUTION VERSION

**First Amendment to the Amended and Restated Frontier Airlines, Inc.
Credit Card Affinity Agreement**

THIS FIRST AMENDMENT (“First Amendment”) to the Amended and Restated Frontier Airlines, Inc. Credit Card Affinity Agreement is made and entered into as of June 29, 2021 by and between Barclays Bank Delaware (“Barclays”), and Frontier Airlines, Inc. (“Frontier”).

RECITALS:

WHEREAS, Barclays and Frontier entered into the Amended and Restated Frontier Airlines, Inc. Credit Card Affinity Agreement as of September 15, 2020 (“Agreement”); and

WHEREAS, Barclays and Frontier have agreed to amend the Agreement as described herein.

NOW THEREFORE, in consideration of the premises and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Section 1(tttt), definition of Revolver Percentage, is hereby deleted in its entirety.
2. Section 5(b)(iv)(1) of the Agreement is hereby deleted in its entirety and replaced with the following:

“(1) Purchase Miles and Bonus Miles for Annual Fee Accounts. Frontier shall award ***] Purchase Mile on each Account with an annual fee for each ***] of Net Purchases posted to such Account.”
3. Section 5(b)(iv)(2) of the Agreement is hereby deleted in its entirety.
4. Section 5(b)(iv)(3) of the Agreement shall be deleted in its entirety and replaced with the following:

“(2) Purchase Miles and Bonus Miles for No Annual Fee Accounts. Frontier shall award ***] Purchase Mile on each no annual fee Account for every ***] of Net Purchases posted to such Account.”
5. Section 5(b)(iv)(4) of the Agreement shall hereafter be renumbered as Section 5(b)(iv)(3).
6. Schedule H of the Agreement shall hereby be deleted in its entirety.

7. All other terms and conditions of the Agreement shall remain in effect except as expressly modified herein or in another writing signed by both parties. Capitalized terms shall have the same meaning as set forth in the Agreement.
8. This Amendment shall be governed by and construed under the laws of the State of Delaware as applied to agreements among Delaware residents entered into and to be performed entirely within the State of Delaware.
9. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Intending to be legally bound, the parties have executed this Amendment as of the date set forth above.

BARCLAYS BANK DELAWARE FRONTIER AIRLINES, INC.

/s/ Robert Highland /s/ Howard Diamond
(Signature) (Signature)

Barclays US - Head of Partnerships General Counsel & Secretary
(Title) (Title)

7/9/21 06/25/2021
(Date) (Date)

Second Amendment to the Amended and Restated Frontier Airlines, Inc. Credit Card Affinity Agreement

THIS SECOND AMENDMENT ("**Amendment**") TO THE AMENDED AND RESTATED FRONTIER AIRLINES, INC. CREDIT CARD AFFINITY AGREEMENT is made and entered into as of May 23, 2023 ("**Second Amendment Effective Date**") by and between Barclays Bank Delaware ("**Barclays**"), and Frontier Airlines, Inc. ("**Frontier**").

RECITALS:

WHEREAS, Barclays and Frontier entered into the Amended and Restated Frontier Airlines, Inc. Credit Card Affinity Agreement as of September 15, 2020 ("**Original Agreement**"); and

WHEREAS, Barclays and Frontier entered to that First Amendment to the Original Agreement as of June 29, 2021 ("**First Amendment**") and, together with the Original Agreement, the "**Agreement**"; and

WHEREAS, Barclays and Frontier have agreed to further amend the Agreement as described herein.

NOW THEREFORE, in consideration of the premises and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Amendment to Section 1 (Prime Account). Section 1 of the Agreement is hereby amended by adding the following defined term in alphabetical order:

"**Prime Account** means an Account (Consumer and Business) that is opened in response to an application from a Prime Applicant and used for a purchase, balance transfer or cash advance."

2. Amendment to Section 1(ppp) (Near Prime Applicant). The definition of "Near Prime Applicant" as set forth in Section 1(ppp) of the Agreement is hereby deleted in its entirety and replaced with the following:

"**Near Prime Applicant** means an applicant for a Barclays Product who is not a Prime Applicant."

3. Amendment to Section 1(ffff) (Prime Applicants). The definition of "Prime Applicants" as set forth in Section 1(ffff) of the Agreement is hereby deleted in its entirety and replaced with the following:

"**Prime Applicant** means an applicant for a Barclays Product whose risk, based on FICO score, credit bureau reports and such other information reviewed by Barclays in the application process, does not require a higher APR and other pricing terms, as determined by Barclays in its sole discretion."

4. Amendment to Section 1(gggg) (Prime Applicant Criteria). The definition of "Prime Applicant Criteria" as set forth in Section 1(gggg) of the Agreement is hereby deleted in its entirety.

5. Amendment to Section 5(a)(iii) (Marketing Premiums). Section 5(a)(iii) of the Agreement is hereby deleted in its entirety and replaced with the following:

“Marketing Premiums: Beginning on January 1, 2021 through the remainder of the Term, for each Prime Account generated as a result of the Added Earnings Program, a Marketing Premium of

[***] on first use, and for each Near Prime Account generated as a result of the Added Earnings Program, a Marketing Premium of [***] on first use.”

6. Amendment to Section 4(b) (Issuance and Servicing of Barclays Products). The following language shall be added to the end of Section 4(b) of the Agreement:

“Barclays will provide Frontier with prior notice of any change in its issuing policies or credit practices that would have a material impact on approval rates for Prime Applicants or Near Prime Applicants, except to the extent a change is required to be implemented on an expedited basis due to macroeconomic conditions or other exigent circumstances (including, but not limited to, material losses, fraud, or Applicable Law) in which case Barclays shall provide Frontier with as much advance notice as possible under the circumstances. Barclays shall deliver reasonable information to Frontier regarding a description of the modification and its rationale for the modification, and an explanation of the projected effects of the modification to the approval rates for Prime Applicants or Near Prime Applicants. Nothing herein shall require Barclays to provide Frontier with any Confidential Information concerning Barclays’ co-brand programs or partners or provide Frontier with any approval rights relating to changes to Barclays’ issuing policies or credit practices.”

7. Amendment to Section 5(f)(iii)(2) (Adjustable Rate). The definition of “Adjustable Rate” as set forth in Section 5(f)(iii)(2) of the Agreement is hereby deleted in its entirety and replaced with the following:

“Adjustable Rate for all Miles purchased shall mean Federal Funds Effective Rate, or such subsequently comparable index as mutually agreed by the parties, such agreement not to be unreasonably withheld or delayed, on the last business day of each calendar month prior to the next Interest Period as published by the Federal Reserve Bank of New York, [***].”

8. Amendment to Section 6. Section 6 of the Agreement is hereby amended to add the following:

“(c) Commencing on [***], and continuing through [***], Barclays shall make available to Frontier an additional [***] per [***] for expenses actually incurred by Frontier [***].

Within [***] following the end of [***], Frontier shall provide Barclays with a request for reimbursement of the [***] incurred in the [***] (if any), along with reasonable documentation in support thereof. No later than [***] of [***] in which the request for reimbursement was received, and contingent upon Barclays’s review and approval of the documentation submitted in support of the [***], Barclays shall reimburse the [***] actually incurred by Frontier from the [***].

Barclays shall only be obligated to make the [***] available to Frontier to the extent, and up to the amount, of the [***] actually incurred by Frontier. In no event shall Barclays be obligated to reimburse Frontier more than [***] in any [***], or [***] in any [***]. Any amount of the [***] remaining at the end of [***] or [***] shall be forfeited by Frontier.

Upon Frontier's demonstration, in Barclays' sole discretion, that [***] has resulted in the satisfaction of certain performance metrics, including, but not limited to [***], as measured against the level of such performance metrics immediately prior to the [***] in a manner mutually agreed to by Frontier and Barclays, Barclays may extend the [***] beyond [***] subject to further written agreement of the parties."

9. Amendment to Section 14(a) (Reports and Records). Section 14(a) of the Agreement is hereby amended to add the following:

"(7) Within [***] of the end of the [***] following the Second Amendment Effective Date and each [***] thereafter, Barclays shall provide Frontier with a report summarizing the relative percentages of Prime Accounts and Near Prime Accounts generated in the [***] as a result of the Added Earnings Program. If such report indicates the relative percentages of Prime Accounts and Near Prime Accounts generated as a result of the Added Earnings Program has deviated by more than [***] from the Prime Account Baseline, Barclays shall use commercially reasonable efforts to provide an analysis of the drivers of such deviation to Frontier and discuss proposals for potential corrective action. Barclays shall not be required, pursuant to any potential corrective action, to alter its issuing policies or credit practices, but may, upon mutual agreement of the parties, implement strategy changes for the Affinity Program. For purposes of this Section 14(a)(7), "Prime Account Baseline" means, in relation to the relative percentages of such Accounts as compared to all Accounts generated as a result of the Added Earnings Program in [***], [***] Prime Accounts and [***] Near Prime Accounts."

10. Amendment to Section 15(a) (Right to Audit). Section 15(a) of the Agreement is hereby deleted in its entirety and replaced with the following:

"Upon Frontier's request and upon reasonable prior notice, Barclays shall make pertinent records regarding the Affinity Program, [***], available to Frontier or its designated auditors, at the sole cost and expense of Frontier, at the premises of Barclays during ordinary business hours, for the purpose of verifying Barclays' compliance with the terms of this Agreement. Nothing herein shall be deemed to grant to Frontier the right to audit internal records of Barclays regarding the revenues, income, or profits to Barclays of the Affinity Program, underwriting records, or generally.

11. All other terms and conditions of the Agreement shall remain in effect except as expressly modified herein or in another writing signed by both parties. Capitalized terms shall have the same meaning as set forth in the Agreement.

12. This Amendment shall be governed by and construed under the laws of the State of Delaware as applied to agreements among Delaware residents entered into and to be performed entirely within the State of Delaware.

13. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Intending to be legally bound, the parties have executed this Amendment as of the date set forth above.

BARCLAYS BANK DELAWARE

/s/ Kristyn Forrester

(Signature)

MD, Head of Airline Partnerships Barclays USCB

(Title)

6/1/23

(Date)

FRONTIER AIRLINES, INC.

/s/ Howard Diamond

Signature

Howard Diamond SVP, General Counsel & Secretary

(Title)

06/08/2023

(Date)

CERTIFICATION

I, Barry L. Biffle, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Frontier Group Holdings, 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.

Date: August 1, 2023

/s/ Barry L. Biffle

Barry L. Biffle
President and Chief Executive Officer
(Principal Executive Officer)

CERTIFICATION

I, James G. Dempsey, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Frontier Group Holdings, 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.

Date: August 1, 2023

/s/ James G. Dempsey

James G. Dempsey
Executive Vice President and Chief Financial Officer
(Principal Financial Officer)

Certification of Chief Executive Officer Pursuant to 18 U.S.C. § 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

Pursuant to 18 U.S.C. § 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officer of Frontier Group Holdings, Inc. (the “Company”) hereby certifies, to such officer’s knowledge, that:

(1) The Quarterly Report on Form 10-Q of the Company for the quarter ended June 30, 2023 (the “Report”) fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 1, 2023

/s/ Barry L. Biffle

Barry L. Biffle

President and Chief Executive Officer

(Principal Executive Officer)

Certification of Chief Financial Officer Pursuant to 18 U.S.C. § 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

Pursuant to 18 U.S.C. § 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officer of Frontier Group Holdings, Inc. (the “Company”) hereby certifies, to such officer’s knowledge, that:

- (1) The Quarterly Report on Form 10-Q of the Company for the quarter ended June 30, 2023 (the “Report”) fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 1, 2023

/s/ James G. Dempsey

James G. Dempsey

Executive Vice President and Chief Financial Officer

(Principal Financial Officer)